

Managing for health and safety

Guidance for regulatory staff on the practice of assessing health and safety management



Introduction

Whether you are looking at specific topics, carrying out a general inspection, or conducting an investigation, your intervention provides an opportunity to assess a core issue in improving health and safety in the workplace: how well the duty holder is managing for health and safety (H&S). This guidance promotes good practice amongst regulators on effectively assessing health and safety management, and updates it by incorporating HSE's Strategy themes.

Assessing compliance with legal requirements and expected standards will only tell you about the **present position** on risk control. Looking at the management arrangements and behaviours in an organisation will inform you about the **quality** of risk control and help answer questions such as:

- What are the strengths and weaknesses of the organisation's health and safety performance, and are there any barriers to change?
- How reliable and **sustainable** for the future are the measures currently in place?
- If an organisation is getting risk control right, why is that? For example, does performance depend on one person's dedication and enthusiasm, or is it a key value across the organisation?
- If there are deficiencies, what are the underlying reasons, eg competence, resources, accountability?
- Have they learned from situations where things have gone wrong; and have they reached the right conclusions?

Who is this guidance for?

This guidance provides a common starting point to addressing these questions for all regulators, but particularly HSE inspectors and LA enforcement officers.

Why are we doing this?

This guidance will help you:

- to reinforce the importance of assessing managing for health and safety in your interventions with duty holders;
- to promote a consistent and proportionate approach by regulators, tailored to the organisation you are looking at;
- to decide when you should enforce or encourage improvements; and
- to gain an insight into the capability of people to lead their organisations and manage the significant risks in a sustained way.

What this guidance gives you

The guidance brings together the key elements of managing for health and safety, and gives you behaviours and other evidence to look for against each. It also gives examples of useful questions to explore during your intervention.

It provides an insight into particular issues to consider depending on the nature of the organisation (SME, major hazard, etc), and its risk profile. Depending upon the particular regulatory regime involved and the nature of the organisation, you may move on from the guidance given here into more in-depth and structured techniques.

This guidance has the following sections:

- Introduction
- Core Principles of Managing for Health and Safety
- Leadership and Management
- Competence
- Worker Involvement
- Legal Compliance
- The Practice of Assessing Managing for Health and Safety
- References

What it will not do

This guidance will not:

- expect you to tell organisations how to run themselves; or
- replace more detailed guidance on auditing or sector specific operational guidance.

Core principles of managing for health and safety

The Strategy advocates that successful health and safety management is dependent on the key attributes of leadership, worker involvement and competence. The Strategy also encourages a common sense and practical approach to health and safety: it should be part of the everyday process of running a business, and an integral part of the workplace culture.

Whatever model, system or process a duty holder uses, it is likely to be based on an approach of **plan, do, check** and **act/review**. To act/review is to learn and improve from experience, ensuring continual improvement. Organisations may choose bespoke management systems¹, such as the POPMAR model from HSG65, ISO/BSI 18001 etc, but the plan, do, check, act/review model is at their core.

Plan	Policy, Planning, Risk Profiling
Do	Implementation and operation
Check	Performance monitoring (active and reactive)
Act/Review	Review and continual improvement

¹ For guidance on occupational health and safety management systems, see: http://www.iosh.co.uk/information_and_resources/iodoc.ashx?docid=3683e0ad-e037-40c1-91bbca418324393b&version=-1

However, the success of whichever process or system is in place still hinges on the attitudes and behaviours of people in the organisation. The business benefits are recognised as improved productivity, increased workforce commitment and enhanced reputation.



There is an important inter-relationship between the elements shown above. All are needed for an organisation to be effectively managing for health and safety in a sustainable way. It is the view that you form based on looking at all of these elements together, against the backdrop of the organisation's risk profile, that enables you to make sound conclusions about their leadership and management for health and safety.

HSE commissioned research², which shows that health and safety and business performance are complementary in terms of success in business. This holds true across variations in size, sector and the nature of the organisation. The research findings, in the main, reinforce widely believed principles:

- Health and safety should be treated as an integral part of productivity, competitiveness and profitability. The business benefits were generally considered to justify the costs.
- Key factors for success are: good leadership, sound business processes, a trained/skilled workforce, operating in an open and trusting environment.
- Cultural factors have the greatest impact both positive and negative.
- Internal factors are more influential than external factors upon organisations.

The kind of events that cause injuries and ill health can also lead to property damage and interrupt production. Identifying hazards and assessing risks, deciding what precautions are needed, putting them in place and checking they are used, protects people, improves quality, and safeguards plant and production.

²RR744 'How Management Behaviours Associated with Successful Health and Safety Performance Relate to those Associated with Success in Other Domains' University of Birmingham, November 2009.

For more on the benefits of good health and safety, see <http://hse.gov.uk/leadership/benefits.htm>

Attitudes and behaviours and health and safety culture

Effectively managing for health and safety is not just about having a management or safety management system, it includes the human aspects – organisational culture.

Health and safety culture is not treated as a separate topic within this guide. The examples, against the key areas of ‘what it looks like when done well’, are indicative of a positive health and safety culture. Conversely, if there are facets of ‘what it looks like when it is done badly or not at all’ this could indicate underlying cultural issues.

Advice on how to intervene on health and safety cultural aspects can be found at: <http://intranet/mhsp/culture.htm>

Risk
profiling

Risk profiling

Every organisation will have its own risk profile: this is the starting point for identifying the significant health and safety issues for the organisation. In some businesses, the risks will be tangible and immediate safety hazards, whereas in other organisations, the risks may be health-related and it could be a long time before the illness becomes apparent. Degrading plant integrity could also give rise to later emerging risks in some businesses.

