

RICS Practice Standards, UK

Surveying safely

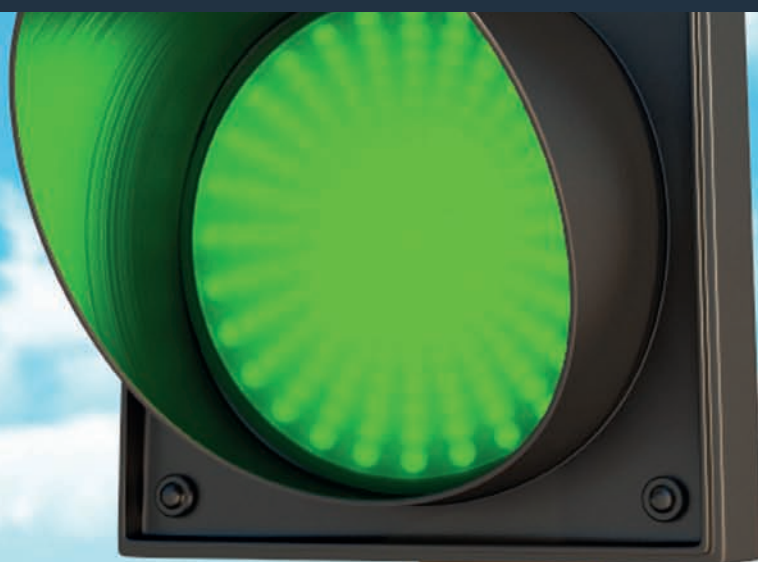
1st edition, guidance note



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RICS guidance note

1st edition (GN 74/2011)



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RICS guidance notes

This is a guidance note. It provides advice to RICS members on aspects of their work. Where procedures are recommended for specific professional tasks, these are intended to represent ‘best practice’, i.e. procedures which in the opinion of RICS meet a high standard of professional competence.

Although members are not required to follow the advice and recommendations contained in the note, they should note the following points.

When an allegation of professional negligence is made against a surveyor, a court or tribunal is likely to take account of the contents of any relevant guidance notes published by RICS in deciding whether or not the member had acted with reasonable competence.

In the opinion of RICS, a member conforming to the practices recommended in this note should have at least a partial defence to an allegation of negligence if they have followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance.

Alternatively, it does not follow that members will be found negligent if they have not followed the practices recommended in this note. It is for each surveyor to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this note, they should do so only for a good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice. Also, if members have not followed this guidance, and their actions are questioned in an RICS disciplinary case, they will be asked to explain the actions they did take and this may be taken into account by the Panel.

In addition, guidance notes are relevant to professional competence in that each member should be up to date and should have knowledge of guidance notes within a reasonable time of their coming into effect.



Introduction

This guidance is based on health and safety law in Great Britain, which covers England, Wales and Scotland.

This guidance is for RICS members and other professionals involved with the property industry and for this reason the term ‘property professional’ has been used throughout.

This guidance seeks to consider health and safety responsibilities at both a corporate level (whether the organisation is large or small), and at the level of the individual property professional. It covers property-related businesses and identifies the moral, ethical and practical issues that confront property professionals everywhere, in all the work that they undertake.

Appropriate management of health and safety is a requirement for all organisations, including property-related businesses. The requirement for such management has been put in place in many countries across the globe and across industry sectors and governmental organisations, in order to protect individuals from harm. Such harm, when it does occur, is a very personal matter (as in consequences to the injured and those responsible), whether it affects an individual or many people. Property professionals must recognise and accept their individual responsibilities to manage and control health and safety related risks.

The consequences of not meeting individual and corporate responsibilities can also have a devastating effect on the way that an individual is perceived by managers, colleagues, family and friends, as well as detracting from the reputation of the organisation as a whole.

1 Personal and corporate responsibility for property professionals

1.1 Influencing factors

At an international level it is important to consider health and safety cultural differences and whether the prevailing judicial system is prescriptive or self-regulatory: prescriptive systems set precise requirements that need to be followed in order to comply with health and safety law, whereas self-regulatory systems set general requirements, leaving the details and practicalities of achieving compliance to each organisation and individual. In particular, consideration should be given to how compliance with the law will be judged in the event that judgment becomes necessary; for example, following an accident or near miss, or after the serving of an enforcement authority notice for a perceived breach of the law.

Where an organisation or individual is unsure of their legal obligations it is a good idea to seek advice from a competent person with knowledge of health and safety law before undertaking activities, setting goals or strategy, or starting a project. Such consultation should, in any event, be considered as part of a comprehensive risk management process. Consideration of health and safety responsibilities should include potential liabilities in relation to both civil and criminal law. The potential financial consequences of personal injury and the organisation's or individual's response to their obligations will affect how insurance underwriters view the risk they are asked to insure (i.e. it may affect the level of insurance premium and the extent of cover).

