

PART 2 – HEALTH AND SAFETY LAW

In this part of the guidance, key areas covering legal health and safety responsibilities are summarised, with links to further details in an annexe. The links to more detailed information are navigable by clicking on the line '[CLICK HERE FOR FURTHER INFORMATION](#)' at various points in this section.

Overview

1. The Health and Safety at Work etc Act [1974](#)¹, also referred to as HSWA, is the primary piece of legislation covering occupational health and safety in the UK. Under HSWA, employers have a duty to provide a safe place of work and protect the health and safety of their employees and others that may be affected by their work activities. It also places duties on employees to cooperate with their employer, so far as is necessary, to enable their employer to comply with his health and safety duties as set down under HSWA and under relevant legislation.

Table 2.1: Overlap of duties of some legislation

Requirements	HSWA	COSHH	GMO(CU)	MHSWR	PPEWR	PUWER	RIDDOR
Health & Safety Management Systems	●			●			
Health & Safety Policies	●			●			
Access to Competent Advice			●	●			
Co-operation and Co-ordination				●			
Risk Assessment		●	●	●	●		
Control Risk of Exposure to Hazardous Substances	●	●	●	●	●	●	
Maintenance of Control measures	●	●		●	●	●	
Information, Instruction and Training	●	●		●	●	●	
Handling Incidents/Emergency Plans		●	●	●			●
Health Surveillance		●		●			

COSHH = Control of Substances Hazardous to Health Regulations 2002

GMO(CU) = Genetically Modified Organisms (Contained Use) Regulations 2000⁶

MHSWR = Management of Health and Safety at Work Regulations [1999](#)³

PPEWR = Personal Protective Equipment at Work Regulations 1992

PUWER = Provision of Work Equipment Regulations [1998](#)⁵

RIDDOR = Reporting of Diseases, Injuries and Dangerous Occurrences Regulations [1995](#)⁴

2. The main legislation of relevance to controlling the risks of exposure to blood-borne viruses at work is the Control of Substances Hazardous to Health Regulations 2002 ([COSHH](#))². There are, however, other health and safety regulations that overlap with COSHH and the main ones are shown in Figure 2.1. The requirements from these regulations are discussed below, together with those from other regulations not listed in Fig 2.1.
3. Where there is an overlap between pieces of legislation, the general rule is that the more specific requirement must be met. However, hazards and issues not covered by the specific legislation will need to be considered in the context of the more generic legislation. As such, this guidance will consider duty holder responsibilities in turn rather than concentrating on specific pieces of legislation. It will also reference other guidance documents for further reading.

The Employer's Responsibilities

Health and safety management

4. The legal responsibility for health and safety rests primarily with the employer. It is the employer's responsibility to ensure the organisation has the necessary management framework to protect the health and safety of staff and to provide a safe working environment. By doing this employers will achieve compliance with health and safety at work legislation. [CLICK HERE FOR FURTHER INFORMATION](#)

Info Box 2.1: Further information and some sector specific guidance on key elements of effective health and safety management systems can be found in:

- *Successful health and safety [management](#)⁷ (HSG65)*
- *[Management of health and safety in the health service](#)⁸*
- *University Health and Safety Management: Code of Best [Practice](#)⁹*

Health and safety policies

5. All organisations employing 5 or more staff must have a written statement of their health and safety policy. For larger organisations, the overall health and safety policy may be supplemented by local policies and topic specific guidance. Protection against BBVs for example may merit specific guidance or be mentioned in a local policy, depending upon the type of business/organisation. [CLICK HERE FOR FURTHER INFORMATION](#)

Info Box 2.2: Further information on the formulation of health and safety policies and local procedures can be found in:

- [An introduction to health and safety](#)¹⁰
- [Managing Health and safety: Five steps to success](#)¹¹

Access to competent advice

6. Employers may need help and advice to carry out their duties under health and safety law. If that is the case, they must appoint one or more competent persons (that is, one who has sufficient training and experience or knowledge) to fulfil this role, for example, a health and safety advisor/assistant or safety officer. For biological agents matters they may require further support from a biological safety officer and/or referral to an infection control team. It may be appropriate for occupational health professionals to advise employers on the legal responsibilities of health care provision in the work place. [CLICK HERE FOR FURTHER INFORMATION](#)

Co-operation and co-ordination

7. More than one employer, including the self-employed, may share some workplaces. For example:
- A laboratory in a teaching hospital may be shared by university researchers and NHS biomedical scientists;
 - Science parks may be owned and used by one organisation but also have space to let out to small businesses.
8. Those sharing a workplace must ensure there is co-operation and co-ordination to meet their respective duties under the law. [CLICK HERE FOR FURTHER INFORMATION](#)

Consultation with employees and safety representatives

9. By law, employers must consult all of employees, and employees' safety representatives, on health and safety matters. This is an important way to create and maintain a safe and healthy working environment. [CLICK HERE FOR FURTHER INFORMATION](#)

Info Box 2.3: Information on consultation with employees and safety representatives can be found in:

- *Safety representatives and safety [committees](#)*¹²
- *A guide to the Health and Safety (Consultation with Employees) Regulations 1996. Guidance on [regulations](#)*¹³
- [Consulting employees on health and safety: A guide to the law](#)¹⁴

Risk assessment

10. The requirement to assess the potential risks from a work activity is central to most health and safety legislation. In the work place this is often broken down into five steps.