A risk profile examines the nature and level of the threats faced by an organisation, the likelihood of adverse effects occurring, and the level of disruption, and costs associated with each type of risk and the effectiveness of controls in place to manage those risks. In other words, organisations need to understand:

- the risks they face;
- how to manage those risks; and
- what is the best mix of measures to monitor the effectiveness of the risk controls.

The range of risks normally include quality (of product or service), environmental, people injury, people ill health and asset damage. Quite often failings in one will indicate failings in another, so poor service quality (eg customer complaints) will have a health and safety dimension (damage to goods because of poor forklift truck driving). The health and safety risks will range from low hazard high frequency, such as slips on floors, to high hazard low frequency events, such as an oil refinery explosion, or a self-employed window cleaner falling from a ladder. Clearly, the latter events could destroy the business and would merit being of high priority.

HSE’s approach³ is to seek a balance between the unachievable aim of absolute health and safety, and dealing with the kind of poor management of risks that damages life and the economy, ie risk management, not risk elimination.

Risk profiling is about:

- protecting people and the organisation;
- providing overall benefit by balancing risks and costs, with a focus on reducing real risks – both those that arise more often and those with serious consequences;
- enabling innovation and learning; and
- getting people who create risks to manage them responsibly.

³<http://www.hse.gov.uk/risk/principles.htm>

It is not about:

- creating a risk-free organisation or society;
- giving undue priority to minor risks; and
- generating bureaucracy or useless paperwork mountains.

Further information on risk profiling

For SMEs and those new to health and safety:
<http://www.ioshroutefinder.co.uk/index.html>

For large or more mature businesses:
http://www.iosh.co.uk/information_and_resources/idoc.ashx?docid=64938372-a4b7-4c64-90f4-791bc2414051&version=-1

British Standard Risk Management Code of Practice BS31100:2008
<http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030191339>



Leadership and management

‘Management is doing things right; leadership is doing the right thing.’⁴

Leadership includes the cultural side of a business, combining the visibility of senior managers, the influence they bring, the attitudes and behaviours they display and how all this reflects in their business performance. Management is more about the process side of running the business, and may be the lever to talk about leadership. During an intervention, often when we discuss management, we should be talking about leadership.

The risk profile of an organisation informs all aspects of the approach to leading and managing the risks of the business. Leaders need to understand the full range of the risks of a business, and to use that to give proportionate time/effort/attention to each – in terms of the level of detail and effort put into assessing the risks, providing appropriate precautions, and the effort put into implementing, supervising and monitoring.

All businesses have processes or arrangements to deal with payroll, personnel issues, finance, productivity, stock control and quality control. Regulation 5 of the Management of Health and Safety at Work Regulations (MHSWR) 1999 requires employers to put in place arrangements to control health and safety risks. Organisations should have, as a minimum, the processes and procedures required to meet their legal requirements;

- a written health and safety policy (if they employ five or more people);
- assessments of the risks to employees, customers, partners and any other people who could be affected by their activities; and record those findings in writing (if they employ five or more persons);
- display the Health and Safety Law poster; or provide workers with the associated leaflet;
- arrangements for the effective planning, organisation, control, monitoring and review of preventative and protective measures that come from the assessment of risks;
- access to competent health and safety advice; and
- consultation with employees about their risks at work and current preventative and protective measures.

HSE provides advice and templates for duty holders on these processes – see **‘Key guidance and resources’** for more information.

Documentation on health and safety should be functional and concise, with the emphasis on its effectiveness, rather than sheer volume of paperwork. Inspection of these documents can assist in you in judging compliance and overall assessment of health and safety management. However, excessive focus on the formal documentation of a health and safety management system distracts from addressing the human elements of its implementation, ie the focus becomes the process of the system itself, rather than actually controlling the risk.

⁴ Peter Ferdinand Drucker (1909-2005), US Management expert, consultant, author and teacher.

‘Leadership means accountability and visible ownership. Real health and safety leaders win hearts and minds of all their colleagues – directors, managers, workers and contractors. They shape the organisations’ ethos on health and safety – including on what it is and what it isn’t.’⁵

LEADERSHIP - QUESTIONS TO ASK	
<ul style="list-style-type: none"> ■ Is there leadership from the top of your organisation? It should be genuine, showing the constant and active engagement of all those in positions of responsibility in health and safety matters. ■ How do you demonstrate commitment to both health and safety? ■ How do you, as a leader, find out about H&S issues in your organisation? ■ What are your top residual/actual risks, which need more/better control? They should have plans to achieve these, have identified the obstacles. ■ What example do you set? ■ Do you talk about H&S and is this visible in the workplace? When did you last do this? ■ What is the status of health and safety versus production, costs etc? ■ Are you, as a leader, trusted over health and safety issues and to take the right action when required? How do you know you are trusted? ■ Are the health and safety implications of your business decisions recognised and addressed? 	
LEADERSHIP - EXPECTATIONS	
What it looks like when done well	What it looks like when it is done badly or not at all
<p>Leadership starts at the top of the organisation – this is fundamental, because the top has the influence to set the scene and make things happen. Effective leaders:</p> <ul style="list-style-type: none"> ■ maintain attention on the significant risks and the implementation of adequate controls; ■ demonstrate their commitment by their actions – they are visible ‘on the shop floor’, they are aware of the key H&S issues; there is constant and active involvement with workforce on H&S; ■ shape/alter the ethos of the organisation – they drive cultural change; ■ are respected by the workforce – there is open communication, they promote H&S, and they lead by example; ■ are held accountable for delivery; ■ give recognition when staff do it right; ■ are trusted to take the right action on H&S matters. <p>There is a common sense, proportionate approach, distinguishing real and trivial H&S issues.</p>	<p>Lack of leadership from top means other ‘strong’ personalities fill the void – as a result, top of organisation finds it difficult to influence workers and change behaviours.</p> <ul style="list-style-type: none"> ■ Failure to plan beyond short term. Leaders don’t set H&S priorities and lack understanding of the need to maintain oversight. ■ Workers believe nothing will change as nobody at the top is genuinely interested in H&S. Leaders have little or no idea of the real H&S issues affecting the organisation. ■ Poor incident history, recurring breaches, generally poor standards, eg poor maintenance, poor housekeeping. ■ Poor industrial relations. The idea that profit is always put before H&S. Leaders do not meet their own standards and do not follow procedures, eg wearing correct PPE on site/shop floor. ■ No repercussions when delivery fails. ■ Lack of engagement with H&S by workers. ■ Lack of trust in managers to do the right thing when it counts. <p>Reality of conditions for workers at total variance with leaders’ vision and priorities.</p>

