Risk Assessments—Make Them ‘Come Alive’ for Real Employee and Business Benefits

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The concept of risk assessment in a European context as the ‘missing link’ for the U.S.A. and international areas in respect of overall risk controls was described in our 2013 paper and presentation. Our 2014 presentation will assist the achievement of the goals of ASSE's Risk Assessment Institute, and will add to the Body of Knowledge in this vitally important area of developing competency.

The 2014 presentation will move to the next stage in the process of linking the outcome of risk assessments to work-based activity/task method statements and safe systems of work, which are part of integrated operational processes. Further specific international case studies will be used.

Our aim is to show how risk assessment is a crucial part of the development of business integrated processes so that safety becomes an enabler to business and not a blocker, covering key processes:

- In-house controls
- External controls
- Contractor controls

Risk Assessment—Legal Requirement

The legal requirement for risk assessment within the European Union was first mentioned in the European Framework Directive, which saw the light of day in 1989 (ref. 89/391).

The aim of the Directive was to introduce measures to encourage improvements in the health and safety of workers at work.

As a result of this Directive, each member state of the EU has to enact local/national legislation so as to bring the requirements of the Directive into the regulatory framework of each nation.

Within the UK, the regulations requiring risk assessment are the Management of Health and Safety at Work Regulations, 1992—revised in 1999. They come with their own Approved Code of Practice (ACoPs), published by the then UK Health and Safety Commission (HSC). The key references are included below, with a summary of all the sections set out at the end of this paper.
ACoPs primarily provide practical guidance on how to comply with the relevant legislative requirements. Although failure to comply with any provision of the Code is not, in itself, an offence in law, that failure may be taken by a court in criminal proceedings as proof that a person or organisation has contravened the regulation to which the provision relates.

In such a case however, it will be open to that person/organisation to satisfy a court that compliance with the regulation has been achieved in some other way.

The purpose of an assessment is to identify the measures needed to comply with the requirements and prohibitions (do’s and don’ts) imposed by the regulation; i.e., identifying what is needed to comply with the law.

In essence, this is taking the risk management process and making it a legal requirement: Identify—Evaluate—Control.

So Regulation 4: Principles of Prevention sets out what is to be to be applied, e.g., the preferred hierarchy of control.

The logic is to start at the top of the hierarchy and work down until the risk has either been eliminated or reduced to an acceptable level.

The complete hierarchy is as follows:

- avoid risks (elimination)
- evaluate risks that cannot be avoided (assessment)
- combat risks at source (remove)
- adapt work to the individual (work design/ergonomics)
- adapt to technical progress (innovation)
- replace dangerous with safe or safer alternatives (reduce)
- develop a coherent overall prevention policy (control)
- give priority to collective over individual protective measures (group, not single)
- give appropriate instructions to all employees (information/training)

N.B. It is interesting to note that there is no mention or inclusion of personal protective equipment (PPE) anywhere in this hierarchy. Hence, PPE is not an acceptable control measure in EU law, unless it can be shown to be not technically feasible or reasonably practicable to combat the risk by measures other than PPE. PPE is therefore the last resort, not the first (and only?) option!

In the UK, the government body responsible for enforcing OSH legislation is the Health and Safety Executive (HSE), and is the equivalent of the Occupational Safety and Health Administration (OSHA) in the U.S.

They have produced (and recently revised) an excellent guidance leaflet (reference IND G 163, Rev 2, 2006) entitled, "Five Steps to Risk Assessment;" this is available to download at: www.hse.gov.uk/riskassessment.

The five steps are:

Step 1: Identify the Hazards
Step 2: Decide who might be harmed and how
Step 3: Evaluate the risks and decide on precautions/controls
Step 4: Record the findings and implement them
Step 5: Review the assessment and update if necessary
Hence, a risk assessment is a careful examination of what, at work, could cause harm—injury or disease—to people so that a decision may be made on whether enough precautions have been taken or whether more needs to be done to prevent harm.

A *hazard* is anything likely to cause harm, such as chemicals, electricity, working from ladders and other access equipment, etc.

For a hazard to cause harm, a hazardous event must happen.

The *risk* is the chance, the odds, the probability, the likelihood that someone could be harmed by these and other hazards, together with how serious that harm could be, i.e., the chance that the hazardous event will occur.

The *consequence* is the outcome of the hazardous event once it occurs.

So risk is measurable, quantifiable, and reducible.

But despite the fact that the legal requirement is to identify, assess and control ‘significant risks,’ it is not possible to satisfy the legal requirements nor effectively safeguard your business or employees if you do not identify and assess all risks so that the significant ones can be clearly identified and thereafter concentrated on.

**Making Them ‘Come Alive’**

However, we find that too often the risk assessment process is focused on what the person believes delivers ‘legal compliance.’ They incorrectly believe that assessing the risk, and recording the results is sufficient. However, proving that you have assessed the risk, but then NOT doing anything about improving controls to eliminate or reduce the risk does not satisfy legal requirements or benefits the business or protects workers.

