

Why do we need to conduct Risk Assessments...?

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Keynote presentation

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Introduction...

- Risk assessments are a necessary step in ensuring a safe workplace.
- Meeting the legal requirements is the minimum standard for health and safety but employers must keep risks as low as reasonably practicable (ALARP).
- Risk Assessments are straightforward using the following steps:
 - 1) Identify any hazards
 - 2) Identify who may be harmed by these hazards and how
 - 3) Evaluate the hazards and come up with safety precautions
 - 4) Record your findings
 - 5) Review and update the risk assessment as and when necessary

The Health and Safety at Work Act...

- The Health and Safety at Work Act (HSAWA) is the primary piece of legislation covering occupational health and safety in Great Britain.
- The Act, which largely reflected the recommendations of the 1972 Robens Report, **introduced a broad goal setting, non-prescriptive model, based on the view that ‘those that create risk are best placed to manage it’.**
- The Act gave people (everyone) a broad legal right to be protected from work related risks.

Risk Assessment – the Law...

- Regulation 3(1) of the ‘Management of Health and Safety at Work Regulations 1992 states:
Every Employer shall make a **suitable and sufficient assessment** of:
 - a) **The risks to the health and safety of his employees** to which they are exposed whilst they are at work
 - b) **The risks to the health and safety of persons not in his employment** arising out of or in connection with the conduct by him or his undertaking
- The HSE’s own published definition of a risk assessment is:
“...a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm....”

Employers' responsibilities...

- Employers have duties under health and safety law to assess risks in the workplace. **Risk assessments should be carried out that address all risks that might cause harm in the workplace.**
- Employers must also provide their employees and others with **information about the risks in the workplace and how they are protected, and also instruct and train** them how to deal with the risks.
- Employers must also **regularly consult** with their employees on health and safety issues.
- When an Employer does not have the necessary in-house skills to carry out these duties themselves, **they should seek assistance from a competent person(s).**

The Process of Risk Assessment...

- The risk assessment should be structured and applied so as to help employers to:
 - **identify the hazards** created at work and evaluate the risks associated with these hazards, to determine what measures they should take to protect the health and safety of their employees and other workers, having due regard to legislation;
 - **evaluate the risks** in order to make the best informed selection of work equipment, chemical substances or preparations used (such as refrigerants), the fitting out of the workplace, and the organisation of work;
 - **check** whether the measures in place are adequate;
 - **prioritise action** if further measures are found to be necessary as a result of the assessment;
 - **demonstrate** to themselves, the competent authorities, workers and their representatives that all factors pertinent to the work have been considered, and that an informed valid judgment has been made about the risks and the measures necessary to safeguard health and safety;
 - **ensure** that the preventive measures and the working and production methods, which are considered to be necessary and implemented following a risk assessment, provide an improvement in the level of worker's protection.

Record the Findings...

- Records should be proportionate to risk. Records of significant findings should include enough detail to show that a suitable and sufficient assessment has been made. Including:
 - Details of the **identified hazards** associated with the work activity;
 - Details of the **severity of the possible consequences** from realisation of the identified hazards, including identification of groups of people who may be affected, and any groups identified as especially at risk;
 - Details of the **precautions that are (or should be) in place to control the risks** (with comments on their effectiveness);
 - **Improvements and further actions** identified as necessary to control risks.

ALARP and SFAIRP...

- 'ALARP' is short for 'as low as reasonably practicable'.
- 'SFAIRP' is short for 'so far as is reasonably practicable'.
- The two terms mean essentially the same thing and at their core is the concept of 'reasonably practicable'.
- The concept of 'reasonably practicable' lies at the heart of the British health and safety system.
- HSE's stated policy is that any proposed regulatory action (Regulations, ACOPs, guidance, campaigns, etc.) should be based on what is 'reasonably practicable'.

Meaning of reasonably practical...

- The Oxford Dictionary defines practicable as **‘able to be done or put into practice successfully’** for example ‘the measures will be put into effect as soon as is reasonably practicable’.
- This is not the same as practical which the Oxford Dictionary defines as **‘of or concerned with the actual doing or use of something rather than with theory and ideas’** for example ‘there are two obvious practical methods that could be considered’

Foreseeable versus Unforeseeable...

