

LegislationWATCH

THE No.1 RESOURCE FOR WORKPLACE LAW AND HEALTH AND SAFETY

Inside this issue...

Falls from height



Assessing perimeter security



Noise induced hearing loss



HSE has reduced the overall stock of health and safety legislation by 50% to ease the burden on business. Read the final progress report on the health and safety reforms on page 14...

The changing face of **Health & Safety**

**SAFETY
MADE
EASY**



Contents

Regulars

04 // Legal Update
Legislation for Oct 2015

20// FREE Training Tool Download
In this issue... Working at height



42 // Company Checklist
Working at height planning checklist

44 // Q&A's
Your questions answered by the experts

46 // News Round Up
The latest news snippets and prosecutions



Features

08 // Election 2015

What next for British Health and Safety?

10 // Face Fitting

The importance of correctly fitted face masks

14 // Changing Face of Health and Safety

The final report on reforms

17 // Falls from Height

How to work at height, safely

21 // Assessing Perimeter Security

Preventing losses without hindering business

24 // Is Sitting the New Smoking?

The ill health effects of prolonged sitting



26 // Sikhs and Head Protection

Amendments to the Employment Act

28 // Fines in Magistrates Courts

Significant increases as cap is removed

32 // Noise Induced Hearing Loss

18,000 people suffering but 100% preventable

35 // Slip Resistant Flooring

Simple, inexpensive solutions to prevent slips

38 // CDM 2015

What do the changes mean for site managers?



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Letter FROM THE EDITOR



Dear reader,

1st October 2015 was a big day for Legislation changes in Britain. From a huge change in Law for the self-employed meaning they are now exempt from health and safety regulations, through to the 5p carrier bag charge which impacts many big retailers. There have been a lot of changes you need to be aware of. The Legal Update section on pages 4-7 highlights the most important changes this October, including the ban on smoking in cars with children and changes to UK consumer law – this edition covers it all.

We've also launched our brand new Knowledge Centre which is packed full of help, advice and useful resources, simply visit www.seton.co.uk/knowledge-centre. Take a look at the Legislation Watch section to browse hundreds of legislative articles and download our magazines; check out the News Hub for all the latest hot topics and there's even a dedicated section where you can download training resources and handy product guides, all for FREE!

Do you have any health and safety questions that need answering? If so, our 'Ask the Expert' service is completely FREE to Seton customers – simply drop us a question using the online form and our IOSH accredited experts will respond within 48 hours. See page 13 for more information.

Cheryl Peacock
Editor

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Legal UPDATE



Smoking ban set for cars carrying children

In England and Wales, from 1st October 2015 it will be illegal to smoke in a private vehicle containing under-18s and to fail to prevent smoking in a private vehicle carrying someone aged under 18.

The new law is being introduced following a prolonged campaign by children's health experts and by health organisations such as the British Medical Association. The penalties for both offences would be a fixed penalty notice of £50, or a fine on conviction should the case go to court. Public health minister Jane Ellison stated: "second-hand smoke is a real threat to children's health, and we want them to grow up free from the risks of smoking. The only effective way to protect children is to prevent them breathing second-hand smoke and our plans to stop smoking in cars carrying children will help us to do this."

BMA Board of Science chair Baroness Sheila Hollins said: "The BMA strongly supports a ban on smoking in cars when children are present, as it is an important step in reducing

tobacco harm by restricting the prevalence of second hand smoke in private vehicles. "Children are still developing physically and biologically and, compared to adults, they breathe more rapidly, absorb more pollutants and have less-developed immune systems. As a result, they are more susceptible to the harmful effects of second-hand smoke and are less likely to be able to choose to move away from it." Criticising the move, Simon Clark - director of Forest, a group that lobbies against smoking regulations - said: "The Government is taking a sledgehammer to crack a nut. The overwhelming majority of smokers know smoking in a car with children is inconsiderate and they don't do it. "The regulations are unnecessary and excessive. Do we really want to criminalise people for lighting a cigarette in a private vehicle?" Similar changes to the law have been proposed for Scotland.



Changes to National Minimum Wage

The National Minimum Wage (NMW) requires that employers pay workers a minimum hourly rate of pay. Since October 2004, this has covered most workers over the age of 16. The self-employed, specified vocations and certain other circumstances are excluded. Employers cannot opt out of the legislation. The minimum wage rate is set by the Government and is subject to periodical variation. The rates are generally updated from 1st October each year. The following National Minimum Wage rates will apply from 1st October 2015.

- The adult rate will increase from £6.50 to £6.70 per hour
- The rate for 18-20 year olds will increase from £5.13 to £5.30 per hour
- The rate for 16-17 year olds will increase from £3.79 to £3.87 per hour
- The apprentice rate will increase from £2.73 to £3.30 per hour
- The accommodation offset will increase from £5.08 to £5.35 per day.



1.7 million self-employed people now exempt from health and safety law

From 1st October 2015, health and safety law will no longer apply to an estimated 1.7 million self-employed people. In 2011, the Löfstedt Review recommended that self-employed people whose work activities pose no potential risk of harm to other workers or members of the public, should be exempt from health and safety law. This recommendation was accepted by Government.

Health and safety law will no longer apply to self-employed people such as novelists, journalists, graphic designers, accountants, confectioners, financial advisors and online traders. The Health and Safety at Work etc Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015 sets out a list of specific work activities that the law still applies to. This includes agriculture, asbestos work, construction, gas work, genetically modified organisms and railways or if the work activity poses a risk to the health and safety of others. For health and safety law purposes, 'self-employed' means that you do not work under a contract of employment and work only for yourself.

Legal UPDATE

Carrier Bag Charges

From 5th October 2015, large retailers are required to charge a minimum price of 5p for most single-use plastic carrier bags. Small or medium-sized business don't have to charge, but are free to do so voluntarily.

Businesses that employ more than 250 full-time equivalent employees (in total and not just in retail roles) must charge for carrier bags.

Businesses with fewer than 250 full-time equivalent employees don't have to charge. If a store is part of a franchise or symbol group (sharing a brand and products) then only employees in that store count, not the franchise or symbol group as a whole.

For more information on retailers responsibilities please go to <https://www.gov.uk/guidance/carrier-bag-charges-retailers-responsibilities>



Smoke and Carbon Monoxide Alarms

With effect from 1st October 2015, new legislation now requires landlords to install working smoke alarms on all floors of their property, and carbon monoxide alarms are also required in all rooms with solid fuel burning appliances.

Landlords are required to test these alarms at the start of every tenancy. This brings private rented properties into line with existing building regulations that already require newly-built homes to have hard-wired smoke alarms installed.

England's 46 fire and rescue authorities are expected to support private landlords in their own areas to meet their new responsibilities with the provision of free alarms, with grant funding from government. The Government says the new rule will prevent 25 deaths and 700 injuries a year; landlords who don't comply with the new law face a £5,000 fine. This rule applies to England; housing is a devolved issue in Wales and Scotland.



Changes to UK Consumer Law

The Consumer Rights Act came into effect on 1st October 2015, consumers now have 30 days after delivery to return faulty goods for a full refund. Previously, consumers were only entitled to refunds for a "reasonable time".

The Act also provides protection where as a consumer the contract is for services and means that the consumer can demand repeat performance where services are not performed with reasonable care and skill.

There is also new protection for people who buy digital content, such as e-books or online films and music. They will be entitled to a replacement if the downloads do not work, but not a refund.

It replaces a number of existing laws for consumers including the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982. The new law only applies to things bought from 1st October – previous rules will apply to everything bought before then, even if the problem occurs after 1st October.



ELECTION 2015 What next for Health and Safety?



Now that the election is over and the Conservative Party has formed a Government, what can we expect over the next five years in terms of health and safety?

The short answer is 'more of the same'

Conservative Manifesto

In their 2010 manifesto, the Conservatives specifically pledged to "amend the health and safety laws that stand in the way of common sense," which, following the formation of the coalition government, opened the way for the reforms scoped out by Lord Young's 2010 report entitled report Common Sense, Common Safety as well as those of the 2011 Löfstedt Review. In contrast, their 2015 election manifesto referred to health and safety obliquely, stating they would remove "unnecessary business regulations" and ultimately promise to "cut a further £10 billion of red tape over the next Parliament through our Red Tape Challenge and our One-In, Two-Out rule."

Deregulation Act

Despite some controversy, the passage of the Deregulation Act 2015 provides the new Government with the means to exempt from health and safety law some 1.8 million self-employed jobs in what are considered to be low risk occupations. Following the Löfstedt Review the Health and Safety Executive (HSE) withdrew or re-drafted certain Approved Codes of Practice while introducing web-based guidance to accompany legal requirements in an effort to simplify compliance. It is expected that this will continue under the new Government, along with HSE's Fee for Intervention cost recovery scheme which, despite being described by some business leaders as a money-generating exercise raising the

burden of H&S on small businesses, was considered to be effective in shifting the cost of addressing H&S breaches from the public purse to the offending employer.

New Fire Minister

Mark Francois, Conservative MP for Rayleigh and Wickford, has been announced as the new Fire Minister as part of his broader role as Minister of State for Communities and Local Government. Before becoming an MP, he worked in banking and as a self-employed consultant, as well as a lobbyist. His new role will include responsibilities for fire and resilience as well as coastal communities, deregulation, devolution and the Portsmouth and surrounding areas.

Commenting on the appointment, the Fire Industry Association (FIA), a trade body, said, "We will, of course, be seeking an early meeting with the new Minister to develop the fire safety and fire and rescue issues on which we continue to lobby government on behalf of our members." Matt Wrack, General Secretary of the Fire Brigades Union (FBU), said, "Firefighters everywhere will hope that with a new Fire Minister in place we can start a genuine and open dialogue about how we protect our essential service for the future... We will also be looking to discuss the pension arrangements for firefighters."

More Red Tape Cuts

The Queen's speech to parliament in May included an Enterprise Bill aimed at cutting red tape by at least £10 billion and, for the first time, including measures affecting "heavy-handed" regulators. Business Secretary Sajid Javid said that the Bill will also include a new Small Business Conciliation Service to help settle disputes over payment. Business Minister Anna Soubry explained that the Department for Business, Innovation and Skills (BIS) will be asking businesses for evidence in the coming weeks and months.

