



Risk Profiling, Corporate Manslaughter, Competent Advice

Health and Safety Training – Presentation 4 17 May 2017 – FLOODEX



RISK PROFILING

HAZARD

Anything with the potential to cause **HARM** e.g. a moving vehicle

HARM

- Injury or ill health e.g. fatality, a broken bone, asbestosis or stress
- Damage to plant or equipment, to property or the environment e.g. vehicle damage, a fire, pollution
- Production losses or increased liability e.g. broken pump motor, or increase in risk to employees

RISK

Risk is the **combination** of the hazard actually causing harm (**likelihood**) and the **severity** of the harm (the actual effect).

What are the health and safety risks in your operations?

- Every business will be different

Employers - legal duty to identify risks to health and safety and operations

- Senior Managers, Directors etc hold that legal duty directly
- **You** are responsible for the approach of your organisation to managing H&S risk

Risk Profiling allows significant H&S risks to be identified and then drive management plans

Safety Hazards could be obvious



Health Hazards could have long term delayed effects



HSE States –

Effective leaders and line managers know the risks their organisations face, rank them in order of importance and take action to control them.

Risks include H&S, Environment, Quality, Asset Damage

Risk profiling:

- Examines the nature, chance and severity of organisation's risks
- Identifies the costs to control the risk and the benefits
- Imposes a duty to control SFARP as a minimum

- What are your current arrangements?
- Do you screen for VWF / HAV, for noise induced hearing loss?
- Do you offer medicals or know of existing medical conditions e.g. diabetes, severe allergies, asthma?
- Do you have a Drug and Alcohol policy and screening?
- Medicals for use of plant and machinery; eyesight testing?
- Control of Lead at Works Regs, Control of Asbestos Reg, COSHH Regs all place a legal duty on employers in some situation to complete:
 - Health surveillance
 - Biological monitoring e.g. Degreasers (Trichloroethylene), Paint Spray (isocyanates)
 - Action to minimise exposure and impact on employees

Failure to identify and control risk:

Is a **CRIMINAL OFFENCE**



Costs organisation huge amounts of
MONEY



CORPORATE MANSLAUGHTER



Before 2007

- Common law offence – Gross Negligence Manslaughter
- Only an individual could be held accountable
- For Bodies Corporate – a controlling mind needed to be identified
- Very Low prosecution rates
- Major accidents changed all





Corporate Manslaughter and Corporate Homicide Act 2007

- Came into force 6 April 2008
- Not Retrospective
- Additional to Health, Safety and Employment Legislation
- Health and Safety Offences unchanged

- Gross Negligence Manslaughter continued against individuals

Section 1 – The Offence

An *organisation* is guilty if the way in which its activities are managed or organised

- Causes a person's death, and

- Amounts to a gross breach of a *relevant duty of care owed* by the organisation to the deceased

The *organisation* is

- a corporation, a department or other partnership that is an employer

The breach resulted from or can be attributed to the way the company was managed or a failure of *senior management*.

Breaches of a *relevant duty of care owed* include:

Employers Duties

Occupiers Duties

Duties under supply of service

Construction and maintenance works

Use and maintenance of plant, equipment and machinery

Inadequate training, information or supervision

Who are *Senior Managers*

- Those who play a *Significant* role in management of part/all the organisation
- Controlling Minds – influence over the organisation's running
e.g. the Board, Directors, Company Managers

BREACHES =

UNLIMITED FINE

Plus H&S prosecutions and fines (UNLIMITED)

Plus charges under Gross Negligence Manslaughter

CPS Investigations opened

Year	Cases opened	Successful prosecutions	Addition prosecutions
2008	0	0	n/a
2009	7	1	Yes H&S
2010	26	0	Yes H&S, GNM
2011	45	1	Yes H&S, GNM
2012	63	1	Yes H&S, GNM
2013	No Data	5	Yes H&S, GNM
2014	No Data	6	Yes H&S, GNM
2015	No Data	5	Yes H&S, GNM



COMPETENT ADVICE

Management of Health and Safety at Work Regulations 1999

Reg 6 – Health and Safety Assistance

*Every employer **shall** appoint one or more **competent persons** to assist him in undertaking the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.*

You must provide:

- Time and resources to complete their duties
- Details on what the business does
- Details of any possible factors affecting the health and safety of employees and others

Competent Advice

- A person shall be regarded as competent where he has sufficient training and experience or knowledge and other qualities to enable him properly to assess and advise on Health and Safety Measures

Skill

Knowledge

Attitude

Training

Experience



Management of Health and Safety at Work Regulations 1999

Reg 13 - Capabilities and training

*Employer **shall**, in entrusting tasks to his employees, take into account their capabilities as regards health and safety.*

Every employer shall ensure that his employees are provided with adequate health and safety training

Competent Person	Suggested Training
Health and Safety Advise	NEBOSH Dip, H&S Degree
First Aider	First Aid at Work
Fire Safety	Level 1 / 2 Fire Warden
Confined Space Manager	Confined Space Entry Confined Space Rescue
Supervisors / Foreman	CITB SMSTS / SSSTS IOSH Managing Safely
Plant operatives	CITB, Lantra, NPTC etc

Further Assistance

For additional information, assistance, advice, training courses and health and safety assessment

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