- HSE will not expect employers (or other duty-holders) to take account of hazards **other than those which are a reasonably foreseeable**
- There are three tests that help to establish whether or not a risk is reasonably foreseeable:
 - 1) **Common knowledge** - any reasonable person would identify the risk
 - 2) **Industry knowledge** - well known and understood by people working within an industry
 - 3) **Expert knowledge** - outside the skill and competence of most people working within an industry

Primary Regulations...

- **The Management of Health and Safety at Work Regulations 1999** (The Management Regulations) require employers to make and implement effective arrangements for assessing the risk.
- For **refrigeration systems these health and safety requirements** are mainly contained in the following health and safety regulations:
 - Provision and Use of Work Equipment Regulations 1998 (PUWER)
 - Pressure Equipment Regulations 1999 (PER)
 - Pressure Systems Safety Regulations 2000 (PSSR)
 - Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)
 - Electricity at Work Regulation 1999
 - Construction (Design and Management) Regulations 2015 (CDM 2015)

Other Regulations include...

- Control of Substances Hazardous to Health Regulations 2002 (COSHH)
- Work at Height Regulations 2005
- Control of Noise at Work Regulations 2005
- Confined Spaces Regulations 1997

- Please note this is not an exhaustive list...

Life-cycle management of risk...

- For the optimum outcome, risk management approaches need to be applied considering the entire life-cycle of the system. The major steps involved in the life cycle of a refrigeration system include the following:
 - Concept and Design
 - Construction
 - Commissioning
 - Certification
 - Normal Operation
 - Decommissioning
 - Disposal

Working with Contractors...

- If an employer has a contractor working for them, then both the employer and the contractor will have duties under health and safety law. This also applies when a contractor employs subcontractors.
- When employing contractors, the employer should:
 - select a suitable subcontractor
 - assess the risks of the work
 - do a risk assessment
 - provide information, instruction and training to employees.
 - set up liaison arrangements for co-operation and co-ordination with all those responsible to ensure the health and safety of everyone in the workplace
 - decide the procedures needed to manage and supervise the work of contractors and agree the nature of the controls before work starts.

What if it all goes wrong...?

- In most situations when the HSE becomes involved for example after something goes wrong, it is necessary to decide whether the risks are ALARP.
- This involves a comparison between the control measures already in place or being proposing and the measures the HSE would normally expect to see in such circumstances i.e. relevant good practice.
- ‘Good practice’ is defined in the general ALARP guidance as ‘those standards for controlling risk that HSE has judged and recognised as satisfying the law, when applied to a particular relevant case, in an appropriate manner.’

Likely Prosecutions...

- Health and Safety At Work Act 1974 / 2 / 1 - **failure to ensure, so far as is reasonably practicable**, the health, safety and welfare at work of all employees
- Management of Health & Safety at Work Regulations 1999 / 3 / 1 – **failure to make a suitable and efficient assessment of the risks** to the health and safety of employees to which they are exposed whilst they are at work
- Dangerous Substances and Explosive Atmospheres Regulations 2002 / 5 / 1 – **failure** to ensure where a dangerous substance is or is liable to be present at the workplace, **to make a suitable and sufficient assessment of the risks** to employees which arise from that substance.

Sentencing Guidelines...

- It is three years since (February 2016) the implementation of the UK Sentencing Council's Definitive Guideline for the Sentencing of Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences.
- In the first year we saw, as predicted, that the courts weren't shy about imposing high fines for organisations and custodial sentences for individuals for breaching health and safety legislation.
- The principal focus of the Guideline is to ensure fines are 'sufficiently substantial to have a real economic impact which will bring home to both management and shareholders the need to comply with health and safety legislation'.
- A significant number of cases have attracted fines in excess of £1million, many in non-fatal cases, and this is a trend that is likely to continue.

Conclusions...



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HEALTH AND SAFETY EXECUTIVE Number of directors prosecuted by HSE trebles in a year

The number of company directors who have been prosecuted for health and safety offences by the HSE has trebled in a year, according to research from a law firm.

Using data from the **Health and Safety Executive (HSE)**, _____ research shows that the number of company directors and managers prosecuted by the HSE in the year to 31 March 2016 was 46, compared to 16 in the previous year.

In contrast, the number of employees who were prosecuted by the HSE in 2015/16 has fallen from 10 in the previous year, to just one.

_____ Co said that according to the research of the 46 prosecutions in 2015/16, 34 were found guilty and 12 were given prison sentences, with the longest prison sentence imposed at two years.



Conclusions...



Thank you for listening...



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