"We want them to be our partners in identifying and scrapping needless burdens at home and in Europe," she said. "It's important government gets behind small businesses — enabling them to get finance, get paid on time and get rid of red tape."

The proposals were immediately welcomed by British Chambers of Commerce (BCC) Director General John Longworth who said that it was great to see the Government start the Parliament with a real drive to support businesses. However, he then warned: "Businesses have been let down by successive governments promising to make inroads, so we will be watching carefully to make sure these proposals are delivered."



Respiratory protective equipment:



Face fitting

Although personal protective equipment (PPE) should only be used as a last resort, respiratory protective equipment (RPE) still has an important role in protecting employees from inhaling hazardous substances.

The RPE is generally of two types:

- Respirators that rely on filtering harmful substances
- Breathing apparatus (BA), which gives an independent supply of breathable air, for example fresh-air hose, compressed airline and self-contained BA.

Both types are available with a range of face-pieces: masks, hoods, helmets, visors and blouses. Masks are tight fitting face-pieces which cannot protect the wearer if they leak. A major cause of leaks is poor fit and, consequently, essential that a mask is tight-fitting.

The person

Tight-fitting face mask RPE relies on a good seal to the face and, therefore, must be of the right size and correctly fit the wearer. If it does not fit correctly the protection is wasted. Faces come in all shapes and sizes, as do face-pieces, and for each individual wearer a suitable face-piece must be selected, which is capable of fitting their face and sealing adequately to their face.

Facial hair - both stubble and beards - can break the seal on tight-fitting face-pieces allowing the user to breathe in hazardous substances. Workers who are not clean-shaven cannot use face mask RPE and so must be clean-shaven at the start of their shift. If possible, facilities for shaving before the shift should be provided. Workers who have beards, or are unable to be clean-shaven, should be provided with appropriate loose-fitting RPE rather than RPE that relies on a tight-fit.

The compatibility of other personal protective equipment, particularly safety glasses, can break the seal on tight-fitting face-pieces. Steps have to be taken to ensure the other personal protective equipment does not interfere with the seal. One way this can be achieved is by the use of combination products, for example, face masks that incorporate goggles.

The requirement for a fit-test

Face-piece fit testing is a method of checking that a tight-fitting face-piece matches the wearer's facial features

and seals adequately to their face. The Approved Codes of Practice (ACOPs) for the Control of Substances Hazardous to Health Regulations 2002 (COSHH), the Control of Lead at Work Regulations 2002, the Control of Asbestos Regulations 2012, and the Confined Spaces Regulations 1997, all require that tight-fitting face-piece RPE should be fit tested.

The fit test

A fit test measures of how effectively a tight-fitting face-piece seals to an individual wearer's face. It should be included in the initial selection of the mask, to ensure the mask fits the wearer and provides a good seal to their face. It is good practice to have a system to ensure repeat fit testing is carried out on a regular basis, especially when RPE is used frequently as a key element of exposure control, e.g. workers involved in licensed asbestos removal.

Fit testing should be repeated when changing to a different model of RPE or to a different sized face-piece. It should be repeated - if there have been significant changes - to the facial characteristics of the individual wearer, such as the consequence of significant weight change, scars or changes caused by dentistry. The fit test should not be performed on personnel who have facial hair in the area of the seal.

It should be noted that the fit test just assesses the effectiveness of the mask's seal to the face and is not indicative of the amount of protection it provides the wearer with in the workplace. Other factors, such as the characteristics of the filter and the way the RPE is used by the worker, must be considered.

Fit tests require the wearer to perform various exercises during the test. These exercises generate a physical workload on the wearer that simulates working activities and work rate. This tests the fit of the face-piece better than if the wearer is at rest.

The fit test: The competent person

The RPE fit testing should be conducted by a competent person, e.g. a person who

is appropriately trained, qualified and experienced, and is provided with appropriate information to undertake each particular task. The British Safety Industry Federation has introduced the Fit2Fit RPE Fit Test Providers Accreditation Scheme, ensuring that the fit tester is appropriately accredited by the Fit2Fit scheme, is one way for employers to provide proof that the tester was competent in the event of an incident.

The test: qualitative

The fit test can be qualitative or quantitative. The qualitative test can be used for tight fitting respirators, with the exception of full face masks. It is a pass/fail test method that does not measure the actual amount of leakage.

The test uses a hood to create a small test chamber around the user's head, a test solution, and makes use of the wearer's sense of taste or smell, or reaction to an irritant, in order to detect leakage into the respirator face-piece. Most tests are based on detecting the taste of Bitrex or saccharin.

The first step in the qualitative fit test is the sensitivity test, which checks whether the wearer can taste the sensitivity test solution. This is carried out before the face mask seal is tested. A few drops of the sensitivity test solution are placed into the sensitivity nebuliser, and then the test hood is put on the person, before they wear the face mask. The person is instructed to indicate as soon as they taste the solution. Anyone who cannot detect the test solution will need to use a different fit test method, either using an alternative solution or a quantitative test. The test itself cannot be carried out until the person being tested can no longer detect the sensitivity test solution.

After a successful fit test, the wearer should reach up into the hood and break the seal between the mask and the face with their finger. They should then be able to taste the test solution. If not, the test should be repeated.

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The test: quantitative

Quantitative fit testing can be used on all tight-fitting respirators including full face masks. The test is based on a portable particle counting device, which compares the particles outside a wearer's mask, with those inside the mask that have got past the face seal. This quantitative result contrasts to the yes/no result given by the qualitative test.

Qualitative v quantitative

The qualitative fit test makes use of the wearer's ability to detect the taste of a test solution, and due to this, holds an advantage over the quantitative test methodology, since it stops the challenge particles from passing through the filtering material in a form which can be detected. However, being a subjective method, the qualitative fit test is dependent on the wearer's taste response and therefore is open to abuse. Some organisations have decided to accept only quantitative test certificates, as evidence of successful face-fit test. Alternatively, RR1029: Review of fit test pass criteria for Filtering Facepieces Class 3 (FFP3) Respirators, a report by the Health and Safety Executive's Health and Safety Laboratory, concluded that, "The Bitrex qualitative fit test method has been shown to give a good determination of fit in this study".

User check

A fit test should not be confused with a user fit-check, which is a quick check performed by the wearer when the respirator is put on. A fit test involves placing a hand over the filter or inlet valve(s), and breathing in. If there is a good seal, the wearer will experience the mask sucking in toward their face. On holding breath (for 10 seconds), the face-piece should not loosen. If it does, the face-piece should be readjusted and the seal checked again. In RR1029, it was demonstrated that the fit-check was of very little value as a substitute for a fit test.

Failure to meet the current HSE pass criterion

The RR1029 report compared results from fit tests on nine face-piece Class 3 (FFP3) respirators, using four fit test methods. Some FFP3s used in this study, were found to readily fit a significant proportion of the test subjects, with a range of face sizes, across all four fit test methods. Other FFP3s were poor at fitting all of the test subjects. It was concluded that there is room for significant improvement in the design of some FFP3s towards better wearer fit, which could be aided by more stringent standard requirements for FFP3. The report illustrated the importance of fit testing, before relying upon a FFP3 for respiratory protection. It concluded poor attention to design detail of some FFP3s, with insufficient focus on the importance of good wearer fit, is a significant factor leading to poor fit.

Training

An appropriate training programme for workers who use tight-fitting face mask RPE should include how to wear and check the RPE correctly and why fit testing is required. The fit test itself can be used as a training opportunity, as it provides an

opportunity to highlight to the wearer, the consequences of poor fit and improper use on the effectiveness of the RPE device.

The importance of fit testing

As faces come in an infinite variety of shapes and sizes, there is no chance of one particular type or size of tight-fitting face-piece will fit all persons. That being so, it is important that fit testing is carried out to ensure that the face-piece selected provides a good seal.

Seton recommends:



3M 6000 Series Full Face Respirator
Style No. 86697011000



JSP Press to Check Half Mask and Filters
Style No. PPE0113



Ask the expert...

Do you have a question related to Health & Safety or Workplace Law?

Our experts are IOSH accredited and ready to answer any questions you might have.

Our fire protection contractor wants us to put fire extinguishers on all exits. Are we legally required to do so?

We have a qualified fork lift truck driver – does he have to sit a refresher after three years even if he uses the truck every day and has had no incidents?

We are holding a public event and have been told to carry out a risk assessment. What do I need to do?

What are our H&S obligations to remote workers?

How to 'Ask the expert'

1. Go to www.seton.co.uk/legislationwatch
2. Click on the red 'Ask the expert' tab at top of page
3. Enter your question on the form
4. We will respond via email within 48 hours!

The changing face of Health & Safety

THE FINAL REPORT ON REFORMS



The Government through the Department of Work and Pensions (DWP) has recently published A Final Progress Report on Implementation of Health and Safety Reforms (accessible at www.gov.uk) which summarises the actions it has taken to reform the health and safety system in Britain.

For some time, the Government - led by David Cameron - has expressed concern about the standing of health and safety in the eyes of the public and the way it operates. The Prime Minister commissioned Lord Young to report on this issue, in Common Sense, Common Safety (2010) and in March 2011 the Government's Good Health and Safety, Good for Everyone set out our far reaching proposals to reform the health and safety system in Britain. These reforms addressed the concern that businesses were bogged down by red tape and confusion and that they often felt the need to go beyond the requirements of the law, sometimes because of advice from health and safety consultants or for fear of being sued for accidents, even when they believed that they were not at fault.

Professor Löfstedt's Reclaiming Health and Safety for All: An Independent Review of Health and Safety Legislation (2011), which drew on the public's views submitted via the Red Tape Challenge, found that the framework for health and safety law was broadly right, but recommended simplifying its structure and the HSE's guidance to help business comply more easily. HSE has reduced the overall stock of legislation by 50%. Most recently, the passage of the Deregulation Act 2015 provides the next Government with the means to exempt from health and safety law some 1.8 million self-employed jobs in low risk occupations.

What has happened and the implications

Some of the measures which have taken place are as follows.