Info Box 2.4: Five steps to risk assessment:

1. Identify the hazards
2. Decide who might be harmed and how
3. Evaluate the risks and decide on precautions
4. Record findings (3) and implement them
5. Review risk assessment and update if necessary

11. When assessing the risk associated with potential exposure to BBVs, don't overcomplicate the process. In many organisations, the risks are well known and the necessary control measures are easy to apply. Most employers should already know whether, and how, their employees could potentially be exposed to BBVs. If so, checks should be made to ensure that reasonable precautions are in place to avoid exposure. Further information related to the process of risk assessment is provided in Part 3 of this guidance (Control measures against blood-borne infection). The information provided in Part 3 is designed to help employers and their employees to comply with the law.
12. There are additional requirements for more specialised work involving the deliberate handling and genetic modification of blood borne viruses. Further information on risk assessment, in general, and deliberate working with BBVs and genetically modified organisms can be found in Info box 2.5

Info Box 2.5: Further information on key elements of the risk assessment process can be found in:

- *Part 3 of this guidance*
- [Five steps to risk assessment¹⁵](#)
- [Infection at work: controlling the risks¹⁶](#)
- [Biological Agents: Managing the Risks in laboratories and healthcare premises¹⁷](#)
- [A guide to the Genetically Modified Organisms \(Contained Use\) Regulations¹⁸](#)

Controlling the risks

13. Once a risk assessment has been completed, the methods chosen to adequately control the identified risks should, as far as possible, follow the hierarchical approach set out in the Management of Health and Safety at Work Regulations 1999 and COSHH, namely:
- Eliminating risk
 - Controlling risk at source or by safer design
 - Using physical engineering controls and safeguards; Supported by:
 - Safe systems of work
 - The use of personal protective equipment.

Further details on the processes that lie behind these principles are given in Part 3 of this guidance, (Control measures against blood-borne infection). Part 3 of the guidance highlights these principles and provides further, detailed recommendations on how they can be implemented.

Minimising the risks through suitable systems of work

14. Systems of work are usually implemented by standard operating procedures or local codes of practice. Because they rely on individuals adhering to them, usually they are only used to supplement other control measures. Examples of such systems relating to infection prevention and control are:
- Laboratory rules – e.g. Prohibiting eating, drinking and smoking and the application of cosmetics in working areas where there is a risk of contamination
 - Sharps policy - Avoiding the use of, or exposure to, sharps, such as needles, glass, etc.
 - Waste disposal policy - Where sharps are unavoidable, safe disposal procedures such as the use of sharps bins made available at point of use, and forbidding the re-sheathing of needles.
 - Decontamination and disinfection procedures - Effective decontamination of re-useable equipment (e.g. tattooing instruments, dental drills).

A summary of requirements designed to protect health care workers in England from BBV exposure is provided in The Health Act 2006: Code of practice for the prevention and control of healthcare associated infections, (known as The Hygiene Code - see link in Info Box 2.6). Although the Act is enforceable in England alone, the associated code of practice contains information that is relevant for anyone providing occupational health support for health care workers, and for prevention and management of occupational exposure to BBV. Additional guidance for the Scottish healthcare sector is available from the Scottish Infection Manual*¹. Failure to observe 'The

*¹ Scottish Infection Manual - Guidance on core standards for the control of infection in hospitals, health care premises and the community interface. July 1998. At: <http://www.scotland.gov.uk/library2/doc15/sim-00.asp>

Hygiene Code' in England may either result in an Improvement Notice being issued to the NHS body by the Healthcare Commission, or in it being reported for significant failings and placed on 'special measures'.

Other information on regulations related to sharps is provided in Info Box 2.6.

Info Box 2.6: Medical Devices Regulations 2002 (as amended)¹⁹

Needles and many other medical sharps are covered by The Medical Devices Regulations 2002 and regulated within the UK by The Medicines and Healthcare Products Regulatory Agency (MHRA)². As such, they should be designed and manufactured in such a way that, when used under the conditions and for the purposes intended, they will not compromise the clinical condition or the safety of patients, or the safety and health of users, or where applicable, other persons, provided that any risks which may be associated with their use constitute acceptable risks when weighed against the benefits to the patient and are compatible with a high level of health and safety. Enforcement actions relating to these regulations may differ slightly depending on where in the UK they are applied.