⁵ Judith Hackitt, HSE Chair, November 2009.

‘There is a need for a sensible and proportionate approach to risk management, in short, a balanced approach – this means ensuring that paperwork is proportionate, does not get in the way of doing the job, and it certainly does not mean risk elimination at all costs.’⁶

MANAGEMENT - QUESTIONS TO ASK
<ul style="list-style-type: none"> ■ What processes or management arrangements do you already have for running the business? If a more formal system is in place (such as ISO 9001), has it been externally accredited? ■ Are the responsibilities of key people set out eg who is the champion/focus at board, who sets policy and standards, who monitors, are these responsibilities reflected in their job descriptions? Are they held accountable for discharging their health and safety roles? ■ How do you ensure health and safety issues are integrated successfully into business planning processes? Are the H&S implications of your business decisions recognised and addressed? ■ How do you ensure access to competent advice? ■ How do you ensure H&S info is communicated effectively within and beyond your organisation? ■ How do you control your contractors? ■ What are the monitoring arrangements to check performance? ■ How do you audit and review your H&S performance in order to improve?

MANAGEMENT - EXPECTATIONS	
What it looks like when it is done well	What it looks like when it is done badly or not at all
<ul style="list-style-type: none"> ■ The business understands the risks it creates and how the control measures are being maintained. ■ H&S is integrated into the business processes, including purchasing. ■ Premises/site is clean, tidy, well-maintained, good housekeeping. ■ Documentation is available, current, organised, relevant ■ People understand their roles and others, sound industrial relations. ■ People understand the risks and control measures associated with their work. Contractors adhere to the same standards ■ Communication within the organisation works well; messages get from the top to the ‘shop floor’, are understood and implemented. Communication works from ‘shop floor’ to top, and managers respond appropriately to issues raised. ■ Performance is measured – active monitoring to check controls are working and standards implemented, reactive monitoring after things go wrong to learn from mistakes – determine and understand root causes. ■ They learn from their experiences – seeking continuous improvement. 	<ul style="list-style-type: none"> ■ Organisational focus is, and remains, short term and reactive. Reality on shop floor differs from picture painted by managers. ■ H&S seen as an add on or irrelevance to the business. ■ Poor housekeeping, badly maintained. ■ In complete or missing paperwork. Does not link to actual hazards and risks in workplace. ■ Confusion over roles, inaction as no one takes responsibility for H&S, staff lack motivation, distrust of management motives – perception that managers trying to pass the buck. ■ Widespread, routine violations of procedures. No oversight of contractors. ■ Messages not passed on, not understood, not implemented. Managers unaware of employee concerns or do not respond appropriately. ■ Possible increased levels of incidents/ accidents, near misses, incident reports, plant damage or other indicators. Blame culture that starts and finishes with the worker involved. ■ Lessons are never learnt. ■ Lack of public confidence in duty holder’s ability to manage site.

⁶ Judith Hackitt, HSE Chair, September 2008.

Additional factors

SMEs

The focus will be on the behaviours and attributes of perhaps one person – the business owner - or a very small group. For most micro and small duty holders, discussion of leadership and management processes may be over-the-top. Instead, ask what the owner does to set an example and to provide a lead on health and safety to staff.

Managers may rely upon minimal H&S paperwork: a simple H&S policy, risk assessments for the most significant risks, and statutory documents, eg pressure system inspection documents. The lack of a formal documented system does not necessarily mean the duty holder has no system at all. Medium sized enterprises may have a mix of the formal and informal when it comes to H&S arrangements. The Management Assessment Tool (MAST) has been specifically designed as a toolkit to allow regulators to assess the performance of SMEs - see '**Key guidance and resources**'.

Large organisations

The structure of organisations affects H&S arrangements, as well as the more traditional size indicator. A large single site employer may have a simple system such as an owner-manager with no intervening supervisors. On the other hand, a nationwide distribution company, with a number of small depots around the country, will have more complex arrangements. Effective communication is more difficult, given the size and/or dispersed nature of the organisation.

A significant driver for large organisations, is the impact on brand name/image/ reputation of poor health and safety performance. Thus, the commitment and involvement of the board, individually and collectively, is essential to ensure leadership on H&S is able to flow from the top to the shop floor.

Whatever system or model the duty holder uses to manage H&S, it should logically organise the key processes for managing and controlling risk. Monitoring safety performance using Key Performance Indicators (KPIs) may be crucial to ensuring business risks are being effectively managed. You may require the use of formal assessment techniques, eg an audit, to assist your overall assessment. You will need some information about the system/model, but ultimately you are checking that it is in place and working.