Occupational Safety and Health Consultants Register

The Occupational Safety and Health Consultants Register (OSHCR) was launched in January 2011 and includes those health and safety consultants who

are properly accredited to a health and safety professional body and have demonstrated a set standard of competence to that professional body. OSHCR gives businesses the opportunity to select a health and safety consultant with some confidence that those on the Register have been vetted and meet standards set by professional bodies such as IOSH. Its website currently has nearly 400,000 visits each year so it appears to be a site which attracts a lot of interest. Of course it does not mean that if a consultant does not appear on the Register that they are not competent; competency is much more complicated than that. However, the Register does give help to those looking for a consultant. It should also reduce the risk of "rogue" poorly qualified consultants. Currently, there are no legal requirements for becoming a health and safety consultant or setting up a consultancy, and it is a relatively easy thing to do, so the OSHCR appears to be positive and worthwhile reform.

New health and safety inspection framework

A number of actions have taken place related to both Major Hazard Industries, including a review of COMAH and those industries regarded as non-major hazard industries. For the latter, the HSE has implemented its proactive inspection strategy. In Good Health and Safety, Good for Everyone, the Government identified three categories of non-major hazard industries:

1. Sectors which present comparatively higher risk and where proactive inspection remains necessary as part of the overall regulatory approach.
2. Sectors where there remains comparatively higher risk but proactive inspection is not considered a useful component of future interventions.
3. Areas where proactive inspection is not justified.

Comment: In regards to the above, it is

sensible to prioritise inspections based upon risk and this has always been the policy of the HSE. However, it now appears to be more about cost reduction and reducing the burden on small firms. The danger is that the deterrent effect of an impending HSE visit may be lost and that complacency will start to creep in, with a reduction in health and safety standards.

Fee for Intervention

In Good Health and Safety, Good for Everyone the Government stated its belief that it is reasonable that businesses found to be in serious breach of health and safety law - rather than the taxpayer - should bear the related costs incurred by the HSE or Local Authorities carrying out their work in relation to health and safety breaches.

In the intervening period between the introduction of Fee for Intervention (FFI) and September 2014, HSE issued invoices totalling £15,616,823. The average amount for each invoice is £520 and the average amount invoiced to particular businesses is £953. The cost recovery from FFI in 2013/14 was £8.7m.

In June 2014, an independent review panel examined FFI and its application. The panel concluded that FFI "had proven effective in achieving the overarching policy aim of shifting the cost of health and safety regulation from the public purse to those businesses that break health and safety laws." So, FFI is here to stay.

It is difficult to argue with the case for FFI where those breaching the law pay the cost of those breaches. However, this is a financial exercise and has little to do with improving health and safety standards. Arguably it has increased the financial burden of health and safety on firms, especially SMEs, and is probably not a measure which will result in positive change in attitudes to health and safety.

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Compensation culture

Changes have been made to the way claims for compensation following an injury at work can be made. This includes deterrents against dishonest and fraudulent claims. Inducements by law firms have been curtailed. The reforms of removing strict liability provisions have also made some claims for “breach of statutory duty” impossible and now claimants will only be able to bring cases under common law where negligence can be proved.

These reforms relate to the perceived “compensation culture” within the UK, but again the reforms relate to financial consideration for employers. The reforms do not appear to consider the needs of the injured party. When someone is killed, injured or made sick through work and where their employer has been negligent or breached the law, they and their families deserve to be properly compensated. The financial burden on individuals and families following injuries at work can be enormous and these reforms which make claims more difficult will add to the burden.

Making health and safety simpler

Action has been taken to revoke a good deal of legislation in an effort to provide a simpler regulatory framework. The HSE has introduced a good deal of web-based guidance to accompany legal requirements. It has tried to clarify issues such as those relating to Portable Appliance Testing of portable electrical appliances and misinterpretations regarding work at height. Some ACOs have been withdrawn and others re-drafted.

The Health and Safety industry has been plagued by misinterpretation of health and safety legal requirements and the disproportionate application of those requirements. Stories of local authorities banning children from “conkering” and so on, do nothing to improve the reputation of health and safety and waste time and resources. Any action to encourage a sensible and proportionate application of health and safety measures and to concentrate on those issues which really matter must be step in right direction.

Conclusions

This report marks the evolution not only of the HSE, but the face of health and safety in Britain. Not all of the changes have been welcomed and there is concern about many of them, such as the proposed changes to the duties of the self-employed. Many of the changes appear to be sensible. However the reforms seem to have been driven by financial motives, and the test will be whether in time, more lives are saved and fewer people are injured or made ill through their work. Only time will tell.



Common Safety Killers

FALLS FROM HEIGHT

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It is estimated that more than a million British businesses and **10 million workers** carry out job tasks that involve some sort of working at height each year. Falls from height were the most common causes of fatalities in 2013/14, accounting for nearly **three in 10 (29%) fatal injuries** to workers.

Common causes of working at height fatalities and major injuries include falls from ladders and falls through fragile surfaces, but there are other causes such as falls from vehicles. Sadly more than 40 people are killed and some 4000 sustain major injuries each year.

What is working at height and who works at height?

The HSE's definition of working at height is: "...any place where, if there were no precautions in place, a person could fall a distance liable to cause personal injury." When one thinks of falls from heights, the construction industry is often the first that springs to mind. However, such accidents and incidents are not limited to construction operatives; farmers, roofers, electricians and window cleaners can all suffer an injury from this type of work. Last year the construction industry accounted for around half of all fatal falls. Furthermore the latest HSE statistics for 2013/14 demonstrate that all fatal fall injuries were to males - seven of which (18%) involved a worker over the age of 65. While the number of fatal injuries has generally continued to fall over the last 13 years, fatal fall injury numbers have remained steady. High risk activities include roof work, e.g. falls from the roof, through fragile roofs and roof lights. These types of falls can occur at factories, office buildings, warehouses, farming buildings during repair work, or during general maintenance, such as cleaning. Around one in 10 offences prosecuted by the HSE involved a prosecution under the Working at Height Regulations 2005 (WAH).

Guidance

An overhaul of the HSE's working at height guidance was launched last year, with the aim of removing outdated, overly complicated information. The revised INDG401 Working at Height - A brief guide, published in January 2014, is clear, concise and takes the end-user (employer and employee) through the steps required to perform activities safely and how to comply with the regulations. The updated guidance sets out in clear and simple terms the steps required to work at height safely, as well as busting some common myths relating to this area. Key changes to the guidance include:

- Simple advice on do's and don'ts when working at height to ensure people are clear on what the law requires
- Busting some of the persistent myths about health and safety law, such as banning the use of ladders
- Targeted advice to help businesses in different sectors manage serious risks sensibly and proportionately
- Some information to help workers to be clearer about their own responsibilities, in order for them to work safely.

Suitable and sufficient simplification of guidance can only be welcomed. At only seven pages long, INDG401 can easily be discussed in team meetings, used for toolbox talks and can support in-house training. In addition, INDG455 Safe Use of Ladders & Stepladders, also published in early 2014, can be used for those who use this type of equipment to carry work out tasks at height.

Working at height, safely

There are a number of myths surrounding the practice of undertaking work at height - the myth of banning the use of ladders on building sites is just one. The HSE dispel this myth advising that ladders and stepladders can be used for work at height when the use of other work equipment is not justified because of the low risk and duration, or when there are existing workplace or site features which cannot be altered. Another myth busted by the HSE is the notion that one needs to be formally qualified to use a ladder at work. A worker needs to be competent, possessing the necessary skills, knowledge and experience to use a ladder properly for the work that needs to be carried out. The updated guidance provides simple steps to ensure safety when working at height:

- Avoid work at height where it is reasonably practicable
- Prevent falls by either using an existing place of work that is already safe or using the right equipment
- Minimise the distance and consequence of a fall by using the right equipment.

What must an employer do?

Falls from height can be prevented by ensuring activities are planned carefully, supervised, carried out by a competent person and the right equipment is selected for the task. A suitable and sufficient risk assessment will identify what controls are in place as well as those that need to be implemented. Think about collective as well as personal protection and ensure inclement weather conditions are considered.

Prosecutions and fines

In September 2014 the HSE launched a month-long "safer site initiative", which saw inspectors making unannounced visits to construction sites across the country. The aim was to identify health risks posed to workers and their management. The outcome was not good, with 40% of inspected sites failing to protect workers. Failure to provide basic safety measures for employees working at height was the most common issue found by inspectors, with 42% of all enforcement notices served for breaches of work at height.

In 2013/14 the HSE prosecuted 77 cases under WAH, resulting in 73 convictions with an average fine of over £8000. The number of cases (77), offences prosecuted (73), average fine per case (£8663) and conviction rates (95%) were all higher than the averages for the previous five years.

2013/14 also saw an increased number enforcement notices quoting WAH, in total there were 2096 notices (improvement, immediate or deferred prohibition).

In December 2014 a civil engineering contractor was fined for substantial work at height hazards found at one of their London construction sites. Upon inspection a HSE inspector found a number of concerning issues, including the use of unsafe temporary ladders, missing toe boards and edge protection in several locations, exposing workers to potential falls of between three to eight metres, and heavy equipment left on edges where there was the possibility of them falling. A prohibition notice requiring urgent improvements as well as two improvement notices was served. Further breaches were found at other sites managed by the contractor, who pled guilty to breaching Regulation 6(3) and Regulation 10(1) of the Work at Height Regulations 2005. The firm was fined a total of £11,500 and ordered to pay £1,369 in costs.



Seton recommends:



Miller™ Titan 2 Point Safety Harness
Style No. 86052011000



Hi-Vis 2 Band Vests
Style No. 86169011001

Training TOOLS

This edition... Working at Height

Training Tools are a quick and useful way of giving employees up-to-date health and safety information on a particular subject. A training tool can be delivered by a health and safety expert or even a line manager or responsible person. They should last no longer than 10-15 minutes and can comfortably take place in the office, staff room or canteen. Tools should be conducted regularly (weekly/monthly) or after an incident.

Working at height remains one of the biggest causes of fatalities and major injuries. Common cases include falls from ladders, scaffolds and through fragile surfaces. 'Work at height' means work in any place where, if there were no precautions in place, a person could fall a distance liable to cause personal injury (for example a fall through a fragile roof).