In particular with regard to needles and other medical sharps and blood-borne viruses, the essential requirements state that devices must be designed in such a way as to eliminate or reduce as far as possible the risk of infection to the patient, user and third parties. The design must also allow easy handling and, where necessary, minimise contamination of the device by the patient or vice versa during use. It may be appropriate to consider the use of newer technology such as retractable needles, where the health and safety benefits may justify any additional cost.

- See also: The Health Act 2006: Code of Practice for the Prevention and Control of Health Care Associated Infections. At: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationPolicyAndGuidance/DH_4139336

Personal protective equipment (PPE)

15. Although the principles of the hierarchical approach to control should be applied whenever practicable, there are some instances where PPE should be considered, i.e., where the risk to health and safety cannot be adequately controlled by other means or it would not be reasonable to implement other control measures.

² A summary of the MHRA's regulatory responsibilities can be found on the MHRA web site at: <http://www.mhra.gov.uk/Howweregulate/Devices/Medicaldeviceappeals/index.htm>

16. When PPE is deemed necessary, consideration should be given to the type of PPE needed, its safe use, maintenance and disposal. Further information on the use of gloves can be found in Appendix 1.
17. Non-disposable PPE, e.g., laboratory coats, overalls or aprons, must be stored appropriately, checked and kept clean and, if faulty, repaired or replaced. (See Info box 2.7). If PPE may be, or has been, contaminated by blood or other body fluids, it must be removed safely before leaving the workplace and kept apart from uncontaminated PPE and normal 'street' clothes. It should be cleaned and decontaminated or, if necessary, disposed of safely. [CLICK HERE FOR FURTHER INFORMATION](#).

Info Box 2.7 – Uniforms and PPE

- *Uniforms are not PPE as defined by the [regulations](#)²⁰ but protective clothing such as aprons may be worn over uniforms or normal clothing to control the risk of contamination. If there is contamination of uniform or personal clothing there should be spare clothing available for staff to use, e.g., disposable boiler suits, theatre scrubs etc.*
- *Risk assessment should identify how uniforms or protective clothing could become contaminated and how decontamination will be carried out.*

18. In addition to the general controls outlined above, COSHH also specifies the **minimum** containment measures to be applied when intentionally working with biological agents, including BBVs, in laboratories, animal rooms and in industrial processes. (See Info Box 2.8)

Info Box 2.8: Further information on the containment measures required under COSHH when deliberately working with biological agents, including BBVs, can be found in:

- *Control of Substances Hazardous to Health Regulations 2002 (As amended). Approved Code of Practice and [Guidance](#).²*
- *[Biological Agents: Managing the risks in laboratories and healthcare premises](#)¹⁷*
- *Safe Working and the prevention of infection in clinical laboratories and similar facilities, [HSAC](#)²¹*
- *The management, design and operation of microbiological containment [laboratories](#)²⁰*

Use and maintenance of controls

19. COSHH requires that employers take all reasonable steps to ensure that the control measures they provide are used, which includes provision of information and training, as well as appropriate supervision of employees. This may also include the requirement for use of a permit to work

system²². Detailed consideration of controls is provided later in Part 3 of this guidance.

20. In addition to the above, measures must be implemented to ensure that:

- Equipment provided meets the requirements of the Provision of Work Equipment Regulations 1998 (PUWER), i.e., suitable and safe for use, and safely maintained. In this context, equipment also includes needles.
- Engineering controls used are kept in efficient working order and good repair.
- Non-disposable PPE is appropriately stored, checked, kept clean and, if faulty, repaired or replaced.

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Information, instruction and training

21. Employers have responsibilities under health and safety legislation to provide suitable and sufficient information, instruction and training for their employees. This includes providing information on:

- Whether employees could be exposed to blood-borne viruses and how;
- The risks posed by this exposure;
- The main findings of any risk assessment;
- The precautions employees should take to protect themselves and other employees, contract staff or visitors;
- How they should use and dispose of any PPE that is provided; and
- What procedures they should follow in the event of an emergency.

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Handling incidents/emergency planning

22. The Regulations summarised in Table 2.1 and described in the paragraphs above require arrangements to be made to deal with emergencies. Emergency plans need to include:

- The foreseeable types of incidents, accidents or emergencies that might occur;
- The role, responsibilities and authority of individuals during an emergency;
- Procedures for employees to follow – including regular safety drills and identifying the special needs of any disabled employees;
- The safety equipment and PPE to be used;
- Arrangements for liaison with emergency services;
- First aid facilities, access to post-exposure prophylaxis and follow up through the occupational healthcare provider; and
- Procedures for cleaning up and disposal of waste

23. Under RIDDOR, infections and dangerous occurrences with biological agents at work must be reported. Examples of dangerous occurrences include an accident or an incident arising out of the work, which could result in the release of a biological agent likely to cause severe human illness or infection, or a sharps injury involving known blood/body fluid infected with a BBV. In addition, local records should be kept of all such incidents and the underlying cause(s) should be investigated and noted.