Regardless of size, all organisations have a responsibility to put in place the framework rules within which their employees are to operate. Organisations must inform employees of the rules, policies and procedures and support them in carrying them out. It is the individual's responsibility to act within these rules and to act responsibly for the health and safety of themselves and others.

1.2 Personal responsibilities

Individuals employed by organisations have a direct responsibility to ensure that corporate health and safety policies and procedures are practised effectively and competently.

When individuals encounter, or anticipate, an activity, task or procedure, in any particular set of circumstances, that may lead to the harm of people or property, the practical reality of life necessitates that the responsibility to act or react appropriately, will remain with the individuals directly concerned.

That is not to imply that every risk or event can be foreseen. Risk assessment is the first step towards minimising dangerous events and the putting in place of appropriate risk controls. However, there will, unfortunately, occasionally be circumstances where events overtake planning and these situations will have to be addressed by the persons immediately affected by them.

An individual's ability to deal with, and respond appropriately to, an incident will come from knowledge, experience, competence and the availability of clear information. Therefore it is important that individuals are adequately prepared to deal with and respond to the circumstances they are likely to encounter. Individuals should also be prepared to recognise when matters are beyond their knowledge and competence.

Individuals have a clear responsibility to have a knowledge and understanding of the health and safety risks appropriate to the tasks they undertake. This knowledge may be gained through formal training, keeping up to date with relevant information, and personal experience; all of which contributes to their ongoing competence. Individuals within an organisation have an obligation to maintain competence levels appropriate to their tasks.

As a general rule, the more senior the position an individual has in an organisation, the greater their

responsibility becomes to those over whom they have control, whether those are employees or other people who could be affected by the work being undertaken. Therefore it is essential that those who supervise, manage, or provide information, instruction or training to others, also have adequate knowledge, competence and experience, and the ability to recognise when matters are beyond their capabilities.

Property professionals are exposed to a hugely diverse range of business opportunities and activities and with these opportunities comes the responsibility to manage health and safety. Individuals who neglect their responsibilities in this area can be a danger to themselves and others.

The primary responsibility for health and safety rests with those individuals who are faced with the practicalities of daily business. These responsibilities should include:

- acceptance of their individual responsibility and personal role in addressing health and safety risk management and their responsibility to abide by corporate and legal requirements
- co-operation with their employer to minimise risk to the health and safety of themselves, their colleagues and all others potentially affected by the activities they undertake
- reporting, in good time where possible, any breaches of health and safety rules and regulations
- reporting, in good time, any actual, potential or perceived health and safety risks, to persons best placed to address them
- taking the time to address the management of health and safety within the area of their experience and competence, and within the remit of their management responsibilities, and
- maintaining adequate and appropriate competence in regard to health and safety matters associated with their activities at work.

1.3 Corporate responsibilities

An organisation is required to have in place a management process designed to identify foreseeable risks and to put in place means to reduce these risks to acceptable levels such that the tasks, activities, objectives and goals of the organisation can be fulfilled successfully and safely.

The management process should include a recognised line management structure to manage and monitor health and safety and to have in place policies and procedures appropriate to the organisation's business activities. These should ensure that individuals (both employees and others who could be affected by the activities undertaken by, or on behalf of, the organisation) are free from risk, or if the risk cannot be eliminated, that it is understood, managed and minimised.

Some of these policies and procedures will be required by law; others may be corporate policies designed to achieve specific corporate aims and objectives and meet particular expectations. It is important to note that organisations and individuals that operate outside their normal 'home' country (i.e. remote workers overseas), will need to abide by the rules and regulations in the host country; and that other cultures may have different customs and may seek to achieve similar health and safety goals by employing alternative techniques within different legal structures.

The responsibilities of organisations should include making adequate allowance in time and other resources such that their employees and others for whom they have responsibility (legally, morally and ethically) can effectively manage risks to health and safety.

Effective ways of working in a healthy and safe manner must be led from the top in accordance with legal guidance. It is generally accepted that the director, partner or whoever has ultimate responsibility for the management of an organisation, takes responsibility for the safety and health of all those affected by the organisation's undertakings. This is often expressed by way of a health and safety 'policy statement', which sets down the organisation's health and safety management objectives and arrangements.

The organisation's responsibility for the management of health and safety also extends up and down the supply chain. When working for clients or customers, the organisation will need to ensure that it understands, and can comply with, client and customer health and safety rules. Similarly, if the organisation seeks to contract, sub-contract or enter into any business arrangements with others, it is incumbent upon all parties to

ensure that each understands and can comply with the others' health and safety rules and management systems.

This may include the provision of the following:

- corporate structures to manage health and safety
- clear lines of accountability for the management of health and safety
- policies and procedures appropriate to the work undertaken
- identification and management of foreseeable risks
- training and information in regard to the management of health and safety
- processes to manage contractors, procurement of/provision of services from/to others, and
- appropriate insurances (which may include Casualty Insurance, known in the UK as Employer's Liability and Public Liability insurance).