This Toolbox Talk shows how employers can take simple, practical measures to reduce the risk of any of their workers falling while working at height.

This downloadable presentation covers:

- Regulations
- Ladders
- Scaffolds
- Roof work
- Control measures
- Do's and don'ts of working at height
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ASSESSING PERIMETER

security



CONTINUED... ►►

The aim of securing premises, in principle, is based on being able to prevent losses, while not hindering day-to-day business. This is to be achieved within a budget that, according to the accountants, should be as low as possible, because it does not “contribute” to the business and simply removes profit from the bottom-line figure. However, this does not bear any resemblance to the real world. Security, whether physical measures or manpower, is not cheap, so the answer is to ensure that it is kept proportionate to the related risk.

A risk assessment should be undertaken as this will help quantify what is required to help the business operate in a normal manner. While good security may not visibly contribute to the profitability of a business, the losses and disruption of inadequate security will have cost implications if it disrupts or stops the business operations. Security risk assessments should focus on all threats to the business. Common risks for any business is theft and criminal damage, including arson. However, depending on the nature of the business, there can be other threats, including business espionage, sabotage, activists. When conducting a security risk assessment, the recommended model is often referred to as the ABC model - Area, Boundary and Contents.

Area

Take a look at the surroundings of the site. Considerations include the neighbourhood. Are other businesses in the area better protected, making your site an easier target? Is it a residential area and, if so, is it a deprived area, which may mean more opportunist thieves? What is the accessibility of the area? Proximity to motorway networks may be beneficial for deliveries to and from your business, but they also provide fast escape routes and can also entice thieves.

Boundaries (larger sites, usually multiple buildings)

Examine the physical perimeter of the site, taking into consideration what is on the exterior side of the perimeter and whether this would hinder or assist a would-be intruder. Where the adjoining land belongs to another premises, either

business or residential, consider how easy it would be to access their land in addition to your site’s perimeter. Where there is vegetation adjacent to the boundary, the type is important to your assessment: thick bushes and trees can provide cover for an intruder; thick bramble-type bushes would be a deterrent. It is also important to consider how the vegetation differs through the seasons.

Where the boundary is adjacent to public highways or open land, consideration should be given to whether there is the ability to park a vehicle immediately next to the perimeter, where the vehicle can be used for assistance in climbing over, as well as reducing the distance required to carry stolen goods and allowing a quick escape. Bollards or similar obstructions can be considered, either to prevent parking adjacent to a perimeter, or where there is a risk of a vehicle ramming into the wall/fence in order to breach it. When recording details of perimeter walls and fences, check the height, taking into consideration any unevenness of the ground, with the effective height being measured at the point where there is the shortest distance between the ground and the top of the barrier. Look out for overhanging tree branches, decorative brickwork, and anything fastened to the wall/fence protruding through it or adjacent to it that could be used as a foot hold, e.g. piled-up pallets. You should also look for unprotected dips in the ground, which could allow access under a fence. Any climbing deterrents should also be recorded, e.g. razor wire, electric fences, rotating spikes, anti-climb paint. The assessment should also record any security monitoring devices, e.g. fence-mounted sensors, underground

movement sensors, infra-red beams, microwave beams, passive infra-red sensors.

Boundaries (individual buildings)

It is important to examine the security of the perimeter of individual buildings. For some small sites, the perimeter of the building may also be the boundary of the area to be secured, eg an office block in a city centre, or the building may be surrounded by a piece of land that cannot practically be secured. Irrespective of this, the physical security of the building should be assessed with consideration given to how secure doors and windows are, in addition to climbing aids, which can allow access to upper-level windows or roofs. The risk associated with any opening, irrespective of size, should be considered - while small openings, such as letter boxes and ventilation grills, may be too small for a person to enter, they can be used to hook a handle to open a window or door, or be used in order to damage property, i.e. arson. The surrounding area should be examined for items that could be used as climbing aids, especially the storage of any ladders on site. Internal security measures, e.g. intruder alarms, safes, etc. should be considered as part of your risk assessment. The human factor should also be considered: loss of keys or access cards; and employees and visitors using fire exits, such as somebody briefly exiting a building in order to smoke, and either allowing somebody to enter while they are outside, or not securing the door when they re-enter the building.

The types of questions you should be considering include the following.

- Is it in good condition?
- Is it adequate?
- Is there enough lighting?
- Is it clear of scaling aids?
- Is it legal?
- What do they look on to?
- What looks on to it?
- What about CCTV?
- What about doors and locks?
- How many do we have?

In addition to physical boundaries, this is also a suitable time to consider other deterrents, whether purpose-designed security measures or coincidental factors. The most obvious deterrent would be an on-site security presence. This could be patrolling security personnel, including security dog handlers, or it could be active monitoring using CCTV and/or any of the previously mentioned detection methods. Coincidental factors would be any on-site operations that, while not taking place for the specific purpose of securing the site, increases the risk to a would-be intruder and hence has a deterrent factor. A typical example of this would be where a site operates round the clock. When taking such factors into consideration, you would have to establish whether these factors were continuous, e.g. seven days per week and any seasonal breaks.

Contents

For this part of the assessment, you should be considering the value of items, both in terms of financial value and the cost and impact to business operations of a loss. For example, a high-specification laptop stolen from an office, with all data stored on a central server, could be replaced within hours (or sooner if a spare was available) with minimal inconvenience to the business, and the only cost being that of a replacement laptop. As an alternative, the theft of a computer, which controls a production line and may have bespoke interface, may only have a nominal value to the actual hardware, however the impact on production could cost a company tens of thousands of pounds. In these scenarios, mitigating factors such as insurance and/or business continuity arrangements can be factored in.

When assessing equipment, materials and end products, consideration should

be given to portability, value and ability to sell on, e.g. if you use products that are small, expensive and can be sold easily “in the pub”, then you have a higher risk of theft. Where there is a large market for items, which can be removed easily from the premises, this is likely to lead to recurrent break-ins. Just because items are larger and more difficult to transport, it does not mean there is a reduced likelihood of a break-in. If the financial reward is available, the criminal will work out a method of removing goods. During any risk assessment, it is useful to speak to employees and contractors on site. They can often highlight known problems, of which management may not necessarily be aware. They may highlight weak points in the perimeter protection that are not immediately obvious, and may also be able to give information about previous intrusions and thefts. Discussions about deliveries and stock levels might also highlight abnormal occasions where an informed criminal would have the opportunity for higher gains. Such discussions should take place with an element of caution, with the person conducting the risk assessment being careful to extract as much information as possible, without themselves highlighting opportunities, which may then be used against the company.

In addition to considering losses from theft, a further consideration is the risk either to employees from attack by a trespasser or where there is the risk of injury to somebody trespassing on the site. Even where there is low risk of theft,

if the perimeter allows easy access for individuals with enticing short-cut routes or opportunity for mischief, and there are potential hazardous points on site, e.g. slurry or waste pits, then this should be included as a risk, with an associated possible cost in the event of somebody being injured or a fatality. Having established the data, the risk assessment can then be produced, accounting for the probability of someone attempting to gain access to the site, the likelihood that they will manage to get on site, and an assessment of potential company losses, both direct and indirect. This will help decide whether current security protection is satisfactory or whether additional measures are desirable, with this based on a cost benefit analysis.

As with any risk assessment, this is done at a snapshot in time. You can attempt to include likely scenarios, such as if scaffolding is used on the exterior of a building. However, it is advisable to re-visit your risk assessment periodically and examine whether anything has changed that would increase the risk to the site. Where you wish to make recommendations for improving the security of the site following the risk assessment, you may find it useful to read the British Standards covering security hardware, e.g. fences, locks, CCTV and intruder alarm equipment. You should also consider whether any alterations to boundary walls and fences would be restricted by local authority planning regulations.



Is sitting the new smoking?



The press is awash with reports highlighting just how bad it is for people to spend prolonged time sitting down. Research suggests that the ill-health effects of prolonged sitting can be as bad as smoking.

The average person in the UK spends a staggering 8.9 hours every day sitting down. Some of this time might be at work, and some in a car or on the sofa in front of the TV. For many workers in the UK, 80% of their working day is spent sitting or performing sedentary tasks. Such inactivity can reduce lifespan. A

recent Australian study has shown that the human lifespan is reduced by 22 minutes for every hour of sitting. Other studies have shown that prolonged periods of inactivity not only increase the risk of obesity but also cause an astonishing list of other conditions. These include heart disease, diabetes, colon cancer, muscular

and back issues, deep-vein thrombosis, brittle bones, depression and even dementia. The World Health Organisation has identified physical inactivity as the fourth biggest killer in the world, which is a stunning statistic. A study of bus drivers and conductors

carried out by Transport for London in the 1950s provided stark evidence of the dangers of spending too much time sitting down. It found that drivers, who spent more of their time sitting, were 1.5 times as likely to develop heart disease as conductors, who stood more often. The effects of a sedentary life and work style have been known for some time, but only now is it being realised that the serious health effects of sitting are perhaps on a par with those from smoking.

What, then, are the implications and obligations for companies and other organisations in relation to the health of their employees? Are there any legal requirements? What action, if any, should they take?

The legal case for action

The common law duty of care developed in the courts during the 20th century, in particular through the case of *Donoghue v Stevenson* in 1932. Breach of this duty can lead to compensation claims for negligence for injuries and ill health sustained at work.

For any claim to succeed there must be evidence to link a work activity with an injury or incidence of ill health and legal concepts such as “reasonable foreseeability” will be important. For a long time, civil claims for diseases derived from exposure to asbestos or cigarette smoke failed because there was insufficient evidence to prove a causal link between the exposure and the disease. Perhaps, with the accumulation of scientific evidence of the ill-health effects of sitting, we are reaching the stage where employers may be liable in civil claims for compensation for ill health brought about by sedentary work, including sitting? The Health and Safety at Work, etc Act 1974 contains general requirements for the protection of employees and others but does not include specific duties to alleviate the ill-health effects of sitting. The dramatic effects on health from prolonged sitting have thus far not been especially recognised by the Health and Safety Executive. In its publication *HSG57 Seating at Work* it takes the view that sitting is often preferred to standing and makes the following comment. “People find it more comfortable to sit rather than stand whilst working, unless the type of work requires constant stretching or twisting to reach or lift

objects. Employers therefore need to ensure that work is organised to allow people to be seated wherever possible. In circumstances where sitting is not possible, for instance where work has to be done over a large area or where constant handling of heavy objects cannot be avoided, standing may be preferable. In this case, employers need to ensure that workers take adequate rest breaks and that suitable comfortable seating is provided during those breaks.” It does recognise to some extent that discomfort from sitting or standing can occur, and provides this advice. “Standing or sitting for long periods can lead to discomfort and may result in long-term health problems, so it is important that workers have the opportunity to change position, stand up and move around.