[CLICK HERE FOR FURTHER INFORMATION](#)

Info Box 2.9 contains additional useful sources of information on the reporting process relevant to BBV occupational exposure events.

Info Box 2.9 – reporting methods for BBV exposure events

- *The Reporting of Incidents, Diseases and Dangerous Occurrences Regulations 1995 (L73)*⁴
- *Biological agents: Managing the risks in laboratories and healthcare premises; Appendix 1.1. [The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations](#)*
- *Health Protection Agency - Reporting of occupational exposure to blood borne viruses – history and how to [report](#)*
- [RIDDOR in NHS.pdf](#) HSE information sheet

Health surveillance and occupational health

24. Where employees are exposed to certain health risks, health surveillance should ensure that procedures are in place to detect early signs of work-related ill health as well as managing these procedures, for example by acting upon the results. Although it is an employer's statutory duty to ensure this, other competent persons, such as an occupational healthcare provider, can be used to fulfil that duty.

25. Health surveillance is required if each of the following are met:

- The work is known to harm health in some way;
- There are valid ways of detecting the disease or condition;
- There is a reasonable likelihood that damage to health may occur under the particular conditions at work; and
- The surveillance is likely to benefit the employee; and,
- The technique of investigation is of low risk to the employee

Proactive health surveillance is appropriate for occupations where contact with known or suspected BBV infected patients, or with BBV contaminated materials, is likely and a health record is required. Healthcare organisations will have policies to manage and follow-up recognised incidents of sharps injuries during surgical and needle-related procedures. Further information is

available from the Health Services Advisory Committee document, *The Management of Occupational Health Services for Healthcare staff, 1993*³.

It is also a statutory requirement to keep health records in relation to work involving risk of exposure to BBVs under COSHH² [Regulation 11(3)].

Health records are not medically confidential documents. They provide feedback to management on the results of health surveillance, both for the purpose of safely deploying individual employees, as well as allowing collective analysis of the overall effectiveness of immunisation coverage for staff at risk. They also allow outcome analysis of ill health in relation to exposure to BBVs at a later stage, should this prove necessary, (required under Regulation 5 of MHSWR, the duty on employers to monitor and review their control measures). Health records should be held by and available to managers even when separate occupational medical records are also kept. The exception would be, unless the employer can demonstrate that reasonable access to these records is available to deploying managers at all times that relevant staff are working, e.g. through some other means, such as Health Records retention within an Occupational Health department.

There are additional provisions, relating to work with biological agents, which are required in Health Records, such as an historical record of work with - or exposure to - blood borne viruses. This is particularly relevant for those infectious agents that have the potential to cause persistent or latent infections, or which may have serious long term consequences (i.e. Hazard Group 3 biological agents), and BBVs with potential for causing sub-clinical, chronic infections (regarded as Category 1 Carcinogens) such as hepatitis B and hepatitis C (See Table 2.2). A printable example of a Health Record form is presented at the end of this Part 2 document.

³ Health Services Advisory Committee (1993). *The management of occupational health services for healthcare staff*. HSE Books. ISBN, 011882127X.

Table 2.2. Summary of legal position and relevant guidance for ensuring adequate health records related to health surveillance for occupational exposures to Blood Borne Viruses (BBVs)

PARA-METERS	EXPOSED EMPLOYEES	RELEVANT LEGAL REQUIREMENTS AND RELATED GUIDANCE	HEALTH RECORD REQUIRED BY EMPLOYER
Fitness to work (FTW) assessments by an OH professional regarding work with BBV infected patients or specimens	Employees likely to be exposed to BBVs for which effective vaccine is available, viz. Hep B vaccine ie both lab workers and healthcare workers.	COSHH 2002, Reg 11(3) , Guidance Parag 215 and ACOP Paragraph 235(b) HSC Guidance , "The Management of Occupational Health Services for Healthcare staff," 1993, Appendix 4.	Yes. To include review dates where relevant (ie when FTW assessments need updating following further relevant booster doses)
Historical record of jobs involving risk of exposures to BBVs, which are Hazard Group 3 biological agents	Employees likely to be exposed to organisms capable of causing persistent or latent infections, long incubation periods or which may have serious long term consequences	COSHH 2002, Reg 11(3) , ACOP Paragraph 235(a). COSHH 2002, Appendix 2 , "Additional Provisions Relating to Work with Biological Agents", ACOP Para 20 and Guidance para 23.	Yes. A list of jobs and period of exposure to BBVs which belong to Hazard Group 3 biological agents
Record of occupational exposures to BBVs	Actual exposures of employees to the body fluids of (or specimens from) patients who are BBV carriers, where there is a potential for subclinical, chronic infections with Hep B & C (Category 1 Carcinogens under the IARC classification)	COSHH 2002, Reg 11(3) , ACOP Paragraph 235(a). COSHH 2002, Appendix 1 , "Control of Carcinogenic & Mutagenic Substances", ACOP, Paragraphs 25& 27 Hep B and C are only considered as a Cat. 1 carcinogen COSHH 2002 Reg 7(10), ACOP, Schedule 3 , "Additional Provisions Relating to Work with Biological Agents", Para 4. HSC Guidance , The Management of Occupational Health Services for Healthcare staff, 1993, Appendix 4.	Yes. In addition, under Appendix 1 of the COSHH 2002 Regs ACOP, a list of Group 3 Biological Agent exposures to employees is required to be kept for 40 years.
Fitness to work in Exposure Prone Procedures (EPPS) assessments by Occupational Health Professionals	New Entrants to NHS who will undertake Exposure Prone Procedures	HSWA etc 1974, Section 3 and Dept of Health Guidance "Health clearance for tuberculosis, hepatitis B, hepatitis C and HIV: New healthcare workers". 2007 The Health and Social Care Act 2008, Compliance Criteria 9 : Ensure as far as reasonably practicable that HCW are free of and protected from exposure to communicable infections during the course of their work.	No. However, under HSWA etc 1974 a communication of clearance to work in EPPs is required to managers who deploy these employees.