1.4 In the event 'it all goes wrong'

When, occasionally, something does go badly wrong and people are harmed, the injuries or ill health can have life-changing consequences for the individuals involved, their family and friends. Such events also have the potential to affect the organisation significantly, including reputation, morale, and possible legal consequences.

Additionally, and importantly, there is the effect that it may have on the injured party's colleagues and acquaintances in their working environment, whether or not they had any direct influence on the event itself. Those responsible may have feelings of guilt, as well as facing internal disciplinary action and in some cases, criminal and/or civil legal proceedings.

It is important that incidents and accidents are investigated appropriately by a competent investigator. The root cause, or causes, should be determined and action taken to prevent a recurrence. Enforcement authorities may also decide to investigate the incident in order to establish whether an offence has been committed, with a view to prosecution of individuals, the organisation or both.

In Great Britain certain occurrences must be reported under the *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995* (RIDDOR). The relevant enforcing authority or authorities (the Health and Safety Executive (HSE); local authority environmental health office; and, in the event of a fatality, the police) may also carry out investigations, and may call for those involved and for representatives of the organisation to submit to interview 'under caution'. In such circumstances it is recommended that legal advice be sought at the earliest opportunity.

2 Legal considerations and duties

This guidance is based on health and safety law in Great Britain, which covers England, Wales and Scotland.

2.1 Legal considerations

It is important to be aware of health and safety legal obligations and duties that fall upon employers and individuals. These originate from various legal sources.

2.1.1 European Union

European Union (EU) law places some specific duties on employers and is the primary source of most new health and safety laws in member states. The EU operates mainly through directives, requiring member states to pass their own legislation to implement the directive. The requirements to risk assess and introduce control measures came from the EU, along with many directives on technical standards and safety requirements.

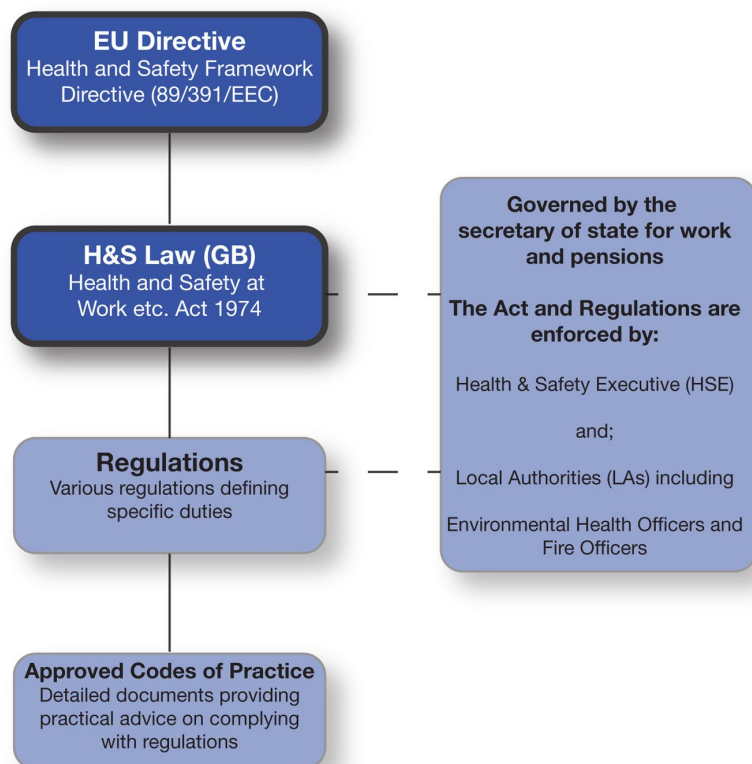
2.1.2 Acts of Parliament

In 1974 the *Health and Safety at Work etc. Act 1974* (HSWA) came into force. The HSWA is the umbrella legislation for health and safety, and places general duties on employers (sections 2 and 3) to ensure, so far as is reasonably practicable, that the health, safety and welfare of employees, and of persons not in their employment, is not put at risk. This includes providing and maintaining equipment, having safe systems of work, and ensuring that premises are safe.

2.1.3 Regulations

The HSWA is underpinned by numerous regulations, including the *Management of Health and Safety at Work Regulations 1999*, which impose the requirements to assess risk; ensure that there are safe systems in place for carrying out surveying activities; have access to competent health and safety advice; and have emergency procedures in place. Key elements of such systems can be found in the HSE publication, *Successful Health and Safety Management* (HSG65).

Figure 1: Health and Safety Regulatory framework



2.1.4 Approved Codes of Practice and guidance

Approved codes of practice (ACoP) are created by the HSE to assist duty holders to comply with legal duties. Although failure to comply with ACoPs is not an offence, it can be taken as evidence of failure to comply with HSWA. Likewise, if you can demonstrate you have followed the provisions of the ACoP or that something better than the standard provided in the ACoP has been achieved, you are unlikely to be found in breach of health and safety law.

The HSE, and other bodies such as the Institute of Directors (IoD), also issue practical guidance to help duty holders understand what the law requires. Following guidance is not compulsory, but if you follow guidance, you are likely to be able to demonstrate that you have taken suitable measures to comply with the law.