If possible, the workstation and seating design should allow for free movement. If this is not possible, an employer can provide opportunities for movement by giving employees a variety of tasks or introducing task rotation, or by ensuring that employees take adequate rest breaks away from the workstation.”

Many people sitting at work will be working at a computer screen and will be governed by the Health and Safety (Display Screen Equipment) Regulations 1992. The Regulations do not currently recognise that sitting for long periods may be bad for health. They do specify the quality and type of seat to be used and do require breaks from the screen when discomfort occurs.

What action should employers take?

It is easy to be blasé or play down the increasing evidence about the ill-health effects of sitting. That is exactly what happened in relation to the effects of cigarette smoke, until it was too late for millions of smokers and those passively exposed to cigarette smoke. It may now be time for employers to take seriously the mounting evidence and take action to protect their employees. As always, the starting point should be a risk assessment to evaluate those tasks that involve prolonged significant sitting and whether action should be taken to make work less sedentary. This is likely to be a complex matter, bearing in mind many people like sitting and others have

disabilities or health issues which may limit how much physical activity they can undertake.

A review of prolonged sitting will show what action should be taken which may include the following.

- Work rotation and the introduction of non- or less sedentary tasks. This may include breaks from display screen equipment work to include tasks which involve more standing and more physical activity.
- The introduction of “standing desks” where workers stand instead of sit at their workstations. An innovation from the USA include “treadmill” desks where the worker is actually exercising while working but these are probably not a solution for many UK workplaces, especially when such desks cost up to £3000.
- The introduction of well-being workplace schemes such as gyms, gym membership, and education about the benefits of exercise.
- Incentive schemes which reward well-being behaviour at work and at home such as partaking in exercise, good diet and weight management.

Conclusion

It seems a long time ago since Dame Carol Black published her review of the health of Britain’s working age population in 2008, *Working for a Healthier Tomorrow*. Her review sought to promote health and well-being in the workplace as this would not only benefit Britain’s workforce but also employers, as they would incur fewer of the costs associated with ill health in the workforce. She recommended a shift in attitudes about health in the workplace. She also recommended a model for the early intervention on health issues in the workplace.

In light of her report the evidence of the ill-health effects of sitting at work has a special significance, and should be a stimulus for action by employers. Perhaps the evidence about the effects of sitting will be the catalyst for change and action by employers and maybe they need to think and act in a radical non-conformist manner?

The danger is that, like smoking, the evidence will be ignored for the next 20 years, potentially leading to early death for thousands of workers who spend their working day sitting.

SIKHS AND head protection



From 1st October 2015, Sikh employees in all workplaces will be legally exempt from wearing head protection.

Consultation

Early 2014 saw the HSE publish a consultation document outlining proposals to amend the provisions of s.11 of the Employment Act 1989 to extend the exemption on the wearing of head protection by turban-wearing Sikhs to areas other than construction sites. The consultation followed representations which highlighted a legislative anomaly therefore HSE, on behalf of the Minister for Disabled People and the Department for Business, Innovation and Skills, proposed to make an amendment to extend the exemption in s.11 of the 1989 Act so that turban-wearing Sikhs in any industry would be made exempt from the need to wear head protection, and to extend the limited liability provisions of that exemption to their employers.

Sections 6 and 7 of the Deregulation Act 2015 make amendments to sections 11 and 12 of the Employment Act 1989, and to Articles 13 and 13A of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 so that turban-wearing Sikhs may be exempt from legal requirements to wear a safety helmet in all workplaces, either as workers or visitors, subject to certain exclusions. The existing exemption is limited to construction sites and this has led to problems for turban-wearing Sikhs in other areas, where the risk from falling objects is likely to be lower. The exemption relates only to head protection and only to turban-wearing Sikhs. It does not extend to those Sikhs who do not wear turbans or who wear

other types of personal protective equipment.

Reaction

Stephen Simpson, XpertHR principal employment law editor, says: "Employers with Sikh employees may already have had to deal with this sensitive issue. "The key problem is having to balance health and safety needs with the employee's right to express their religious beliefs freely, to avoid the risk of an indirect race or religious discrimination claim. This new rule at least provides certainty for employers. Although the Deregulation Act received Royal Assent on 26 March, the secondary legislation does not bring the relevant sections of the Act into force until 1st October."

Selecting Suitable Head Protection

For workers that must use head protection, the correct equipment must be chosen for its suitability and for the level of protection required. It must also fit correctly. Safety helmets, bump caps and climbing helmets must fit the wearer well and should:

- Be an appropriate shell size for the wearer
- Have an easily adjustable headband, nape and chin straps (if relevant). The range of size adjustment should allow for the use of thermal liners in cold weather. Helmets should also be as comfortable as possible; this can be improved by including:
- A flexible headband that is wide enough and contoured both vertically and horizontally to fit the forehead

Seton Recommends:



JSP® MK1® Hard Hats
Style No. 86062011000



JSP® MK8 Evolution® Helmet
Style No. 86312011000

- An absorbent sweatband, that can be easily cleaned or replaced
 - Textile (rather than plastic) cradle straps.
- Where chin straps are used they should:
- Not cross the ears
 - Be compatible with any other items of PPE that may be worn
 - Be fitted with smooth, quick release buckles or fittings that do not dig into the skin
 - Be made from non-irritant materials
 - Be able to be stowed on the helmet or easily removed if not required.

FINES IN MAGISTRATES' COURTS:



Significant increases

A recent change in the law has removed the cap on the amount of fines that magistrates' courts can impose for a wide range of offences.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015, made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, came into force on 12 March 2015. The general effect of the new regulations is to remove the cap on the amount of fines that magistrates' courts can impose.

Magistrates can now impose higher financial penalties on offenders who have committed "level five" offences. The new regulations do not affect the powers of magistrates to impose prison sentence of up to six months and to refer more serious cases to the Crown Court for sentencing. Unlimited fines will apply only to offences committed on or after 12 March 2015. The changes will not have retrospective effect. They will apply to a wide range of offences ranging from health and safety crimes, food and environmental laws to those relating to commercial, company, financial services, competition and property law. They will apply only to England and Wales. This means that where a law (for example, health and safety) also applies to Scotland and Northern Ireland, a fine payable for an offence under that law will be different according to where the conviction was secured: thus the changes will involve more discrepancies across the United Kingdom for laws which have UK-wide application.

These changes will also affect decisions about the choice of offences triable either way (that is, by summary trial in the magistrates' court or in the Crown Court). If a company pleads not guilty to an either way offence, the magistrates have to decide whether to send the case to the Crown Court, on the basis that the sentencing powers of the magistrates are inadequate. This is now less likely to be the case.

Points from the Equality Impact Assessment

During the passage of the Act of 2012, the Ministry of Justice issued an Equality Impact Assessment in relation to the proposed increases. The Assessment included the following points.

- The maximum fines currently available to magistrates depend on the seriousness of the offences committed. For most summary offences maximum fines are set by reference to five statutory levels: £200, £500, £1000, £2500 and £5000. There are some exceptional statutory maximum fines where the financial gain realised by the offender is so large that normal fine limits are inadequate. Such offences tend to be environmental or health and safety offences committed by companies, with maximum fines such as £50,000 or £20,000
- Financial penalties, set at the right level, can be just as effective as a community sentence in relation to deterrence and punishment. There are persuasive arguments for using financial penalties for many offenders before turning to other sanctions
- The government wants to remove elements of the law which unhelpfully fetter courts' discretion and believes that the court which has heard all the evidence and all the facts about the offence and the offender is in the best position to make a just decision over sentencing
- The way in which magistrates fix individual fines is governed by statute and by sentencing guidelines. Where a court decides that a fine is the right sentence, it is required to fix a sum of money which reflects the seriousness of the offence and takes into account the means of the offender.
- Most fines in the magistrates' courts fall well below the upper limits. But there are some cases, where the offence is at the serious end of the spectrum and where the offender is relatively wealthy, possibly a corporate body, where the maximum curtails magistrates in the fines which they can impose
- The most significant differential impact of the new provisions is likely to be on organisations when compared with individual offenders. This is justified because, in general, organisations are likely to have greater funds at their disposal than individuals and are

therefore more likely to be able to pay higher fines set by reference to their financial means

- 60% of all fines of £5000 and over, in the magistrates' courts, are imposed on organisations. The vast majority of these fines are for indictable offences which the magistrates can refer to the Crown Court for sentencing at a higher level. It is possible that these cases are not currently sent to the Crown Court because it is time consuming and costly.

The punishment fits the crime

A government spokesman is reported to have commented that dangerous criminals would always remain in prison but it was important that magistrates, who sentence the majority of offenders who come through our courts, have the power to hand down the appropriate punishment. Criminals should be in no doubt that if they break the law they will face consequences and where a fine is the most appropriate sentence this could run into several thousands of pounds. Solicitors practising in this field have commented as follows.

- Companies and their directors may have to reconsider their approach to any offences which up until now may have been treated as relatively minor because of the low fines involved. The changes are likely to considerably affect the way in which companies approach regulatory compliance
- Fines, e.g. for health and safety offences, have increased at a significant rate in recent years. The relaxation of the restrictions on the fining powers of magistrates' courts is very likely to increase this trend still further
- The power to impose larger fines will become even more relevant when the new sentencing guidelines for health and safety, corporate manslaughter and food safety and hygiene offences are implemented later in 2015.

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Case Study

A recent example of a prosecution where the new regulations might be relevant is Health and Safety Executive v Malcolm John Reeve (2014) Darlington magistrates' court, 17 December.

