

Module	WORKPLACE HEALTH & SAFETY
Jurisdictions	UK
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Module Application

Does the employer ensure compliance with the health, safety and welfare law applicable in the workplace?

Does the organisation understand and comply with the legal obligations relating to managing health and safety in the workplace?

Does the organisation, or person in control of work premises, understand their legal duties in relation to the reporting of injuries, diseases and dangerous occurrences?

Does the organisation understand that the Health and Safety Executive (HSE) regulates workplace health and safety law in England, Wales, Scotland and Northern Ireland and has the power to take enforcement action; and that inspectors appointed by the HSE have wide ranging powers and multiple enforcement options available to them when a breach of health and safety law is identified?

Does the organisation comply with its legal obligations in respect of managing the welfare of its employees?

Does the organisation understand the legal obligations that arise where its employees may be, or are, exposed to substances hazardous to health while undertaking work-related activities?

Does the organisation plan, put in place and monitor suitable arrangements to manage construction work and the health and safety risks involved, prepare the necessary information and documents and notify the relevant enforcing authority of certain types of construction projects?

Does the organisation understand and comply with its legal obligations in connection with the management of asbestos in the workplace?

Does the organisation or person in control of the relevant premises comply with fire safety regulations?

Module Scope

Every UK employer has a legal duty to protect the health, safety and welfare of persons in the workplace; this involves understanding and complying with the myriad of UK health and safety law.

The Health and Safety at Work Act 1974 sets out the primary duties owed by employers to their employees and persons who may be affected by the employer's business activities (such as contractors, agency workers and members of the public). There is then subordinate legislation which, among other things, creates duties/obligations on organisations relating to the:

- management of health and safety at work, and in relation to hazardous work
- management of construction work
- management of asbestos in premises
- compliance with fire safety laws; and
- reporting of injuries, diseases, and dangerous occurrences.

Regulator for health and safety matters

The Health and Safety Executive (HSE) is the regulator for workplace health and safety in England, Wales, Scotland and Northern Ireland. It has a number of functions and powers to:

- promote a safer workplace
- carry out research
- produce guidance to the regulated (including Approved Codes of Practice, which prescribe how the HSE interprets legislation and how compliance can be achieved)
- develop strategies for health and safety in the workplace; and
- ensure compliance with health and safety laws through investigation, inspection and enforcement.

Inspectors have a range of statutory powers to secure compliance from service of an improvement notice through to prosecution where a breach of health and safety law is alleged.

Module recommendations

The module breaks its recommendations into the following core obligations:

1. The circumstances in which the general health and safety duties apply

Every employer is responsible for the health, safety and welfare of each of its employees. The threshold applied to this general duty is as 'so far as is reasonably practicable'; this means that employers must take reasonably practicable steps to satisfy this legal obligation.

Parliament has identified certain circumstances where this general duty applies, which includes when:

- providing and maintaining plant and systems of work
- making arrangements to ensure safety and limit risks to employee health in connection with the use, handling, storage and transport of articles and substances

- providing such information, instruction, training and supervision as is necessary to ensure the health and safety at work of his employees
- carrying out the maintenance of any place of work that is in the employer's control to ensure its condition is kept safe and without risks to health
- providing and maintaining means of access to and departure from the place of work; and
- providing and maintaining a working environment for employees that is safe, without risks to health, and includes adequate facilities and arrangements for employee welfare.

2. Management systems

Every employer must:

- undertake a suitable and sufficient assessment of the risks to the health and safety of their employees to which they are exposed while they are at work; and
- undertake a suitable and sufficient assessment of the risks to the health and safety of persons not in their employment who may be exposed to risks as a result of their undertaking (ie in the course of their business).

3. Reporting

The regulations on reporting of injuries, diseases and dangerous occurrences requires responsible persons (which is an employer or person in control of work premises) to report specified work-related injuries (involving workers and non-workers), dangerous occurrences, and diagnoses of occupational ill health.

4. How the regulator (the HSE) operates

To ensure duty holders are identifying and managing health and safety risks adequately, the HSE tends to focus its efforts on industries which pose the most serious risks or those businesses which the regulator reasonably believes is not managing risks effectively. For example, the HSE will consider several factors when assessing whether to investigate a business, such as:

- a business's previous health and safety record
- issues brought to the HSE's attention by workers or the general public
- incident investigations, or
- reports of injuries, diseases and dangerous occurrences.

HSE Inspectors visit thousands of businesses each year. The HSE is permitted to investigate a health and safety incident or concern at any time and may enter a workplace without any warning for the purpose of inspecting it.