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Immunisation against blood borne viruses

26. In the COSHH hierarchy of control measures, immunisation as protection against infection at work is the last line of defence and other controls should be available. However, for workers potentially exposed to blood borne viruses, such as healthcare and biomedical laboratory staff, immunisation is an appropriate additional measure. The hierarchy of control and its consideration within the context of risk assessment is further discussed in Part 3. In simple terms this approach uses the following principles, and in the following order of consideration:

- **Elimination** – Can the hazardous procedure / substance be replaced completely within the workplace and the associated risk eliminated?
- **Substitution** – Can the hazardous procedure / substance be replaced with something equivalent but of lower risk to the employee?
- **Engineering controls** – for example, can a microbiological safety cabinet or local exhaust ventilation be used?
- **Safety procedures** – Can universal/standard precautions and operating procedures be developed and applied?
- **PPE and Respiratory Protective Equipment** – Can, for example, gloves, visors, protective suits, respirators be used?
- **Immunisation** (as appropriate) – Can the employee be protected by immunisation, e.g. hepatitis B virus infection

27. Info Box 2.10 outlines the regulatory principles of immunisation use for protection against blood-borne viruses. Currently a safe, effective vaccine is only available for protection against HBV. HCV is only treated if the exposed person is confirmed as having acquired infection. Further details on considerations prior to Hepatitis B immunisation are given in Part 3 of this guidance.

Info Box 2.10: Immunisation

Under COSHH requirements:

If a risk assessment shows that there is a risk of exposure to biological agents, and effective vaccines exist, then provision should be made to determine whether an employee is already immunised, and immunisation should be offered to those not already immunised. The pros and cons of immunisation/non-immunisation should be explained when making the offer.

Under the Health and Safety at Work Etc Act, employers must pay for protective measures such as immunisation. Where practical, this is likely to be provided through the company occupational health provider. Alternatively, the employee could be asked to arrange immunisation through their own GP, but the employer must make alternative arrangements if this cannot be done, and reimburse any charges made to the employee for such arrangements.

As with all control measures, immunisation needs to be checked and reviewed and boosters provided where deemed necessary. Further information on the assessment and management of immunisation status is presented in Part 3; 'Immunisation'.

Further information regarding Hepatitis B vaccination can be found at:

- [Department of Health - Immunisation against infectious disease - "The Green Book"](#)
- [Department of Health - Guidance for clinical health care workers: protection against infection with blood-borne viruses](#)

Final decisions on immunisation should be made on the basis of a local risk assessment. In settings where the workplace task is likely to lead to significant exposures on a regular basis (e.g. biting), the DoH Green Book indicates that it would be prudent to offer immunisation to staff even in the absence of documented HBV transmission.

[CLICK HERE FOR FURTHER INFORMATION](#)

The Employee's responsibilities and duties

Health and safety policies and consultation with employees and safety representatives

28. By law, employees and employees' safety representatives must be consulted on health and safety matters. This is an important way to create and maintain a safe and healthy working environment.

29. For example, it is best practice for employees to be represented in the development of written statements of health and safety policy, local policies and topic specific guidance.

Controlling risks and minimising risks through suitable systems of work

- Employees must comply with agreed risk assessments, as laid out by the COSHH hierarchical approach outlined previously.

30. In particular, systems of work rely on individuals adhering to them, therefore it is important for employees to comply with, for example, laboratory rules, sharps policies, waste disposal policies, and decontamination and disinfection procedures.