Malcolm John Reeve, the co-owner of the Urra sporting and farming estate in North Yorkshire, was fined following the death of a casual worker.

In October 2013 James Gaffney was driving an all-terrain vehicle to collect dead game following a pheasant shoot on the estate. He was not wearing a seatbelt. The vehicle overturned and he suffered

fatal head injuries. **Reeve was responsible for managing health and safety** on the estate.

No-one had used the seatbelt on the vehicle because they had **not been instructed to do so.**

Reeve was fined £20,000 plus £1600 costs

under section 2 of the Health and Safety at Work, etc. Act 1974 for failing to ensure the health and safety of employees. This was the maximum fine which the magistrates could impose. **The new regulations have removed this upper limit. Had this case occurred on 13 March 2015, it is possible that the magistrates would have significantly increased this fine. Company directors and senior managers in organisations would do well to bear this in mind.**

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Noise induced hearing loss: causes and impacts

It is estimated that 18,000 people have noise induced hearing loss (NIHL) caused or made worse by work in the UK. Authors of the research paper Noise-induced hearing loss in the 21st Century from the World Journal of Otorhinolaryngology (WJO) confirm that it is the second most common form of hearing loss, after age-related hearing loss, yet 100% preventable.

Causes of NIHL

Long term exposure to sound above 80dB(A) can cause damage to an individual's ears. NIHL can be caused by a one-time exposure to an intense "impulse" sound such as an explosion, or by a continuous exposure to loud sounds over an extended period of time, such as noise generated in a woodworking shop. When we are exposed to potentially harmful noise, sensitive structures in our inner ear can be damaged. These sensitive structures, called hair cells, are small sensory cells that convert sound energy into electrical signals that travel to the brain. Once damaged, our hair cells do not grow back.

So that we can prevent NIHL, it is important to have a basic understanding of:

- Sound
- How sound is measured, and
- What an individual perceives as a change in sound level.

We measure sound levels in decibels (dB). 0dB is the lowest threshold of human hearing, with normal speech having a sound level of approximately 60dB. Sound levels above 120dB can be uncomfortable, with sound levels between 130 to 140dB being painful.

The meters that we use to measure noise mimic the human ear, which is more sensitive to some sounds than others. Noise measurements at work are usually shown as dB(A), which means they directly relate to what we hear.

The two things that matter are the noise level and how long people are exposed to it. We know that people who are exposed to 80dB(A) for eight hours a day are likely to suffer harm to their hearing.

You might just notice a 3dB(A) change in noise levels, because of the way our ears work. Yet every increase of 3dB(A) doubles the noise level. What seems like small differences in numbers are really big changes in how much noise people are exposed to.

If a noise level is doubled (i.e. the noise level increases by 3dB), then the same amount of noise exposure occurs in half the time. The following table shows equivalent noise exposures. All of them are the same as being exposed to 80dB(A) for eight hours.

Equivalent Noise Exposures	
Noise level dB(A)	Exposure time (hours)
80	8
83	4
86	2
89	1
92	½
95	¼

The minimum change that a human ear can detect is about 3dB, however, on average a person perceives a change in sound level of about 10dB as a doubling (or halving) of the sounds loudness. A decrease in sound level of 10dB actually represents a 90% decrease in sound intensity, but only a 50% decrease in perceived loudness because of the nonlinear response of the human ear. Taking the actual measurement of sound and human perceived loudness into the work environment can have an impact on how we respond to noise as individuals, and would allow a better understanding of the damage that noise may cause to individuals when there are very small increases in noise levels.

Examples of everyday noises that we can expect

Noise level dB(A)	Everyday noises
20	A quiet room at night
40	A quiet sitting room
45	A humming refrigerator
60	Ordinary spoken conversation
80	Shouting
85	Heavy city traffic
110	A pneumatic drill nearby
130	An aeroplane taking off 100 metres away

Further examples of industrial processes associated with high noise levels

Noise level dB(A)	Industrial processes
85-100	Glass bottling lines
90-100	Product impact on hoppers
85-95	Wrapping, cutting wrap, bagging, etc
>90	Bowl chopper
85-95	Pneumatic noise and compressed air
85-100	Milling operations
85-107	Saws/cutting machinery
85-107	Blast chillers/freezers
85-95	Packaging machinery

Although being aware of decibel levels is an important factor in protecting an individual's hearing, distance from the source of sound and duration of exposure are equally important.

Impact of NIHL on individuals

The impact of NIHL on individuals is considerable. When a person is exposed to loud noises over a long period of time, symptoms of NIHL will increase gradually. Over time, the sounds a person hears may become distorted, and it may be difficult for the person to understand speech. Someone with NIHL may not even be aware of the loss. Some signs of hearing loss are:

- Muffled hearing
- Temporary hearing loss or ringing ears (tinnitus)
- Struggling to hear a normal conversation or household sounds
- High volume of TV or radio
- Telephone conversations become increasingly difficult
- You cannot hear properly when your back is turned away from the noise.

For some people the problem of loss of hearing is severe enough to impact their everyday life. Many people find that they feel isolated, and frustrated at not being able to be involved in a conversation. There



may be a lack of understanding by family, which can result in the family feeling:

- Frustration at not being understood
- Guilt that misunderstandings are their fault
- Embarrassment at others' misunderstanding
- Irritation at having to repeat a lot
- Anger at the person's failure to pay attention
- Overwhelmed by the person becoming too dependent.

In a work environment the individual may not be able to hear important information as part of a meeting, and it may cause interpersonal problems that can cause frustration and stress.

What can be done to prevent NIHL?

As we have seen, long term exposure to sounds over 80dB(A) can damage your ears, it is therefore essential that employers comply with the Control of Noise at Work Regulations 2005 in order to protect their workers from NIHL.

The first thing to decide is whether you have a noise problem in your area. This depends on how loud the noise is and how long people are exposed to it. As a simple guide you will probably need to do something about the noise if any of the following apply.

- Is the noise intrusive - like a busy street, a vacuum cleaner or a crowded restaurant - for most of the working day?
- Do your staff have to raise their voices to carry out a normal conversation when about two metres apart for at least part of the day?
- Do your staff use noisy tools or machinery for more than half an hour each day?
- Do you work in a noisy environment, e.g. construction, demolition, engineering?
- Are there noises due to impacts (such as hammering)?

If you think you may have a noise problem, the next stage is to assess the risks. If it is a simple problem, then this may be easy to do. But it is likely that you will need to have the noise levels measured, using a sound meter.

Noise measurements must be made by competent people, who have been trained in the techniques of noise measurement and have experience of assessing noise. They will be able to use the readings to decide whether the noise levels need to be controlled and how.

If noise needs to be controlled, you'll need to make sure that the controls are put in place and work. The controls you need will depend on what is producing the noise. Protection is best achieved by controlling the noise at source by following this sequence.

- When purchasing machinery or plant, obtain noise data from the supplier. The noise levels should be relevant to where workers will actually be.
- Move noisy machinery/plant into areas where there are no workers, or few workers (into an outbuilding or dedicated room).
- Where noisy machinery/plant has to remain in the working area, enclose it within a sound-insulating enclosure if possible. Anti-vibration machine mountings may also be required.
- Where enclosure is not possible, reduce noise by other engineering means such as:
 - Lining guards/panels with noise dampening material
 - Providing acoustic screens
 - Lining the inside of hoppers with impact-deadening material
 - Fitting anti-vibration mountings
 - Fitting silencers to exhaust systems
 - Ensuring good maintenance to stop rattles and prevent noise from wear.

- Where noise levels still exceed 85dB(A) ensure workers wear hearing protection (ear plugs or earmuffs) within the designated and clearly marked zones.
- Duration of exposure can be reduced by job rotation or providing a noise refuge.

Where hearing protection is used, it needs to be selected to give enough protection to get below 85dB(A) at the ear. When choosing hearing protection consideration should be given to the comfort and fit for the user, hygiene, and whether the protection has to be worn with other protective equipment. There should be a range of protectors so that employees can choose ones which suit them. Care should be taken to provide protectors that do not cut out too much noise, as this can cause isolation or lead to an unwillingness to wear them.

Do not:

- Make the use of hearing protection compulsory where the law does not require it
- Have a "blanket" approach to hearing protection, it is better to target its use and only encourage people to wear it when they need to.

It is essential that hearing protection works effectively and is maintained in good/clean condition, earmuff seals are undamaged, there are no unofficial modifications, and where compressible earplugs are used, they are soft, pliable and clean.

Seton recommends:



3M™ E-A-R™ Classic Disposable Ear Plugs One-Touch Dispenser
Style No. 86069031000



JSP® J-Muff Ear Muffs
Style No. 86085011001



3M™ Peltor™ Push-to-listen® Ear Muffs
Style No. 86084011000

Impact of NIHL on the UK

NIHL claims are the most abundant of the disease claims received by insurers. **Claims cost insurers £70 million per year**, however the number of claims has reduced over the last few years. Although, it is thought that the reduction in claims is partly inspired by reform in insurance legislation in 2013 rather than in better controls. There is very little information on the impact of NIHL on the economy, however, **the overall impact of hearing loss on the UK economy has been estimated at £25 billion**. It is clear that any hearing loss has a massive impact on the quality of life of individuals. Work related hearing loss is entirely preventable, and therefore employers can help themselves in reducing their own costs by putting in place robust noise protective measures, that will prevent their staff from losing their hearing.



CONSIDERING THE

Slip Resistance of Flooring

CONTINUED... ►►

The HSE states that a third of all reported major accidents are due to slip and trips where 40% involve members of the public. Statistically, most of these are slips which occur when floors are contaminated. Common contaminants are often water, oil and grease and talcum powder. Solutions to slips and trips accidents, however, are often simple and inexpensive to implement.



**CAUTION
SLIPPERY HERE**



Causes of slips

The Health and Safety Laboratory (HSL) has developed a slip potential model which shows that a combination of aspects will contribute to slip accidents.