Particular issues to address with large duty holders are:

- Is there is someone who champions H&S on the board?
- Who sets the organisational policy and standards and how are they monitored?
- Do the job descriptions of managers/supervisors set out their H&S responsibilities?
- Does the board receive and act upon reports received on H&S matters?

Major Hazards

Industries where low frequency, high impact incidents would have catastrophic consequences must be properly managed, to ensure that the hazards are kept firmly in check. There should be illustrated and demonstrated risk reduction. Strong health and safety leadership, coupled with robust safety management systems, will ensure that best practice is shared and learning is disseminated from previous incidents. For major hazard sites, leadership on the key area of process safety is core. Board level involvement and competence are essential; constant and active engagement in and promotion of process safety by the leadership sets a positive safety culture- this is the concept of 'rigour in leadership'⁷.

⁷ <http://www.hse.gov.uk/research/rrpdf/rr756.pdf>

Key factors to address are:

- the maintenance of corporate knowledge, overall technical leadership and competence;
- the monitoring of safety performance to ensure business risks are effectively managed – the use of KPIs; and
- the publication of safety information to provide public assurance.

See '**Key guidance and resources**' for more information.

Managing for health

Dealing with work-related ill-health issues in an organisation may not be as straightforward as dealing with a safety issue. Simply identifying the hazard and investigating incidents can be difficult if workers prove reluctant to report the issue, are off sick at home, or refuse to allow access to medical records. Getting the right competent advice to identify what needs to be done is thus crucial.

Management of change

Change management looks at how to address the impact of organisational change, eg mergers/takeovers result in a new management system, a move to contractorisation or new leaders seeking to improve performance. The key issue is the assessment of the effects, direct and indirect, on the control of hazards/risks from the change and during the move to the new setup.

Legal and enforcement issues

- **Leadership and Management.** The requirement for management arrangements is statutory, eg Regulation 5 of MHSWR 1999, Part 2 of the Construction Design and Management Regulations 2007. However, we cannot enforce on leadership itself, eg to make an organisation replace an incompetent or autocratic leader.
- **Legal liabilities of individual board members.** See the Enforcement guides for England and Wales and Scotland:
 - <http://intranet/legal/enforcement-guide-sc/penalties.htm>
 - <http://intranet/legal/enforcement-guide-ew/court/sentencing-penalties.htm>
 - **Prosecution of individual directors, managers etc under Section 37 of the Health and Safety at Work Act.**
 - See: http://intranet/operational/ocs/100-199/130_8.htm
- **Company Directors Disqualification Act 1986.** Section 2(1) of this Act empowers the court to disqualify an individual convicted of an offence in connection with the management of a company. This includes health and safety offences. This power is exercised at the discretion of the court; it requires no additional investigation or evidence. See OC 130/8 version 2, appendix 6 for more information: http://intranet/operational/ocs/100-199/130_8.htm#app6
- **Corporate Manslaughter and Corporate Homicide Act 2007 (CMCH 07).** An offence will be committed where failings by an organisation's senior management are a substantial element in any gross breach of the duty of care owed to staff or members of the public, which results in death. The maximum penalty is an unlimited fine; a publicity order can also be made by the court, which will publish details of the conviction and fine. Although the police will lead on CMCH 07 matters, and also on case of individual manslaughter and culpable homicide, HSE should be prepared to advise, if requested, on the health and safety management aspects of any case. OC 165/9 refers: http://intranet/operational/ocs/100-199/165_9.htm

Key guidance and resources

For dutyholders

Advice for duty holders of all sizes on Managing for Health and Safety is available via the website: <http://www.hse.gov.uk/managing/index.htm>

For the benefits of good health and safety, go to: <http://hse.gov.uk/leadership/benefits.htm>

For duty holders just starting out in business: <http://www.hse.gov.uk/business/getting-started.htm>

For advice on writing H&S policies and risk assessments go to: <http://www.hse.gov.uk/business/policy.htm> and <http://www.hse.gov.uk/business/risk.htm>
For a H&S policy and risk assessment template go to: <http://www.hse.gov.uk/risk/risk-assessment-and-policy-template.doc>

For advice on leadership for directors and board members go to the joint IOD and HSE guidance, *Leading Health and Safety at Work*: www.hse.gov.uk/leadership

For leadership in SMEs go to the joint IOD and FSB '*Leading Health and Safety at Work; the owner's guide*': [www.fsb.org.uk/policy/assets/fsb%20hs\(v2\).pdf](http://www.fsb.org.uk/policy/assets/fsb%20hs(v2).pdf)

For leadership in Major Hazards, see INDG277 *Leadership for the Major Hazard Industries*: <http://www.hse.gov.uk/pubns/indg277.pdf>

Also, see the Joint HSE/PSLG guidance on the *Principles of Process Safety Leadership*: <http://www.hse.gov.uk/comah/buncefield/pslgprinciples.htm>

For regulators

GRIP is a key resource for you; these links take you to the operational guidance on managing for health and safety:

HID OSD: <http://intranet/grip/hidosd/skills/assesshsms.htm>

HID CI: <http://intranet/grip/hidci/skills/assesshsms.htm>

LAs: <http://intranet/grip/las/skills/assesshsms.htm>

FOD: <http://intranet/grip/fod/skills/assesshsms.htm>

For the MAST tool for SMEs go to: <http://www.hse.gov.uk/foi/internalops/fod/inspect/mast/index.htm>.

Case studies

For examples of good and bad practice in leadership, go to: <http://www.hse.gov.uk/leadership/casestudies.htm>

Competence

‘Truly effective health and safety management requires competency across every facet of an organisation and through every level of the workforce.’⁸

Competence is the ability to undertake responsibilities and perform activities to a recognised standard on a regular basis. It combines practical and thinking skills, knowledge and experience.