Use and maintenance of controls

31. COSHH requires that employees properly use the control measures provided by their employers, including personal protective equipment (PPE), and that they report any problems with them.

Information, instruction and training

32. Employees need to know:

- If they could be exposed to blood-borne viruses and how;
- The risks posed by this exposure;
- The main findings of any risk assessment;
- The precautions they should take to protect themselves and other employees, contract staff or visitors;
- How to use and dispose of any PPE that is provided; and
- What procedures to follow in the event of an emergency.

Handling Incidents/Emergency Planning

33. Employees need to be aware of:

- The foreseeable types of incidents, accidents or emergencies that might occur;
- Their roles, responsibilities and authority during an emergency;
- The procedures they must follow;
- The safety equipment and PPE to be used;
- Any needs for liaison with emergency services;
- Arrangements for access to first aid facilities and, if necessary, post-exposure prophylaxis and follow up;
- Procedures for cleaning up and disposal of waste.

Some infections and dangerous occurrences with biological agents at work must be reported under RIDDOR. It is therefore the responsibility of employees to bring to the attention of their employers any instances of dangerous occurrences, accidents or incidents arising out of their work which could result in the release of a biological agent likely to cause severe human illness or infection, or a sharps injury involving a known blood borne virus infected source.

IS ANY FURTHER INFORMATION NEEDED? HERE ARE SOME LEGAL ASPECTS IN MORE DETAIL

Health and Safety Management

Management of Health and Safety at Work Regulations 1999 – Regulation 5

The legal responsibility for health and safety rests primarily with the employer. It is their responsibility to ensure the organisation has the necessary management framework to protect the health and safety of their staff and provide a safe working environment. By doing this they will achieve compliance with health and safety at work legislation. This means taking an active role in carrying out risk assessments, setting health and safety standards and developing policies, together with the monitoring of standards and enforcement of compliance, where necessary. Specific functions, such as carrying out risk assessments, may be delegated to others, but ultimate responsibility for health and safety cannot be delegated.

Health and Safety at Work etc Act 1974 – Section 2(3)

Management of Health and Safety at Work Regulations 1999 – Regulation 5

All organisations employing 5 or more staff must have a written statement of their health and safety policy. This should be a declaration of their intent to provide and maintain a safe and healthy working environment, and should also be used to gain the support of their employees towards achieving these ends. It should detail health and safety responsibilities within the organisation and arrangements for ensuring health and safety in the workplace. It may refer to other documentation such as risk assessments, local codes of practice and standard operating procedures and should be brought to the attention of all employees.

Depending upon the size of the organisation, the overall health and safety policy may be supplemented by local policies and topic specific guidance. Protection against BBVs for example may merit specific guidance or be mentioned in a local policy, depending upon the type of business/organization. Local policies should reflect the overall health and safety policy for the business (that is, to develop and maintain a safe working environment, a commitment to ensuring the health and safety of their employees and ensuring its importance is recognised by employees), but may be used to place it in a context specific to that area of the business. Local codes of practice can give further information on how safe working will be achieved on a day-to-day basis. Local safety policies and codes should be made freely accessible and all employees, including new starters and temporary workers, must be made aware of them.

Management of Health and Safety at Work Regulations 1999, Regulation 7

Employers may need help and advice to carry out their duties under health and safety law. There is a requirement to appoint one or more competent persons to fulfil this role. In general terms this may be a health and safety advisor/assistant or safety officer, but for biological agents they may be supplemented by a biological safety officer and/or infection control team. They need to have the status and competence to advise management and employees or their representatives with authority and independence. A competent person is one who has sufficient training and experience or knowledge to do the required job. This will include an understanding of relevant statutory requirements and an appreciation of the hazards involved. The person appointed does not have to be employed by the employer but does need to know all the factors arising from the employer's work that may affect health and safety.

Those providing the advice/help must be given enough time and resources to fulfil their responsibilities. It is also important to remember that appointing a competent person does not absolve the employer from their responsibilities under health and safety law, it just gives further assurance that their responsibilities will be fulfilled adequately. Depending on the nature of the work and size of organisation, for specific advice on risk of infection it may be more practical to obtain competent advice outside the company.

Management of Health and Safety at Work Regulations 1999, Regulation 11

More than one employer, including the self-employed, may share some workplaces. For example:

- A laboratory in a teaching hospital may be shared by university researchers and NHS Trust biomedical scientists;
- Science parks may be owned and used by one organisation but also have space to let out to small businesses.

There is a requirement for those sharing a workplace to ensure that there is co-operation and co-ordination to ensure that respective duties under the law are met. Everyone in the workplace needs to be sufficiently informed about **all** the risks to which they may be exposed, for example, by exchanging information about the nature of the work being undertaken.

If there is no controlling employer in charge of the workplace, then those using the workplace will need to agree joint arrangements, for example the appointment of a health and safety co-ordinator, to meet the requirements of the law.