- Floor type: flooring types have different characteristics, all of which will have different slip resistant properties
- Contamination: foreign bodies can affect the profile and performance of a floor and increase the risk of slipping
- Cleaning regimes: apart from poor cleaning which can leave residue behind on floors, cleaning in its nature will leave floors wet and potentially slippery
- Environmental factors: adverse weather will have negative effects on flooring from rain, snow, loose leaves and debris, mud or even freezing temperatures
- Footwear: the type of footwear worn can have a contributing factor in slipping accidents
- Usage: flooring in heavily-used areas can either have negative affects by either smoothing out during wear or

positive, if it contains gritty particles which become exposed during wear

- Human factors: lack of attention can be a contributory factor in slip accidents.

Floor types

The Workplace (Health, Safety and Welfare) Regulations 1992 requires floors to be suitable, in good condition and free from obstructions. No two floor types are the same. Different floors have unique characteristics with their own properties which will be the deciding factor on their performance with regards to slip resistance over time. Slip resistance potential of a floor is defined by:

- What kind of surface finish it has
- How the floor wears down over time
- How easy it is to clean.

There is a misconception that profiled floors offer good slip resistance. However, profiled floors can have a smooth finish that when wet will be extremely slippery. Slip resistance potential can be modified with some floor types. This can be done by mechanical modification, using grinders or by shot blasting. Also applications or surface coatings can be used to increase

the resistance of the floor. If intervention is used, the life span and costs should be considered with the modification as with wear over time the flooring will naturally go back to its original form. The behaviour of the floor is very much dependant on its location and usage.

Assessing slip resistance

HSL has developed a reliable and robust method of assessing slip resistance of flooring. The methodology comes in two parts.

- Measurement using a Pendulum Coefficient Friction Test
- Surface Micro Roughness Measurement.

Pendulum Coefficient Friction Test

This test is regarded by the HSE as the most reliable and accurate form of slip testing of flooring in both dry and wet conditions. The test is based on imitating the swing of a heel using a standardised rubber sole. The pendulum test value (PTV) given is a direct and measurable test of a floors slipperiness. The device is swung over a set area in the direction

of flow of traffic, at 45° and at 90° to the flow of traffic and an average is taken of the readings. The test is subject to British Standard BS7976:Part1-3, 2002 and should be only carried out by a trained competent person.

There are other commercially available slip resistance tests which are sled test based, like the TORTUS or the FSC2000. They are not accepted by the HSE as a true indication of slipperiness, as the test can only be carried out in dry conditions and as such does not indicate the true slip resistance on contaminated floors. Also, these slip tests do not re-create the condition of a pedestrian walking, which is usually when slip accidents happen.

Surface Microroughness Measurement

This test is a simple measurement of the roughness of the flooring used to supplement the pendulum test. The Rz value is a calculation of the total surface roughness by measuring the peaks and valleys of the floor's surface. It is simple to use and anyone can take the measurement, which can be used to

monitor the changes in the floors surface profile due to wear, or can be used as an indication of slipperiness in water-contaminated surfaces. The higher the Rz value the rougher the surface and greater potential of slip resistance.

Slips Assessment Tool

The HSE and HSL have produced the Slips Assessment Tool (SAT), a PC-based software that is free to download from the HSE website. SAT can be used to assess the risk of slipping of pedestrian walkway surfaces by entering the data received from a surface micro-roughness when a pendulum is not available. The tool prompts the user for further data on the condition of the surface, regimes used for cleaning, likely footwear worn along with human and environmental factors to provide a slip risk classification. It does not account for performance of a floor but can be used for decision making by assessing the potential risk between various scenario conditions and cleaning regimes.

Floor contamination and cleaning regimes

One common denominator in all slip accidents is the presence of contamination. Even a small spill can pose a risk. Keeping floors clean is vital and if the cleaning is poorly done, it can pose further risk.

Certain facts regarding cleaning should be noted.

- Clean, dry, smooth floors rarely pose a slip risk
- A well-wrung mop will still leave wet residue on a floor, which increases risk
- Dirty, greasy mops will only spread contamination around
- Mopping alone will not be effective against profile or rough floors; manual or mechanical brushing is needed
- Putting a warning cone or sign up to show that a floor is wet is not enough to stop people from slipping.

Managing slipping risks

People slip due to lack of adequate housekeeping and when floors are in poor condition. They rarely injure themselves on good, clean, dry floors. To manage the risk from slipping, some of the following practices can be adopted.

- Management systems: assess the type of cleaning used and when the cleaning is to be carried out: communicate the details to others

- Risk assessment: assess your flooring with regards to the likely risks when contaminated and monitor the floor on a regular basis, particularly in high usage areas
- Contamination control: prevent slips on flooring close to entrances by placing matting to trap contaminants; be diligent in removing any spills as soon as possible
- Floor repair: repair damaged floors as soon as possible with like-for-like material so that the repair has the same slip resistance properties as the rest of the floor
- Remove obstructions: Keep walkways clear; good housekeeping should always be a primary focus.

Seton Recommends



Setonwalk™ Anti-Slip Tapes
Style No. RT01



Caution Wet Floor Stand
Style No. JAN1064



ROCOL SAFE STEP® Anti-Slip Spray
Style No. SIT579



Tough Rib Entrance Matting
Style No. FLS01BC



After a number of years in development, the Construction (Design and Management) Regulations 2015 (CDM) were implemented on 6 April 2015. Provoking much comment, senior political interest and industry input, what do the changes mean to a site manager?

In this article, we review the changes in order to help identify the impact at site level. Not all the changes will be analysed; only those that may have a more direct impact on the work of a site manager.

Evolutionary changes, not revolutionary

While the new CDM 2015 regulations do bring some significant changes, for site managers many of the previous construction phase requirements remain. However the most relevant changes are as follows.

- The CDM Co-ordinator role has been abolished and replaced by a new duty holder, the Principal Designer. The Principal Designer acts on behalf of the client. More emphasis has been placed on applying the general principles of prevention from the Management of Health and Safety at Work Regulations 1999
- Appendix 4 relating to competence of the old CDM 2007 regulations has been deleted altogether and the guidance to the new CDM 2015 regulations places more emphasis on how the competence of operatives on site should be evaluated
- All projects now need a construction phase plan before construction work starts
- The threshold for notifying the HSE of certain construction work has been amended. It applies to construction work that will “last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project” or exceed 500 person days
- Domestic work has been brought into the scope of the new CDM regulations. However for a domestic client, “most of their duties will be carried out by the contractor, principal contractor, or principal designer”, according to the HSE.

Designing out risks

The replacement of the CDM Co-ordinator by the principal designer has brought a greater emphasis on avoiding risks in the design stage of a project. Clients in putting their design teams together should consider what:

“steps they should reasonably take to ensure their designs help manage foreseeable health and safety risks during the construction phase and when maintaining and using the building once it is built.”

While this was an aim in CDM 2007, the new regulations make it clearer.

Where more than one contractor is to be used on a project — or likely to be used — the client must appoint a principal designer and a contractor as the principal contractor.

CONTINUED... ►►

Construction phase plan

In CDM 2007 the client was required to ensure a construction phase plan was in place before construction work began for notifiable projects. In CDM 2015 clients must ensure the construction phase plan is drawn up by the contractor — in the case where there is only one contractor — or the Principal Contractor where more than one are used. Hence projects will require a construction phase plan in place before construction work starts and site managers will need to appreciate this change.

Competence

Within the Approved Code of Practice (ACoP) for the CDM Regs 2007, Appendix 4 set out the core criteria for various duty holders to identify their competences to undertake the work they tender for. In response to this, various schemes were established, such as the Contractors Health and Safety Assessment Scheme (CHAS) for organisations to use to demonstrate that they have met the core standards identified in Appendix 4 of the ACoP.

In the CDM 2015 ACoP, Appendix 4 was removed following criticism that there had been numerous assessment schemes and that the pre-qualification questionnaires issued by many clients were unnecessarily complicated. The HSE has indicated that designers and contractors can continue to use such third party assessors. However they stress that:

“The law does not require any individual or business to use the services of a third party to help them in bidding for work. Rather than use the services of a third party, they have the option to assess their own capability and supply relevant documentation to a client in a support for a bid for work.”

For organisations that would prefer to assess themselves, the HSE refers to the PAS 91. The Publicly Available Specification 91, 2013: Construction related procurement — Pre-qualification Questionnaires is published by the British Standards Institute. It was developed with representatives from the construction sector with an aim to have a more consistent set of questions across the pre-qualification process in procuring contracts.

Where principal contractors or contractors assess themselves — particularly in smaller companies — site managers may be involved in assessing the competence and training needed for workers on-site for the pre-qualification process. If so, the HSE identifies PAS 91 as a basis for such a self-assessment.

Initially, assessment schemes such as CHAS and SAFEMARK will continue, as well others within the Safety Schemes in Procurement (SSIP) Forum. However the HSE believes that the use of the PAS 91 standard will bring a more consistent approach to the questionnaires that organisations face in the pre-qualification process.

Site managers who are involved in completing pre-qualification questionnaires should find the process easier in the future. It should be noted that some commentators are sceptical that the process will be streamlined.

Worker Involvement

While CDM 2007 had requirements to inform workers and consult with them, CDM 2015 has more emphasis on this. The HSE has taken the opportunity to revise this section and make more explicit the requirements to consult and co-operate with the workforce on site. In guidance from the HSE they stress the importance of effective consultation and cooperation between the principal contractor and other contractors on site as leading to ‘effective worker involvement’. The HSE states this includes:

1. A commitment by managers to lead by example, to provide the resources and set the standards of health and safety expected;
2. Implementation of a range of ways to communicate, ensure cooperation with and consult the workforce in managing health and safety; and
3. Collecting the evidence that worker involvement is effective and that cooperation between contractors is effective.

It is likely that the HSE will use the new regulations to place more prominence on worker involvement on site.

Domestic clients

While domestic clients are included in the scope of CDM 2015, their duties are transferred. Where one contractor is involved, the contractor carries out the client’s duties as well as their own. The HSE argues that for smaller projects this often happens already.

Where there is more than one contractor, it would normally be the Principal Contractor that would take on the domestic client’s duties. Where this is not specified, the contractor “in control of the construction phase of the project” would take on the duties.