Duty holders require the necessary competence to identify and manage their risks. This covers the competence of directors and managers down to the competence of individuals to do their work.

The Management Regulations require an employer to appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with the legal requirements.⁹ That could be a member of the workforce, the owner/manager, or a specialist external consultant or a professional body. The competent person(s) should focus on the significant risks and those with serious consequences.

The competence of individuals, whether they are employers, managers, supervisors, employees (especially safety representatives) and contractors, or those with safety critical roles (such as plant maintenance engineers) is vital – it ensures they recognise the risks in their activities and can apply the right measures to control and manage those risks.

COMPETENCE - QUESTIONS TO ASK

- Health and safety responsibilities of managers/supervisors – how are they made aware of them? What training have they been given to fulfil roles and responsibilities? How are they held accountable? Do they recognise continuing development needs, eg annual appraisals?
- Who fulfils the role of health and safety competent person? What is their background, training and qualifications? What is their awareness of current health and safety law relating to key hazards? Do they have enough time to dedicate to health and safety?
- External provider of competent advice – How were they selected? What is their competence to provide advice to this particular duty holder? Do they allocate adequate resources and tailor advice to needs of duty holder? Check the documentation provided eg visit reports, is suitable, covers the key hazards, assesses the risks and gives the right advice.
- Does the company act upon advice from the competent person?
- If there is an identified lack of competence in a particular area, what are they doing to deal with the problem?
- How are staff selected for the tasks carried out?
- Are arrangements in place to:
 - ensure staff aware of roles and responsibilities?
 - identify the training they need?
 - ensure relevant and sufficient training is delivered? Look for use of training schedules, operating manuals, sampling delivery of training, training for trainers etc.
 - check the necessary level of competence has been reached?
 - check that training is applied?
 - provide update/refresher training?
 - record training received?

⁸ HSE Strategy document 2009.

⁹ Regulation 7 of Management of Health and Safety at Work Regulations 1999 – see subsections (6) and (7) for exceptions to appointment of competent persons.

COMPETENCE - EXPECTATIONS	
What it looks like when it is done well	What it looks like when it is done badly or not at all
<ul style="list-style-type: none"> ■ All parties know the risks created by the business and understand how to manage them; ■ Key responsible persons/job holders identified and clearly established roles and responsibilities; ■ People have the necessary training, skills, knowledge and experience to fulfil their responsibilities and are given sufficient time to do so; ■ Duty holder is clear about the standards they expect and holds people to account if don't meet them; ■ Duty holder/competent person aware of changes in law and good practice; ■ Share lessons learnt, and good practice, internally and externally; ■ External assistance is tailored to their needs/risks and they act upon the advice given; 	<ul style="list-style-type: none"> ■ Lack of awareness of key hazards/risks. ■ People lack the skills, knowledge and experience to do their job. ■ H&S advice and training is irrelevant/incompetent/wrong. ■ No standards set; people not held accountable. ■ Insufficient action is taken to comply with the law; ■ Knee jerk reactions follow incidents/near misses. ■ The company does not know what it needs to do to move forward.

Additional factors

SMEs

For most micro and small duty holders, the responsibility of providing competent advice often rests with the owner/manager. This link will help them ask the right questions if they are looking for competent H&S advice:

<http://www.hse.gov.uk/pubns/indg420.pdf>

Large organisations

Who has the board lead on H&S? What is their competence in and awareness of health and safety issues? Do they play an active part and how do they support the health and safety competent person?

Major hazards

At least one board member should be technically competent in process safety management. The competence of plant maintenance engineers is also crucial. See Joint HSE/PSLG guidance on the Principles of Process Safety Leadership for further information:

<http://www.hse.gov.uk/comah/buncefield/pslgprinciples.htm>

Contractor competence

Duty holders should consider carefully the potential consequences of out-sourcing of work, particularly safety-related work. Companies should use their own knowledge and experiences of their hazards/risks to ensure that contractors are competent to carry out health and safety-related work.

Legal and enforcement issues

Other regulations such as PUWER, LOLER, CDM, contain requirements for competence as do a number of technical standards.

Key guidance and resources

For duty holders

INDG420 sets out key questions for duty holders to ask external consultants before appointment: <http://www.hse.gov.uk/pubns/indg420.pdf>

See HSE's statement to external providers on what we expect of them: <http://www.hse.gov.uk/pubns/externalproviders.pdf>

HSE Guidance Human Factors web pages set out key principles for training and competence <http://www.hse.gov.uk/humanfactors/topics/competence.htm>

'Managing Health and safety in Construction' deals with competence in the construction industry: <http://www.hse.gov.uk/pubns/priced/l144.pdf>

Competence of managers when managing work-related stress: see HSG218 <http://www.hse.gov.uk/pubns/books/HSG218.htm>

For regulators

The inspector toolkit [link tbc] will set out the regulators approach to providers of external advice and provide guidance on when to consider formal enforcement.

Case studies

SMEs

Case studies in this area are being compiled, and will be available in due course.

Large

<http://intranet/bip/large/casestudies/index.htm>

Major hazards

<http://www.hse.gov.uk/humanfactors/resources/case-studies/>

Worker involvement

'I find it hard to imagine how one could ever put in place an effective workplace health and safety system that did not include real participation and engagement of the workforce.'¹⁰

Worker involvement is the full participation of the workforce in the management of health and safety. It can be considered in stages. The stages of provision of information, instruction, training and engaging in consultation with employees are all legal requirements. The final stage, the full involvement of the workforce, is beyond the required minimum legal standard. However, at its most effective, full involvement creates a culture where relationships between employers and employees are based on collaboration, trust and joint problem solving; employees are involved in assessing workplace risks and the development and review of workplace health and safety policies in partnership with the employer.