5. Managing welfare

As a part of ensuring employee health and safety, employers have specific legal duties in relation to the management of employee welfare, such as ensuring:

- any enclosed workplace is effectively and suitably ventilated with an adequate amount of fresh or purified air, as well as making sure the temperature is kept

reasonable and there is suitable and sufficient lighting, including emergency lighting, throughout the workplace

- workers are given suitable personal protective equipment (PPE) as needed (depending on the level of risk facing the employee and whether the risk is controlled in some other alternative, more effective way)
- employees are provided with adequate and appropriate welfare facilities including sanitary conveniences, washing facilities, drinking water, as well as accommodation for clothing, changing rooms, and somewhere they can rest and eat meals; and
- protecting their workers from health and safety risks associated with display screen equipment (DSE).

6. Hazardous work

Where employees may be, or are, exposed to substances hazardous to health while carrying out work-related activities, their employer must:

- undertake a suitable and sufficient assessment to identify the risk of exposure, prior to allowing employees to undertake affected work activities
- prevent, or where this is not reasonably practicable, adequately control, exposure to substances hazardous to health to prevent employee ill health, as well as take all reasonable steps to ensure employees (as well as any other person who need to follow the safe system of work) comply with control measures
- maintain engineering control measures for the purpose of keeping them in an efficient state and in good working order
- provide suitable health surveillance and keep a health record for every employee who has been, or may be, exposed to such a substance for at least 40 years
- monitor exposures to hazardous substances and maintain a suitable record of such data, as well as make sure affected employees are provided with suitable and sufficient information, instruction, and training as required (including refresher training); and
- make necessary arrangements for the purpose of dealing with accidents, incidents and emergencies relating to the presence of such a substance in the workplace.

7. Construction work

An organisation must plan, implement and monitor suitable arrangements to manage construction work and the health and safety risks involved; they must also prepare necessary information and documents, and notify the relevant enforcing authority of certain types of construction projects.

8. Managing asbestos

Managing asbestos in the workplace involves several legal duties, which include:

- carrying out a suitable and sufficient assessment to find out whether asbestos is, or may be, present in the premises
- record any significant findings where asbestos is present in the premises, including recording the location and condition of asbestos and how it will be managed to prevent damage and exposure to asbestos fibres
- carrying out a risk assessment where there is a likelihood that the work activity may expose employees to asbestos while they perform their work-related activities

- preparing a written plan before carrying out any work that involves asbestos
- obtaining a licence prior to carrying out any work that is considered 'licensable work with asbestos'
- notify the appropriate enforcing authority of certain details before undertaking any licensable work with asbestos
- providing employees with adequate information, instruction, and training when their work involves working with asbestos
- preventing, or reducing to the lowest level reasonably practicable, employee exposure to asbestos
- preventing or reducing the spread of asbestos in the workplace
- providing relevant employees with adequate and suitable protective clothing, and ensuring protective clothing is disregarded of or cleaned thoroughly
- marking areas where asbestos-related work is performed as 'asbestos areas' and/or 'respirator zones'
- undertaking air monitoring on an ongoing basis and making sure such monitoring is consistent with air testing standards, including obtaining a site clearance certificate
- making sure employees who carry out licensable work with asbestos or notifiable non-licensed work with asbestos are subject to medical surveillance
- keeping asbestos-related health records for employees for the longer of either 40 years or until the relevant employee reaches 80 year of age; and
- having in place arrangements that deal with accidents, incidents and emergencies in relation to any time there is an unexpected release of an asbestos fibres.

9. Compliance with fire safety law

Employers must comply with a number of legal obligations to ensure fire safety in the workplace.

In particular, responsible persons are required to take general fire precautions to protect the safety of relevant persons, so far as is reasonably practicable. The nature and scope of such 'general fire precautions' is determined based on the content of the fire risk assessment (which must be suitable and sufficient) that every responsible person is required to carry out.

Further, a responsible person should make special note of any dangerous substances that may be present in or on the relevant premises as specific legal duties apply in situations where such substances are present. For instance, under these circumstances, the responsible person must take necessary steps to implement appropriate fire safety arrangements to eliminate, or reduce, the risks that arise from these substances being on or near the relevant premises.

Relevant premises must also be equipped with appropriate fire-fighting equipment, such as working and regularly serviced fire detectors and alarms, as well as clear emergency routes and exits. There must be relevant procedures in place that are capable of being followed in the event of a fire incident.

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