2.1.5 Information sheets and leaflets

The HSE and other bodies such as the Royal Society for the Prevention of Accidents (RoSPA) issue information sheets that provide useful checklists and other advice that aid, for example, the assessment of hazards and risks. Failing to follow such advice and guidance is often quoted as an aggravating feature in HSE prosecutions.

2.2 Duties

2.2.1 Employers' duties

2.2.1.1 All employers

The general duties with which employers must comply are set out below. All of these duties are relevant to property professionals.

Section 2 of HSWA contains the general duties owed by an employer to its employees to ensure, so far as is reasonably practicable, their health, safety and welfare at work. In essence the main duty is to devise and implement a safe system of work in relation to employees, to include matters such as safe plant and equipment and the provision of instruction, training and supervision.

Section 3 of HSWA contains the general duty of an employer to non-employed persons, namely, contractors and members of the public, to conduct its undertaking in such a way as to ensure, so far

as is reasonably practicable, that persons not in its employment are not exposed to risks to their health and safety.

Section 4 of HSWA places obligations on persons who have any extent of control of non-domestic premises, to take such measures as is reasonable for persons in their position to take to ensure, so far as is reasonably practicable, that the premises, or means of access thereto or egress therefrom, available for use by persons using the premises, and any plant or substance in the premises, are safe and without risks to health.

2.2.1.2 Employers with five or more employees

Employers who have five or more employees must have a written statement of their general policy, with respect to the health and safety at work of their employees and the organisation (HSWA section 1.2 (3)).

The HSE guidance document *Successful Health and Safety Management (HSG 65)* provides guidance to organisations on how to satisfy the legal requirements of health and safety law. A policy must include the following:

- A policy statement signed by the chief executive/managing director/senior partner, outlining the organisation's commitment to health and safety, and stating that it will be reviewed on a regular basis (normally annually).
- Details of the organisation's health and safety structure, with the health and safety roles and responsibilities of everyone in the organisation.
- Arrangements for health and safety that show the organisation's approach to health and safety, and how the management system is planned and implemented (including hazard identification, risk assessments and control measures).
- Arrangements to measure, audit and review the organisation's health and safety performance on a regular basis.

2.2.1.3 Employers' express obligations

Employers must have access to competent help in applying the provisions of health and safety law and in assessing risks and in applying protective measures (unless they are competent to undertake the measures without assistance). Such appointment of competent people for this purpose should be included in the health and safety

arrangements (Reg. 7, *Management of Health and Safety at Work Regulations* 1999).

It is recommended that employers' health and safety processes include provisions for:

- carrying out general risk assessments, making arrangements to implement necessary measures, appointing competent people and arranging for appropriate information, instruction and training for employees (*Management of Health and Safety at Work Regulations* 1999)
- ensuring risks are eliminated or reduced and that control measures are in place for any remaining risks
- providing a safe place of work to include basic health, safety and welfare issues relating to, for example, ventilation, heating, lighting, workstations, seating and welfare facilities (*Workplace (Health, Safety and Welfare) Regulations* 1992)
- assessing the risks of employees who use computer and associated equipment including visual display screens (monitors) and their workstations (*Health and Safety (Display Screen Equipment) Regulations* 1992)
- providing appropriate protective clothing and equipment for employees and ensuring they know when and how to use it – e.g. helmets, steel capped shoes, ear defenders, face masks, overalls, torches and batteries (*Personal Protective Equipment at Work Regulations* 1992)
- providing and maintaining safe equipment in the workplace (*Provision and Use of Work Equipment Regulations* 1998)
- assessing the risks of moving objects by hand or bodily force (*Manual Handling Operations Regulations* 1992)
- first aid facilities and trained people to cover the appropriate requirements with regard to first aid (*Health and Safety (First-Aid) Regulations* 1981)
- providing information on health and safety to all employees
- regular health and safety instruction and training (*Health and Safety Training Information Sheet – INDG345*)
- displaying a poster in the workplace or providing employees with a leaflet, telling them what they need to know about health and safety (*The Health and Safety Information for Employees Regulations* 1989)
- insurance against accidents and ill health to employees (*Employers' Liability (Compulsory Insurance) Act* 1969)
- arrangements in place to notify certain occupational injuries, diseases and dangerous events to the Health and Safety Executive (*Reporting of Injuries, Diseases and Dangerous Occurrences Regulations* 1995)
- ensuring electrical systems and equipment are safe to use and are maintained in a safe condition (*Electricity at Work Regulations* 1989)
- assessing the risks from hazardous substances in the workplace and taking appropriate precautions (*Control of Substances Hazardous to Health Regulations* 2002 (as amended))
- ensuring arrangements are in place for the management of asbestos that may be in your premises or premises to which employees or others may be exposed (the *Control of Asbestos Regulations* 2006 and RICS guidance note, *Asbestos and its implications for surveyors and their clients*)
- carrying out fire risk assessments, maintaining adequate fire safety arrangements, and equipment and ensuring there are safe fire escape routes and emergency procedures in place and appropriate training is provided in the case of an emergency (*The Regulatory Reform (Fire Safety) Order* 2005 in England and Wales; *The Fire (Scotland) Act* 2005 Part 3 and *The Fire Safety (Scotland) Regulations* 2006 in Scotland)
- carrying out health surveillance – if the need is identified (*Health Surveillance Information Sheet – INDG304*)
- those with disabilities (*Health and Safety for Disabled People and their Employers* Leaflet)
- controlling working hours
- ensuring employees have health and safety inductions on joining the organisation or when their job role or circumstances change and that records are kept
- keeping accurate records of employees while at work, e.g. training
- ensuring employees are aware of hazards and risks at particular premises and sites that they visit