Once arrangements are agreed, it is recommended that these are documented and signed by all those concerned.

Safety Representatives and Safety Committees Regulations 1977
Health and Safety (Consultation with Employees) Regulations 1996

By law, employers must consult all of their employees on health and safety matters. Where safety representatives have been appointed by a trade union, these may represent the employees in consultations on health and safety with the employer. Consulting employees on health and safety matters is an important way to create and maintain a safe and healthy working environment. By consulting employees, an employer should motivate staff and make them aware of health and safety issues. It has been statistically proven that by doing this organisations can become more efficient and reduce the number of accidents and work-related illnesses.

Control of Substances Hazardous to Health Regulations 2002,
Regulation 12

Management of Health and Safety at Work Regulations 1999, Regs 11 & 13

Provision and Use of Work Equipment Regulations 1998, Regs 8 & 9

Employers have responsibilities under health and safety legislation to provide suitable and sufficient information, instruction and training for their employees.

Employees need to know:

- If they could be exposed to blood-borne viruses and how;
- The risks posed by this exposure;
- The main findings of any risk assessment;
- The precautions they should take to protect themselves and other employees;
- How to use and dispose of any PPE that is provided; and
- What procedures to follow in the event of an emergency.

Ensure that employees are kept up to date with any changes that could affect the risk and, if necessary, provide further training. The training that is provided needs to be appropriate to the level of risk involved, and in a format that will be well understood by the employee, taking into account their capabilities. Training should also be regularly evaluated to ensure it has achieved the desired outcome.

Ensure that other people who may be affected by the work, e.g., maintenance staff, cleaners or external contractors, receive sufficient and appropriate information, instruction and training about the hazards they may encounter. They should also be appropriately supervised whilst carrying out the work. One means of ensuring that work is carried out safely is to use a permit-to-work [system](#)²².

***Control of Substances Hazardous to Health Regulations 2002,
Regulation 13
Management of Health and Safety at Work Regulations 1999, Regulation
9
Reporting of Diseases, Injuries and Dangerous Occurrences Regulations
1995***

The Regulations above require arrangements to be made to deal with emergencies. Emergency plans need to include:

- The foreseeable types of incidents, accidents or emergencies that might occur;
- Any specific hazards likely to arise at the time of an emergency;
- The role, responsibilities and authority of individuals during an emergency;
- Procedures for employees to follow – including regular safety drills and identifying the special needs of any disabled employees;
- The safety equipment and PPE to be used;
- Arrangements for liaison with emergency services;
- First aid facilities; and
- Procedures for cleaning up and disposal of waste.

One foreseeable accident, where the use of sharps are unavoidable, would be a puncture wound with a sharp that may be contaminated with a blood-borne virus. Consideration should be given to which procedures the employee should follow, the support that will be provided and who will supply it. More information regarding the actions to be taken following a potential exposure can be found in Part 4 of this guidance.

Under RIDDOR, there is a statutory requirement to report infections at work and dangerous occurrences that result in, or could have resulted in, the release of a biological agent that could cause severe infection. This therefore applies to BBVs. Further information can be obtained from the document, *The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations*, available at: <http://www.hse.gov.uk/biosafety/biologagents.pdf>.

In addition, local health records should be kept of all incidents, including near misses, involving material potentially contaminated with blood-borne viruses. This allows the identification of problem areas and allows checks to be made on the effectiveness of control measures already in place. An example of a document that might be used for such recording of information is presented at the end of this Part 2 document.

The reporting of any incidents to a national surveillance scheme, such as the Health Protection Agency's 'Eye of the Needle' [scheme²⁶](#), may be appropriate

Control of Substances Hazardous to Health Regulations 2002, Regulation 11
Management of Health and Safety at Work Regulations 1999, Regulation 6

For employees exposed to certain health risks, health surveillance is about putting in place procedures to detect early signs of work-related ill health as well as managing these procedures, for example by acting upon the results. Although the statutory duty lies with the employer, it may require the use of other competent persons, such as an occupational healthcare provider.

Health surveillance is required if each of the following are met:

- The work is known to harm health in some way;
- There are valid ways of detecting the disease or condition;
- There is a reasonable likelihood that damage to health may occur under the particular conditions at work; and
- The surveillance is likely to benefit the employee.

In practice, health surveillance for blood-borne viruses should be considered for employees who are likely to be exposed to potentially contaminated blood on a regular basis. This could include, for example, pre-employment screening to see if workers are immune to Hepatitis B, and providing immunisations. Where any health surveillance or monitoring is undertaken employers should keep an up to date health record for each individual and there is a requirement that these records be kept for 40 years. This 'health record' (as defined in COSHH Regulation 11) should include:

- Personal details of the individual
- A historical record of work with or exposure to blood borne viruses
- An assessment of the individual's status for work or any specific precaution that should be taken.