WORKER INVOLVEMENT - QUESTIONS TO ASK

- How are employees or their representatives consulted and involved in H&S matters?
- How effective are those mechanisms in relation to organisation size, structure, or rate of workplace change?
- Are the needs of any vulnerable employees/ workers (temporary or agency staff, or those whose first language is not English) met through, eg, the use of interpreters, use of symbols and diagrams rather than written instructions?
- Do employees confirm they are involved and that the arrangements are working?
- Are meetings where H&S is considered recorded and information cascaded to the workforce?
- Do H&S representatives confirm arrangements to support them are in place and suitable?

WORKER INVOLVEMENT - EXPECTATIONS

What it looks like when done well	What it looks like when it is done badly or not at all
<p>Compliance with the legal requirements:</p> <ul style="list-style-type: none"> ■ Provision of instruction, information, training to enable employees to work in a safe and healthy manner; ■ Safety representatives/ representatives of employees can carry out their functions eg paid time off, provision of facilities and information. ■ Workforce consulted (either directly or through their representatives) in good time on issues relating to their health and safety; <p>Beyond compliance:</p> <ul style="list-style-type: none"> ■ feedback mechanisms exist for health and safety matters, eg: <ul style="list-style-type: none"> – 'suggestions boxes' or more formal open meetings with management; – Team meetings are held and may be led by employees. 	<ul style="list-style-type: none"> ■ Employees lack the right level of information, instruction and training needed to do their job in a safe and healthy manner. ■ Representatives cannot exercise their functions. ■ Employees don't know who they would go to if they had health and safety concerns. ■ Health and safety controls don't seem practical or employees are having to work around difficulties. ■ Line managers don't discuss: <ul style="list-style-type: none"> – how to safely use new equipment; – how to do a job safely. ■ The size of the organisation means that direct consultation is unlikely to work and/or the number of health and safety representatives don't appear enough to enable effective consultation. ■ There is little or no evidence of information being cascaded through the organisation.

¹⁰ Judith Hackitt, HSE Chair, November 2008.

Additional factors

For dynamic working environments where the situation regularly changes, worker involvement is fundamental in ensuring risks are effectively managed. A combination of informal (face-to-face discussion on tasks, daily walkabouts) and formal (meetings to deal with high risk areas) should be present. There will be an increased emphasis on the workforce to work in a safe manner.

SMEs

Smaller sized businesses tend to have less formal and simple systems in place, eg face-to-face discussion, toolbox talks, periodic meetings on specific issues. Discussion on the concept of worker involvement may be over-the-top for some given their size – instead, focus on whether the arrangements allow employees to have a say. Depending on the current arrangements, the duty holder may find the Worker Involvement web pages a useful source of information; see '**Key guidance and resources**'.

Large Organisations

Larger organisations are likely to require, or have some form of, formal system of consultation, although informal systems may be present as well. There will be evidence of effective consultation arrangements, eg an appropriate number of health and safety representatives/ representatives of employee safety, existence of safety committees and meetings for key issues such as organisational changes. The training initiative may be useful depending on the effectiveness of the existing consultation arrangements – see '**Key guidance and resources**'.

'Sophistication'

Where sophisticated health and safety management arrangements exist (typically but not exclusively large organisations), focus on discussions on joint problem-solving is appropriate. Where organisations are developing health and safety systems for the first time, signposting to sources of guidance on consultation requirements may be more appropriate.

Legal and enforcement issues

- The minimum legal standards on consulting employees are The Safety Representatives and Safety Committees Regulations 1977 and/or The Health and Safety (Consultation with Employees) Regulations 1996. The associated ACOP L146 (see '**Key guidance and resources**') contains a full list of other regulations which also deal in part with employee consultation issues, such as the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989, the Construction (Design and Management) Regulations 2007 and the Control of Major Accident Hazards Regulations 1999.
- **Information, Instruction and Training:** Sections 2 HSWA 1974 deals with the provision of information, instruction and training – the requirement also appears in various other regulations. Provision of information for employees on eg risk assessments is in Regulation 10 of the Management of H&S at Work Regulations 1999.

Key guidance and resources

For duty holders

Worker Involvement web pages <http://www.hse.gov.uk/involvement/index.htm>
For further information on the current initiative, and HSE-subsidised training courses, signpost the duty holders to the Worker Involvement campaign site: <http://www.hse.gov.uk/involvement/doyourbit/index.htm> and <http://www.hse.gov.uk/involvement/doyourbit/subsidised-training.htm>

Health and Safety representatives webpages:
<http://www.hse.gov.uk/involvement/hsrepresentatives.htm>

Other references are *Involving your workforce in health and safety: Good practice for all workplaces* HSG263: <http://www.hse.gov.uk/pubns/books/hsg263.htm> and *Consulting employees on health and safety: A brief guide to the law* INDG232 (rev1) <http://www.hse.gov.uk/pubns/indg232.pdf>

For SMEs: information is also available in *Involving your workers in health and safety: A guide for small businesses* (web35): <http://www.hse.gov.uk/pubns/web35.pdf> plus a new guide specifically for non-unionised small businesses: <http://www.hse.gov.uk/involvement/doyourbit/resources/non-unionised-small-businesses.pdf>

For regulators

Consultation and Worker Involvement Topic Inspection Pack (this is currently under review) <http://intranet/operational/fod-inspection/inspection-packs/workerinvolvement/workerinvolve.pdf>

Consulting workers on health and safety. Safety Representatives and Safety Committees Regulations 1977 (as amended) and Health and Safety (Consultation with Employees) Regulations 1996 (as amended) ACOP L146: <http://www.hse.gov.uk/pubns/books/l146.htm>

OC111/3 Enforcement of regulations requiring consultation with employees: http://intranet/operational/ocs/100-199/111_3.htm

Case studies

<http://www.hse.gov.uk/involvement/doyourbit/shared-experiences.htm>

Legal compliance

Legislative compliance is the minimum acceptable standard. If duty holders fail to meet their legal duties, we can take action – verbal advice, a letter, enforcement action or prosecution. Some duty holders will want to achieve only the minimum to meet their statutory requirements, whilst others will want to strive for improved performance. Anything beyond legislative compliance is into the realms of best practice and we can advise, influence and guide duty holders here only. Also be aware we do not have the legal powers to enforce on all aspects of managing for health and safety, eg we cannot force an organisation to replace an incompetent or autocratic leader.