- ensuring awareness throughout the organisation of the stress that employees may be under and control as necessary (*How to Tackle Work-Related Stress Guide – INDG430*)
- guidance on driving while on your organisation's business, including any use of hand held devices while driving (*Driving at Work Guide – INDG382*)
- guidance on lone working (*Health and safety guidance on the risks of lone working – INDG73*)
- ensuring arrangements are in place for visitors and contractors undertaking work at your premises
- ensuring arrangements are in place regarding duty of care owed to young workers and persons who have either recently commenced employment or are engaged on work experience schemes. Young workers have a higher accident rate than older workers for a number of reasons including their lack of training, experience and awareness. Young workers should be properly supervised especially when visiting other premises or a construction site (see the relevant section in the *ACoP Management of Health and Safety at Work – L21*)
- ensuring the duty of care owed to pregnant mothers is complied with (see the relevant section in *ACoP Management of Health and Safety at Work – L21* and another HSE publication, *A guide for new and expectant mothers who work – INDG373*).

Please note that the above list is not definitive or exhaustive.

Employers may wish to include management arrangements for drugs and alcohol misuse. However, this is not mandatory. The HSE has provided two guidance documents to assist employers in their management of these issues – *Drug Misuse at work – INDG91* and *Don't mix it – A guide for employers on alcohol at work – INDG240*.

2.2.2 Employees' duties

HSWA 1974 places a statutory duty on all employees (section 7), to take reasonable care of their own safety and that of others who may be affected by their acts or omissions at work and to

co-operate with their employer so far as is necessary to enable the employer to comply with its duty.

Under section 37, a director or manager commits an offence if the company's breach was committed with their consent, connivance or neglect. Consent means that a director must have known the material facts and agreed to the business's conduct on the basis of those facts. Connivance involves the director being aware of what is going on and letting it continue without saying anything about it. Neglect requires the identification of a duty resting upon the individual to do a specific act and failing to do it.

It is a criminal offence for employees to intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare. Managers within an organisation are also liable if they do not carry out the health and safety responsibilities associated with their duties.

2.2.2.1 Employees' responsibilities for themselves

It is an employee's responsibility to:

- make sure they are familiar with their organisation's health and safety policy and arrangements for implementing safe working procedures
- comply with the health and safety policy and ensure that any equipment they use is in good and safe condition
- comply with their organisation's safe systems of work, or ensure one is put in place prior to carrying out work, particularly where a risk assessment shows that a risk exists
- refuse to condone unsafe working practices
- distribute information on risks
- make sure their advice to clients will minimise the risk to the health and safety of others
- make sure they are aware of any hazards which may exist, together with any safe working instructions, which have been issued by others prior to carrying out work at their premises, and
- if they are working alone, make sure they follow their organisation's lone working procedures.

2.2.2.2 Employees' responsibilities for others

Employees are responsible for the safety and health of anyone under their supervision and should take particular care with regard to anyone who is

inexperienced and/or in training. Employees are also responsible for the safety and health of anyone who may be affected by their work.

It is the responsibility of individual employees to:

- make sure that suitable and sufficient risk assessments have been carried out in respect of the tasks to be performed by anyone in their charge, and that safe working methods are in place that have been communicated to and understood by those carrying them out, prior to start of the relevant work
- make sure anyone in their charge has suitable and sufficient information, instruction and training on health and safety matters for the task in hand
- check available records of hazards on particular sites and make sure that all relevant people are notified
- make sure, wherever necessary that precautions are put in place to safeguard anyone who may be in the vicinity of works and unaware of the possible risks
- make sure anyone in their charge takes the right personal protective equipment with them on visits and that the right equipment is used (e.g. helmets, safety shoes, ear defenders, face masks, overalls, torches and batteries) ensuring that no defective equipment is used and if any is found, report it to the employer
- ensure the duty of care owed to young workers and persons in their charge who have either recently commenced employment or are engaged on work experience schemes, is complied with. Young workers have a higher accident rate than older workers for a number of reasons including their lack of training, experience and awareness. Young workers should be carefully supervised, especially when visiting other premises or a construction site (see the relevant section in *ACoP Management of Health and Safety at Work*).