In the case of more than one contractor, a client can opt to have a written agreement with the Principal Designer. This would transfer the client duties to the Principal Designer, who would have the client’s duties, as well as their own.

Site changes?

The HSE saw one aspect of the new regulations as a key aim — to improve regulation of smaller sites. Evidence from the intensive inspections done particularly on refurbishment work has revealed significant levels of non-compliance with the law. For many site managers they must understand the changes that CDM 2015 bring. Most of the existing requirements in relation to the health and safety during the construction phase remain.

However, the emphasis on designing out risks and revision of the CDM Regulations mean that site managers — particularly on smaller projects — have changes to incorporate into their work if they have not already done so.



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SAFETY MADE EASY

Working at Height

PLANNING CHECKLIST

Performed by Date

Location of the proposed work at height

What is the type of work to be carried out at height?

Construction Painting Maintenance Cleaning

What are the ground conditions around the work area?

Firm and level Soft but level Firm but sloping or uneven Soft and uneven or sloping

What height is the proposed work to be carried out at? State height

Does the work involve using:

Hand tools Lifting materials Power tools Storing materials

Other (state)

Can work at height be avoided by changing the procedures?
(assembly at ground level, etc) Yes No

How many people will need to gain access to the elevated position?
State those who require access

How long is access at height required? (Insert time against period below)

Hours Days Weeks Months

What is the most practicable type of access equipment for this work?

Stepladders/Ladders Towers / Mobile Elevating Work Platforms (MEWPs) Scaffold

Other (state, ie rope access, bosuns chair, etc)

Are there other factors that could affect the safety of the workers or of others from falls or falling objects?

Working over or near water Working over or near public areas

Working over or near traffic Working over or near excavations

Other (state)

Is the work likely to be affected by the weather conditions? (for work outdoors)

Rain Frost Wind Fog

Snow Sea mist Ice Sun

If the work is to be carried out in hours of darkness, does lighting need to be installed?

Local lighting Portable lighting Flood lighting None required

What degree of supervision is required?

Constant Daily Random spot checks Weekly

Has the physical health of workers been checked to ensure that they have the required physical stamina and agility to gain safe access to their work positions?

Yes No

What methods of evacuation need to be in place to ensure a safe rescue in the event of an emergency?

State

What additional fall protection equipment is required?
(collective fall protection should always be used in preference to individual protection)

Guardrails and toeboards Air bags Netting

Restraint/work positioning equipment Fall arrest equipment (harnesses and lanyards)

Rescue equipment (state)

Assessment undertaken by (print name)

Assessment undertaken by (sign name)

Q&A'S



Wearing sensible footwear to prevent accidents

Q. As part of our approach to prevent slipping accidents at work, we ask employees to wear sensible footwear. A Trade Union Safety Representative has said that if we do this, we must, as the employer, pay for the footwear. Is this the case?

A. Slips and trips are the most common cause of injury at work, causing on average 40 per cent of all reported major injuries. Under health and safety legislation, employers are required to assess any risks including those relating to slipping on floor surfaces. The assessment may include a review of current documentation (e.g. incident reports, near misses, etc.), physical observations, and survey of the premises, staff interviews or use of the HSE Slip Assessment Tool if more specific detailed information is deemed necessary.

Employers are required to meet the so far as is reasonably practicable criteria when controlling risks and should be giving consideration to a slip hierarchy of controls as follows:

- Prevent contamination getting onto floors for example by designing out spills from work activities
- Control contamination through suitable cleaning regimes, housekeeping etc
- Eliminate adverse environmental conditions such as rainwater ingress through entrances
- Improve floor conditions by replacing slippery flooring with more slip resistant surfaces
- Put in footwear controls to reduce the potential for employees to slip.

It must be noted that there is a difference between a policy for employees to wear sensible footwear and the need to provide footwear to reduce slipping risks. In fact, some footwear can increase the chance of a slip happening and a sensible footwear policy can assist employees so as not to select inappropriate footwear. However, as the Health and Safety Executive state "if you have identified slips as a problem in your risk assessment, a sensible footwear policy alone will not be enough to stop slips happening" as "sensible footwear is not necessarily slip resistant footwear". Where the hierarchy is implemented and the risk of slipping is still considered significant then the employer must consider the option of issuing slip resistant footwear to reduce the risk further. In doing so, the employer will be required to select the most appropriate footwear in relation to the specific slip hazards that have been identified. If this is the case, the footwear issued would be deemed to be personal protective equipment and in those circumstances the employer would be legally obliged to supply the footwear free of charge to employees.

Q&A'S



Government Fit-for-Work-service

Q. I understand that, in future, an employee's General Practitioner may be able to refer the said employee to the Governments Fit-for-Work service for a health assessment and development of a Return to Work Plan if he or she takes sick leave. What is this, and are employers obliged to abide by such a plan?

A. Under the UK Governments Fit-for-Work scheme, General Practitioners (and employers) will, from the autumn of 2015, have the option to refer patients (with their consent) to the Fit-for-Work service if they have been, or are likely to be, off work for four weeks or more. Fit-for-Work has been instigated to assist GP's, employers and employee's manage sickness absence and provides access to work-related health advice via a website, advice line and free referrals for an occupational health assessment, which in most cases will be via telephone although face to face assessments may also take place. The assessment will seek to identify all potential obstacles preventing the employee from returning to work (including health, work and personal factors) and involve agreeing a "Return to Work Plan" designed to advise and make recommendations for interventions to help the employee return to work more quickly. When deemed appropriate by a case manager and the employee's consent is given, employer occupational health services or other employer representatives will be consulted during the formation of the Return to Work Plan and when discussing the recommendations within the finalised Plan.

The Return to Work Plan will be shared with the employee and, with their consent, also with their employer and their GP. Employers and employees will receive Return to Work Plans via email, or where appropriate by post. It is not mandatory to progress the interventions recommended by Fit for Work, unless this is required to meet employers obligations under the Equality Act 2010. Guidance from the Government clearly states that the decision about whether to implement any recommendations made in a Return to Work plan remains for the employer and the employee. Employers will continue to have responsibility for managing absences so hence decide if the interventions/ adjustments are reasonable and affordable. It is worth noting on this last aspect that where employees meet the criteria for Access to Work, they can apply for support from the programme, such as specialist aids and equipment or support workers, which may reduce some of the resource issues for employers. However, the Government is encouraging "all parties to act on the recommendations of Fit for Work".

News ROUND UP

October 2015



HSE dust microsite

The Health and Safety Executive (HSE) has re-launched a microsite focused on dust and how to control exposure to dust in the workplace.

Dust is not always an obvious health hazard as the particles that cause the most damage are often invisible to the naked eye and the health effects of exposure may take many years to develop.



Health and safety at Glastonbury

The public perception of the Glastonbury Festival is often one of a "crazy, unregulated environment" but the reality is far different, with the event using robust health and safety systems to keep its music fans and staff safe, according to the Institution of Occupational Safety and Health (IOSH)



Protecting welders from asthma

The Health and Safety Executive (HSE) has recently reminded welders and their employers of the importance of being protected from the causes of asthma, with new supplementary guidance available on the subject including top tips, advice and case studies on how to protect welders, who suffer one of the highest rates of occupational asthma, in the workplace.



Sir Ranulph Fiennes backs health and safety

Speaking at the Safety & Health Expo in June, Sir Ranulph Fiennes said, "Health and safety is vital and I'm proud to say we have never had any deaths. I hope that we carry on in that way. An expedition's success is often down to the individual makeup of the team. I only go for people's motivation — how a person is motivated reveals how they behave for themselves, and therefore for their expedition or business."



Research on respiratory masks: clean shaven is best

The Health and Safety Executive (HSE) has published a new research report on the effect of stubble on respiratory protective masks, which concludes that the current advice for workers to be clean-shaven when using such protection is justified.

Putting the health back into health and safety

The Chief Executive of the British Occupational Hygiene Society (BOHS) has called for health protection, often overlooked, to be put back into health and safety, and called for a less "toxic" health and safety culture.



Builder fined £10,000 after employee dies at work

A builder who failed to ensure the safety of one of his employees has been fined £10,000 with £19,000 costs. Derek Wensley, a self-employed labourer working for Mr Wright, suffered a fatal fall from an unsecured stepladder. Mr Wright pleaded guilty to a single charge of Section 3(1) of the Health and Safety at Work etc. Act 1974. The HSE has warned all employers to make sure that risks from height are fully considered.

Sprinkler system averts major incident

Mitras, an automotive manufacturing company, has been saved from potential devastation after a fire broke out at its premises in Cheshire. Keith Brooks, Head of Protection and Prevention at Cheshire Fire & Rescue Service said: "Companies very rarely recover from a fire such as this, but the sprinkler system did its job and minimised the impact on the rest of the building, containing the flames to one area."



Hugo Boss fined for fatal negligence

Luxury fashion company, Hugo Boss, has been fined £1.2m for health and safety breaches following the death of a four-year-old boy who was crushed to death by a 114kg (18 stone) changing-room mirror. Hugo Boss admitted offences under the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999.



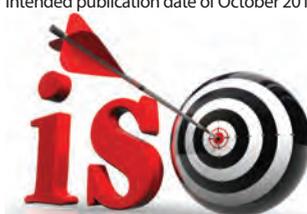
Dog attacks on postal workers down by 10%

Royal Mail has welcomed a 10% fall in the number of attacks by dogs on postal workers but says the current number, of around 2,960 attacks a year, is still too high.



New stage for draft health & safety standard ISO 45001

IOSH has confirmed that the latest draft of ISO 45001, the new international standard on occupational health and safety management, is set to move to its next stage of development and is on target for its intended publication date of October 2016.



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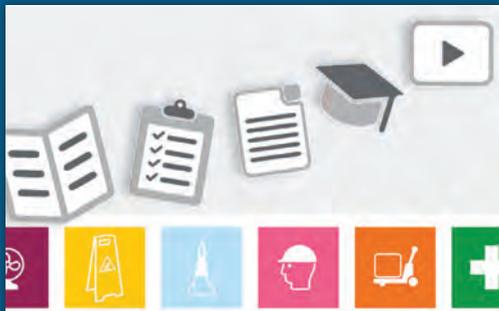
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