The Health and Safety at Work etc Act (HSWA) 1974 clearly places the responsibility on those who create the risk to manage it. Whatever their status – employer, self-employed, manufacturer or supplier of articles or substances for use at work – they all have a range of duties which must be implemented to manage the risk.

Workers have the right to work in an environment where the risks to their health and safety are properly controlled – the primary responsibility for this lies with the employer. However, workers have a duty of care for their own and others' health and safety. They must also co-operate with their employer in their efforts to comply with their general duties under HSWA.

The minimum statutory arrangements and procedures which organisations must have in place are set out in the 'Leadership and Management' section.

Enforcement Management Model (EMM) and non-risk based compliance

The EMM uses the term 'compliance and administrative arrangements' to describe those legal requirements which are not in themselves risk based. These arrangements are generally defined by law or supporting Approved Codes of Practice. The EMM goes on to say that whilst these measures may not be risk control measures, their absence can undermine the workings of an efficient H&S system or be evidence of poor H&S management.

When considering compliance and administrative arrangements, HSE and LA regulators should use Table 4 of the EMM to assess levels of non-compliance; and then use Table 3 to assess the benchmark standard. These are then combined using Table 5.2 to produce the initial enforcement expectation: <http://intranet/legal/emm/gapanalysis.htm#compadminarrange>

The practice of assessing managing for health and safety

THIS SECTION HAS BEEN TAILORED TO HSE'S FIELD OPERATIONS DIRECTORATE.

It remains relevant to other parts of HSE and to LAs and they will receive equivalent guidance in due course.

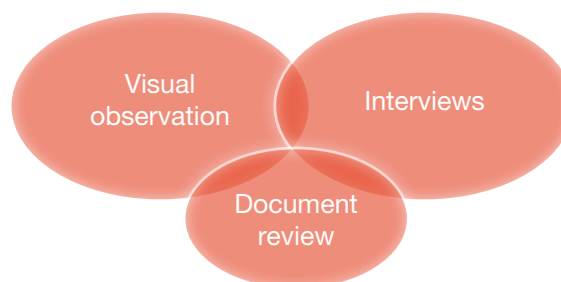
Any intervention with a duty holder is an opportunity to assess how well they manage for health and safety. This includes an assessment of the quality of leadership, how well they involve their workforce and whether they have the necessary competence in the organisation.

The differences in size, level of risk and sophistication of organisations across business sectors, are reflected in the different inspection techniques and operational guidance used by the different divisions and directorates throughout HSE and the LA sector. However, in all these cases an assessment of how the organisation and its leaders manage for health and safety should be at the core of our intervention.

Incorporating 'Managing for health and safety' into interventions

The term 'intervention' is used to cover the full range of activities from inspections to investigations¹¹. The steps common to all types of interventions are illustrated in table 1. HSE's definitions of inspection and investigation are set out at:
<http://intranet/ogprocedures/inspection/index.htm>
<http://intranet/ogprocedures/investigation/index.htm>

Gathering the evidence: Sources of information



Your intervention inevitably involves making a judgement about how health and safety is managed based on a sample of evidence. In gathering that evidence:

- for micro or small businesses, your emphasis will be mostly on speaking to people and simple observation of workplace precautions and less use of documentary evidence; and
- for larger, more complex or more hazardous organisations, the greater input and structure you require for your intervention; a greater amount of information is required from interviews and documents – you can then compare what happens in practice with what is written on paper. In these kinds of organisations, the intervention may start with an assessment of documents, eg policies and procedures, followed by a structured interview (or use of a specific technique such as audit) with key personnel and visual observation to confirm workplace precautions.

Who to engage with

Your discussions with duty holders and workers are intended to allow you to assess their understanding of the risks present and ability to manage them, rather than simply observing their reactions to the specific topics you raise at the visit. You should engage with:

- a sample of staff who are exposed to the hazards present in that organisation and can tell you how effectively these are controlled from their perspective 'on the front line'. In particular, you should meet with worker and safety representatives;
- discussions with senior managers will influence those in control of resources and those who can change the organisational culture, and the status of health and safety. Such discussions are particularly important if there is a general disconnection with the organisation's policies and procedures and the reality on the shop floor. You will have more up-to-date information on how risks are being controlled in their workplace – use that information to have a constructive discussion at owner/senior manager/director level; and
- where they are present, a sample of supervisors and/or junior managers who can tell you what they are trying to achieve and how they aim to implement the company's policies and procedures. They can also tell you whether they are sufficiently resourced and how realistic the organisation's approach to health and safety is in practice.

Forming a view on how the organisation manages for health and safety

Having collected your evidence, you should now be forming your opinion on how the organisation is managing for health and safety; you will be looking here to diagnose their compliance with the legal standards and detail what remedial action they should be taking. Terms such as hardware (premises, plant and substances) and software (people, procedures and 'systems' including their individual behaviours and performance), can help clarify and focus duty holders on the areas that require attention. For example, repeated incidences of hardware issues, such as routine bypassing of safety interlocks, are usually rooted in organisational 'software' failures – a lack of competence due to inadequate training, poor supervision through lack of leadership etc.