The best way to ensure safe practice by people in your charge is to set a good example.

2.3 Potential penalties

2.3.1 Criminal law

Criminal law is the process by which society, through the courts, punishes organisations and individuals for breaches of its rules. Cases must be proved beyond reasonable doubt.

Some health and safety offences are strict liability, which means that the prosecution only have to prove that the offence occurred and do not have to prove intention. Other health and safety offences have the 'defence' of 'reasonably practicable', which means that to comply with the law, all reasonably practicable steps must have been carried out to minimise or avoid the possibility of danger. This involves the weighing up of, on the one hand, the degree of risk and, on the other hand, the sacrifice, whether in time, trouble or money, of the steps necessary to avert or minimise the risk. The greater the risk, the less weight would be given to the factor of cost.

Not taking the necessary actions to protect people from avoidable dangers while at work is in itself a criminal offence (under HSWA) and charges may be brought against both the employer organisation, the directors/partners, and in certain circumstances individual managers and employees. An accident does not have to happen before enforcement action is taken for non-compliance. Merely exposing someone to risk is sufficient to breach the law.

The HSE (or other regulators, such as the local authority or police) can bring prosecutions before the magistrates' court, in which the maximum fine is £20,000 per breach, or, for more serious cases, before the crown court, where the maximum fine is unlimited. The *Health and Safety (Offences) Act 2008* means that imprisonment is also an option for almost all offences, limited to six months in the magistrates' court and two years in the crown court. Deaths involving work activities can also lead to manslaughter charges (corporate and gross negligence), which bring more severe custodial sentences for gross negligence. Directors can also be disqualified for breaches of health and safety law for up to five years in the magistrates' court or 15 years in the crown court.

Civil sanctions may also be applied in certain circumstances to simplify health and safety regulation and make it more consistent and as an alternative to criminal prosecution. The *Regulatory Enforcement and Civil Sanctions Act 2008* introduces these new sanctions including: fixed monetary penalties, aimed at minor non-compliance; discretionary requirements including variable monetary penalties; enforcement undertakings, where a duty holder agrees to take certain actions to avoid enforcement action being taken; and stop notices, where practices are prohibited until certain steps have been taken.

2.3.2 Work-related deaths

Where a fatality occurs while at work, an investigation will be carried out jointly by the police and the HSE in accordance with the joint protocol for work-related deaths: *Work-related deaths: A protocol for liaison (MISC491)*.

2.3.3 Corporate manslaughter

2.3.3.1 Corporate manslaughter explained

The offence of corporate manslaughter (known as corporate homicide in Scotland) was introduced by the *Corporate Manslaughter and Corporate Homicide Act 2007*, which came into force on 6 April 2008, and replaced the common law offence of manslaughter by gross negligence for companies and other organisations. An organisation (which includes most employers) is guilty of an offence if the way in which its activities are managed or organised (by its senior management) causes a person's death and this amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased.

The offence applies to a wide range of organisations including most companies, government departments, the police force and employers' associations (section 1(2)). The Act also applies to partnerships (section 14 and defined in section 25). Partnerships are treated by the Act as if they were incorporated with any proceedings being brought in the name of the partnership and not in the name of the individual partners; this is not the case where prosecutions are brought under the HSWA where the charges are laid against individual named partners rather than in the name of the partnership.

The Act does not apply to individuals. Section 18 states that: 'An individual cannot be guilty of aiding, abetting, counselling or procuring the commission of an offence of corporate manslaughter'.

For an organisation to be guilty of an offence under this Act, the way in which it has managed or organised its activities must: (a) cause a person's death and (b) amount to a gross breach of a relevant duty of care owed by the organisation to the deceased. An organisation is only guilty of an offence if 'the way in which its activities are managed or organised by its senior management is a substantial element in the breach' (section 1(3)). The term 'senior management' includes people who play a significant role in the making of decisions about how the whole or a substantial part of an organisation's activities are to be managed or organised or actually managing or organising those activities. The breach will be deemed to be 'gross' if 'the conduct alleged to amount to a breach of that duty falls far below what can reasonably be expected of the organisation in the circumstances' (section 1(4)(b)). In determining this, the court will take into account whether the organisation failed to comply with any health and safety legislation, how serious that failure was, and how much of a risk of death it posed. The court may also take into account whether there were any attitudes, policies, systems or accepted practices in the organisation that were likely to have encouraged a management failure or to have produced tolerance of it, and may have regard to any health and safety guidance that relates to the alleged breach. The jury will be asked to consider whether the breach was a single act of omission or a simple lapse or mistake on the part of an individual, or whether the failure was part of a pattern of failures, near misses and minor incidents that were brought to the attention of management and should have acted as a warning, but were simply ignored.

According to section 2(5) of the Act, '[Whether a] particular organisation owes a duty of care to a particular individual is a question of law. The judge must make any findings of fact necessary to decide that question'.