So the key is making the results ‘come alive’ by:

- Identifying appropriate controls
- Deciding how they can be implemented in the workplace
- Effective design and implementation of the new/revised controls
- Clear communication and training to those workers who have to implement and maintain the controls
- Monitoring of work practices and compliance to controls

They are several key processes involved:

1. In-house controls to undertake current or future onsite business activities
2. Controls on external activities on customer premises or public places
3. Controls on contractors who periodically enter your business premises to undertake specialist functions or routine activities

Risk assessment processes and records typically focus heavily on the first process, often do not deal with the second process and pay lip service to the third process.

Our presentation will:

- Show how you can link the outcome of risk assessments to workplace method statements and safe systems of work that are business focused. This enables safety to be seen as relevant to the business and integrated with it. Safety must be seen as an *enabler*, NOT a *blocker* to business.
- Show how you can include dynamic risk assessments in your external project/service activities to protect employees, but not prevent them undertaking their legitimate activities in a safe manner
- Show how the risk assessment and method statement/safe system of work process for contractors can protect your business, your employees, and the contractors without introducing unnecessary, costly or time-consuming controls.
Conclusion

Risk assessment is a means to an end, with end being the implementation and maintenance of commensurate control measures. Control measures result in fewer injury accidents and cases of ill-health, as demonstrated by the reduction of fatalities, serious/major injuries, and ill-health cases within UK plc.

Case Studies

We will be using many case studies to demonstrate the key points, plus include templates that can be used by delegates.

Appendix

The remainder of the MHSWR 1999, as mentioned above, are all control requirements:

Reg. 5: **Health and Safety Arrangements**

Employees are required to have appropriate arrangements (systems and procedures) in place for the effective:

- planning
- organisation
- control
- monitoring
- review

of those preventive and protective measures.

Those organisations having five or more employees must keep a written record of these arrangements; this requirement also applies to the need to keep and revise written risk assessments (Reg. 3).

Reg. 6: **Health Surveillance**

Where health risks are identified via risk assessments, then exposed employees must be provided with such health surveillance as is appropriate.

Reg 7: **Health and Safety Assistance**

Employers shall appoint one or more competent persons to assist in undertaking measures that need to be taken in order to comply with the relevant requirements and prohibitions (dos and don’ts)

Reg. 8: **Procedures for Serious and Imminent Danger/Danger Areas**

Every employer shall establish and give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work, and to restrict access to designated "danger areas".
**Reg. 9: Contacts with External Services**

Every employer should ensure that any necessary contact with the emergency services - fire, ambulance, paramedics, police etc - are arranged, particularly as regards to first aid, emergency medical care and rescue work.

**Reg. 10: Information for Employees**

Employees are required to provide all employees with comprehensible and relevant information on:

- the OSH risks identified by the risk assessment(s)
- the commensurate preventive and protective measures (controls)
- emergency procedures

**Reg. 11: Co-operation and Co-ordination**

This requires employees and self-employed persons sharing a workplace to:

- co-operate with each other in respect of health and safety
- co-ordinate their precautions/risk control measures
- take reasonable steps to inform each other about osh risks

**Reg. 12: Persons Working on Third Party Locations**

Host employers are required to provide comprehensible information to all third parties working on their location concerning osh risks on site. This include emergency evacuation procedures.

**Reg. 13: Capabilities and Training**

Every employer shall, in entrusting tasks to his employees, take into account their capabilities as regards to health and safety, i.e. square pegs in square holes! Capability includes training plus the capacity to put that training into practice. It also includes physical and mental capabilities.

Every employer shall ensure that all employees are provided with relevant osh training on recruitment (induction), on being exposed to new or increased risk because of change in responsibilities/new work equipment/new technology/new processes or systems of work.

Such training should be repeated periodically, should take account of new or changed osh risk, and should take place during normal working hours.

**Reg. 15: Temporary Employees**

In essence, this requires temporary and part-time employees to be treated in exactly the same way as full-time employees in respect of the provision of risk information and controls.

**Reg. 16: New and Expectant Mothers** – need to risk assess the effects of their work on their pregnancy

**Reg. 17: Night Work by New and Expectant Mothers** – control the hazards/risks arising from pregnancy

**Reg. 18: Notification of Pregnancy by Expectant Mothers** – requirement of an expectant mother to advise their employer of their pending pregnancy and work with their employer to minimise the risks from both
Reg. 19: *Protection of Young Persons* – need to assess the hazards/risks of a young person working in your workplace

Reg. 20: *Exemptions (e.g. Ministry of Defence)*

Reg. 21: *Exclusion of Civil Liability*

Any breach of a duty imposed by these Regulations shall not confer a right of action in any civil proceedings (i.e., workers = compensation).