The attitude of the duty holder towards health and safety will be an important factor in your diagnosis - if you detect deliberate bad faith, with the intention to avoid legal compliance, then your assessment should differ from that for the genuinely confused duty holder who wants help and advice to improve.

Detailed consideration of the human factors involved will help to properly identify the correct remedial action, eg was the failing due to a skill-based errors, a mistake or a violation: see <http://www.hse.gov.uk/humanfactors/index.htm> for more information.

You may choose to use one of the formal methods developed to assist your assessment and to ensure all the possible causes and consequences are fully considered; for further guidance see HSG245 'Investigating accidents and incidents', HSG48 'Reducing Error and Influencing behaviour' and CRR325 'Root Cause Analysis; literature review: <http://www.hse.gov.uk/pubns/priced/hsg245.pdf>, <http://www.hse.gov.uk/pubns/priced/hsg48.pdf> and http://www.hse.gov.uk/research/crr_pdf/2001/crr01325.pdf

Particularly in an investigation, you are seeking to identify the immediate, underlying and root causes of events. The immediate cause(s) is/are the most obvious reason why an adverse event happens, eg a guard is missing, the worker slips. Immediate causes can be both hardware and software related. Your analysis will then suggest the underlying causes which allowed the immediate causes to

exist – these are often less obvious software ‘system’ or ‘organisational’ reasons for an adverse event happening, eg pre-start machinery checks were not carried out by supervisors, production pressures were too great, the hazard had not been adequately considered by a suitable and sufficient risk assessment. The root cause is the initiating event or failing from which all the other causes or failings spring; it is usually a software issue eg a lack of leadership, competence or worker involvement; examples are that no senior person was in overall charge of H&S, there was no monitoring of H&S performance, people’s roles and responsibilities were unclear.

Table 1 Summary of common steps to carrying out HSM interventions

Planning		Assessment		Action		Follow-up
Select Employer	Intervention Decisions	Collect Evidence	Diagnose compliance and prescribe remedial measures	Record findings and conclusions	Take action	Follow up
Based On:	Type of intervention	Collect evidence from the full range of information sources on which to base judgement	Make an immediate summary on site indicating intended action	Summary of conclusions and key evidence	Prosecution	Checks to ensure improvements completed
Hazards/risk profile	Timing of visit			Intended action	Notice	
Size of business	Scope and depth of intervention			Follow up contact to confirm completion of improvements	Letter	
Management Competence	Information sources to use:				Verbal advice	
Previous intervention history	i. visual observation ii. interviews iii. document reviews				Prepare report (if appropriate)	
					Decide on follow up	

List of references

What you can find on the HSE Website:

- Managing for Health and Safety website: <http://www.hse.gov.uk/managing/index.htm>
- HSE Risk management site: <http://www.hse.gov.uk/risk/index.htm>

Operational Guidance:

The following list contains links to operational guidance relevant to this topic. Note that this may not contain all relevant documents which exist.

- Management Assessment Toolkit for SMEs:
<http://www.hse.gov.uk/foi/internalops/fod/inspect/mast/index.htm>
– Developed by LAs and HSE it provides a practical interpretation of safety management systems for application to SMEs
- Management inspections of NHS trusts and large private hospitals:
http://www.hse.gov.uk/foi/internalops/sectors/public/7_03_05.pdf
- University Health & Safety Management:
http://www.hse.gov.uk/foi/internalops/sectors/public/7_02_26.pdf

- Language considerations for management of the health and safety of non-English-speaking workers:
http://www.hse.gov.uk/foi/internalops/fod/oc/100-199/167_12.pdf
- Undertake effective audit inspection:
http://intranet/personnel/hid_competencies/inspctn/a2_i.htm
- List of Publications on risk management advertised on external website:
<http://www.hse.gov.uk/risk/guidance.htm>
- MHSAW Regulations 1999 - Statutory Instrument:
<http://www.opsi.gov.uk/si/si1999/19993242.htm>
- Link to CHaSPI, and other auditing tools for large and small businesses:
<http://www.hse.gov.uk/corporateresponsibility/performanceindex.htm>
- HID Audit Methodology Tables:
http://intranet/operational/ld1_4_inspection_manual/ld1_4INSPR-06.htm#APPENDIX2

HSE publications

The following list contains links to HSE publications relevant to this topic. Note that this may not contain all relevant publications that exist.

- HS(G)65 *Successful Health and Safety Management*.
- INDG275 *Managing Health and Safety: Five Steps to Success*:
www.hse.gov.uk/indg275.pdf.

Training courses

- Communication Fundamentals: <http://www.dls.uk.net/page578/Communication-And-Marketing/Communication-Fundamentals>

Other information

- LAC 67/2 - Advice/Guidance to Local Authorities on Priority Planning
<http://www.hse.gov.uk/lau/lacs/67-2.htm>

Further information

HSE priced and free publications can be viewed online or ordered from www.hse.gov.uk or contact HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA Tel: 01787 881165 Fax: 01787 313995. HSE priced publications are also available from bookshops.

For information about health and safety ring HSE's Infoline Tel: 0845 345 0055 Fax: 0845 408 9566 Textphone: 0845 408 9577 e-mail: hse.infoline@natbrit.com or write to HSE Information Services, Caerphilly Business Park, Caerphilly CF83 3GG.

This document is available web-only at: <http://www.hse.gov.uk/managing/regulators/regulators.pdf>

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