Duties of care include the following:

- (a) A duty owed to its employees or to other persons working for the organisation or performing services for it
- (b) A duty owed as occupier of premises

- (c) A duty owed in connection with:
 - (i) the supply by the organisation of goods or services (whether for consideration or not);
 - (ii) the carrying on by the organisation of any construction or maintenance operations;
 - (iii) the carrying on by the organisation of any other activity on a commercial basis; or
 - (iv) the use or keeping by the organisation of any plant, vehicle or other thing
- (d) A duty owed to a person who, by reason of being a person within subsection (2), is someone for whose safety the organisation is responsible.

The penalties available if found guilty are: an unlimited fine; a remedial order, requiring the organisation to take steps to remedy the management failure, including any deficiencies in health and safety policies, systems or practices; and/or a publicity order, requiring the organisation to publicise the conviction, including details of the offence and the level of fine.

2.3.3.2 Sentencing guidelines

The Sentencing Guidelines Council published *The definitive sentencing guidelines: corporate manslaughter and health and safety offences causing death* (2010), which came into force on 15 February 2010. The guidelines set out principles to guide courts in sentencing organisations that are convicted of corporate manslaughter under the *Corporate Manslaughter and Corporate Homicide Act 2007* and also health and safety offences under HSWA 1974, where the offence was a significant cause of death. The guideline recommends that fines for organisations found guilty of corporate manslaughter should seldom be below £500,000 and may be measured in millions of pounds. For health and safety offences, where the offence is shown to have caused death, the appropriate fine will seldom be less than £100,000 and may be measured in hundreds of thousands of pounds or more.

Factors increasing the seriousness of the offence and thus increasing the fine include: the foreseeability of serious injury; how far short of the applicable standard the defendant fell; whether non-compliance was widespread and indicative of a systematic departure from good practice; and

how far up the organisation responsibility for the breach went. Other factors include: the number of deaths and persons seriously injured; failure to heed warnings or advice or to respond to near misses of a similar nature; cost-cutting; and deliberate failure to obtain or comply with relevant licences. Features that would reduce the level of the fine include: prompt acceptance of responsibility; high level of co-operation with the investigation; genuine efforts to remedy the defect; a good health and safety record; and a responsible attitude to health and safety.

2.3.4 Civil liability

Employers, the self-employed and employees owe a duty of care to anyone who may be affected by their actions, where the effects of their actions are reasonably foreseeable. This includes duties to not only employees, but also to contractors, visitors, customers, and neighbours.

The duty of care owed from employers to employees includes providing safe premises, a safe system of work, safe plant, equipment and tools, and safe fellow workers. Employers can also be vicariously liable to persons injured by the wrongful acts of their employees, if such acts are committed in the course of their employment.

A civil action may be taken by the claimant (i.e. injured party) against the defendant (i.e. employer, employee or self-employed person). Civil cases must be commenced within three years of the breach and must be proven on the balance of probabilities.

An increasing area of liability in negligence is that of stress through work overload, particularly in cases where the result is reasonably foreseeable (see Case study 1). For a case to succeed in negligence, it will have to be demonstrated that a duty of care is owed by the defendant to the claimant; that the duty of care was breached; and that the defendant suffered damage or loss. Defences include contributory negligence (i.e. that the injured person was careless or reckless) or that the injuries were not reasonably foreseeable.

The usual sanction for civil cases is damages, which can include loss of current/future earnings and damages for pain and suffering.

The following are examples of criminal and civil cases that have resulted from a breach of the law or negligence in a duty of care.

Case studies

Case study 1

Dickins v O2 plc [2008] EWCA Civ 1144

In this case it was held that the psychiatric ill health suffered by an employee had been reasonably foreseeable and caused by her employer. Once the employee had explained her difficulties at work to her manager and their effects on her health, some responsibility passed to the employer. Management intervention was then required and the employee should have been sent home and referred to the employer's occupational health department. Reference to the employer's counselling services was insufficient in the circumstances of the case.

Case study 2

London Fire and Emergency Planning Authority v New Look Retailers Ltd [2010] EWCA Crim 1268

A fire occurred at the New Look store on Oxford Street in April 2007, resulting in the attendance of 30 fire appliances, closing Oxford Street for two days and resulting in the premises being subsequently demolished. New Look was fined £400,000 under the *Regulatory Reform (Fire Safety) Order* 2005 for its role in the fire. Although it was unclear how the fire started, New Look was fined for having an inadequate risk assessment and inadequate safety training.

The breaches involved failure to provide clear statements of the arrangements for testing the fire alarm system, for designated emergency routes, for arrangements with neighbouring occupiers, and for refresher training, in addition to the absence of identification of emergency escape lighting and inadequate records relating to people to assist in the event of fire and the extent of emergency procedures.

There were also problems in relation to obstructions, blockages and lack of signage, all of which would have been detected by a suitable and sufficient risk assessment. The court took account of the fact that there had been an enforcement notice five years earlier and that the company had only one fire safety advisor for a very large business. New Look's appeal as to the level of fine imposed was rejected by the court of appeal, as although no-one was injured, the judge concluded: 'when it comes to fire, one does not have to think too deeply in order to appreciate the potential for disaster'.