As the health record needs to be accessible by the employer/manager to help inform local risk assessments and for appropriate controls to be put in place, it should not include any confidential clinical information. For example, a manager may need to know whether or not a person is fit to work with blood borne viruses, based on information from the occupational healthcare provider about the employee's immunity to Hepatitis B, but the manager does not need to know their level of immunity, nor any reasons for lack of immunity. The occupational healthcare provider could keep this more detailed information with their clinical records.

Where an employee declines to be immunised, or is unable to be immunised, the occupational healthcare provider will not be able to confirm their clearance for work status. Their manager will then need to decide whether the employee can work with infectious patients or specimens based on the level of risk, and whether additional precautions are necessary based on the level of risk.

Control of Substances Hazardous to Health Regulations 2002, Regulation 7

Personal Protective Equipment at Work Regulations 1992, Regs 4 & 10

Although the principles of the hierarchical approach to control should be applied whenever practicable, there are some instances where PPE should be considered. These include:

- Where other control measures are not reasonable to implement. For example, whilst a motor vehicle repair garage may occasionally have to recover a blood contaminated car following a road traffic accident, they would not be expected to have any engineering controls to minimise the risk from blood borne viruses. In such, instances the use of PPE such as gloves and overalls, if necessary, would be appropriate.
- Wherever the risk to health and safety cannot be adequately controlled by other means. For instance, it would be expected that a healthcare worker taking blood would wear gloves, even though they would also be following safe systems of work and potentially using safer devices.

When PPE is deemed necessary, consideration should be given to the type of PPE needed, its safe use, maintenance and disposal. Further information on the use of gloves can be found in Appendix 1

Any non-disposable PPE, e.g., laboratory coats, overalls or aprons, must be stored in appropriate facilities (separately from usual outdoor clothing), checked and kept clean and, if faulty, repaired or replaced. If PPE may be or has been contaminated by blood or other body fluids, it must be removed safely before leaving the workplace and kept apart from uncontaminated PPE and normal 'street' clothes. It should be cleaned and decontaminated or, if necessary, disposed of safely.

In addition to the general controls outlined above, COSHH also specifies the **minimum** containment measures to be applied when intentionally working with biological agents, including BBVs, in laboratories, animal rooms and in industrial processes.

Control of Substances Hazardous to Health Regulations 2002, Regs 8 & 9

***Personal Protective Equipment at Work Regulations 1992, Regulation 7
Provision and Use of Work Equipment Regulations 1998 (PUWER)***

COSHH requires that employees effectively make use of the control measures provided by their employer, including personal protective equipment (PPE), and that they report any problems with them. All reasonable steps need to be taken to ensure that the control measures are used, which includes provision of information and training, as well as appropriate supervision of employees.

Any equipment provided for use at work has to meet the requirements of PUWER. These regulations require that the equipment provided by employers for use at work is suitable for the purpose for which it is to be used.

It should be safe for use, maintained in a safe condition and, in certain circumstances, inspected to ensure this remains the case. Where the use of the equipment is likely to involve a specific risk to health or safety, use of the equipment should be restricted to those people who need to use it and who have been trained to use it.

If any engineering controls are used then employers need to ensure that they are kept in efficient working order and good repair. Regular and documented examination and testing of the controls will also be required. In the case of local exhaust ventilation, for example microbiological safety cabinets (MSC), or room air HEPA filtration systems, this needs to take place at least every 14 months (in practice, annually but with allowance for 'slippage'). However, it is advisable for equipment such as MSC to be examined more frequently, as well as checks on their airflow function just before use.

Any non-disposable PPE, e.g., laboratory coats, overalls or aprons must be stored in appropriate facilities (separately from usual outdoor clothing), checked and kept clean and, if faulty, repaired or replaced.

Reported accident records (e.g. sharps injuries)

Accidental Exposure:

Date:

Assessment of Protection to Immunisable Diseases (The information should relate to a job risk assessment provided by manager and may include other diseases)

HEPATITIS B

- Screened fit to perform EPP
- Screened not fit to perform EPP
- Protected from infection with hepatitis B
- Not protected from infection with hepatitis B

Five Year Booster: Required/Not Required

MEASLES, MUMPS, RUBELLA (German Measles)

- Protected from infection
- Not protected from infection

Report to OH if in contact with known case.

TUBERCULOSIS (TB)

- Protected from infection (IVS)
- Not protected from infection

Exclude from working where high risk of TB and/or immuno-compromised patients.

VARICELLA (Chicken Pox)

- Protected from infection
- Not protected from infection

Report to OH if in contact with chicken pox or shingles.

Cleared to perform exposure prone procedures YES / NO / NOT APPLICABLE

CONSENT: I am aware of the contents of my Health Record and consent for this information to be transferred to my deploying managers to allow my safe deployment.

Employee's Signature: **Date:**