Case study 3

HSE v Enterprise Inns Plc (Unreported Crown Court case, October 2010)

Enterprise Inns Plc was fined £300,000 after a pub landlord died from carbon monoxide poisoning and over 400 other tenants were put at risk due to properties not having valid gas safety certificates. The defendant admitted breaching section 3(1) of the *Health and Safety at Work etc. Act* 1974. Tenant landlord Mr Lee, who was found unconscious by a cleaner just after noon on 12 November 2007, had turned on a gas fire 10 hours earlier, before falling asleep.

Case study 4

RD v WH Smith plc (Unreported Out of Court Settlement, 2010)

The claimant, a 53-year-old man, received £220,000 for the fractured wrist he sustained when he slipped at work in November 2005 on shiny boards of display material which had been left on the floor by another employee the previous day.

The claimant brought an action against the defendant alleging that it had breached the *Workplace (Health, Safety and Welfare) Regulations* 1992, particularly Regs 12 and 17, the *Management of Health and Safety at Work Regulations* 1992, and its duty of care, in that it had been negligent. The claimant alleged that the boards had a specific place in a shelving area where they should have been stored, but that they had instead been left carelessly on the stockroom floor. The defendant admitted liability.

Approximately four-and-a-half years after the accident, the strength and flexibility of his wrist remained limited and it was likely that he would develop arthritis in the future. The claimant also suffered from stress and depression following the accident. He was absent from work for seven days and was unable to continue pursuing his hobbies of long-distance cycling, carrying out DIY work and gardening. He later had to resign from his position at work as a result of his ongoing symptoms and subsequently obtained occasional part-time work at his local library.

Case study 5

Prosecution of building surveyor in relation to asbestos (Unreported magistrates' court case)

The HSE successfully prosecuted a building surveyor who failed to carry out an asbestos survey during a refurbishment at 92–95 Livery Street, Birmingham. The defendant of Bray, County Wicklow, Ireland, was convicted of a breach of the *Control of Asbestos Regulations* 2006 by undertaking demolition work that exposed people to asbestos. He was fined £4,000 in total and ordered to pay costs of £4,016 at Birmingham magistrates court.

Case study 6

HSE v Zurich Management Services Limited (Zurich) and Railcare Limited (Railcare) (Unreported Crown Court case)

Zurich Management Services Limited and Railcare Limited were each fined £17,000 after pleading guilty to breaches of section 2(1) of the *Health and Safety at Work Act* 1974 at Aylesbury crown court on Friday, 26 March 2004.

On 12 March 2002, an engineering surveyor, Mr Sarinder Singh Gidda, and another worker, Mr Roy Goldney, were injured when a Mobile Elevating Work Platform (MEWP) overturned at Wolverton Railway Depot, near Milton Keynes.

The MEWP was overloaded and both Mr Gidda and Mr Goldney suffered injuries when it overturned. The HSE alleged that both companies failed to properly plan a lifting operation as part of the examination and inspection of the MEWP.

3 Assessing hazards and risks

3.1 Risk management

Risk management is undertaken all the time by both businesses, in assessing threats to their successful operation, and by individuals in their daily life at home as well as their place of work. Individuals must take personal ownership for managing health and safety risks.

Business risk management could include financial risk, reputation risk, change management, project risk management as well as operational risk management disciplines such as environmental matters, contractor procurement and control of health and safety.

Fundamentally, risk management means taking time to consider how any plan of action could deviate from what you expect. It should be remembered that plans can turn out better than expected as well as going wrong, therefore risk management should also seek to identify opportunities for any potential benefits.

In the context of this section, however, we will be concentrating on the identification, prioritisation and management of downside, health and safety-related risks, which have the potential to harm people or property.

Property professionals should have a level of 'competence' sufficient to enable them to take personal ownership for managing health and safety risks.

'Competence' could be defined as having sufficient knowledge, experience and ability to carry out their duties in relation to the specific tasks to be undertaken and the risks which the tasks will entail; to recognise their limitations and take appropriate action in order to prevent harm to those carrying out the tasks or those who may be affected.

When considering what could 'go wrong' with a plan we seek to identify potential problems and then plan how best to reduce the chances of a problem occurring or, at the very least, reducing the consequences should one present itself.

In this section, guidance will also be provided on the concepts of risk management and how these

may be applied to health and safety in the workplace. Please refer to section 2 for an outline of the responsibilities organisations have to their staff (and others who could be affected by their undertakings) and the responsibilities individuals have to manage health and safety risks to themselves and others.

3.2 Concepts of managing risk

As already mentioned, risk is not necessarily a bad thing as businesses have to take risks to achieve their objectives, just as individuals do in order to achieve theirs; the important issue is that both businesses and individuals need to know what risks they are exposing themselves to. Once the risks (positive or negative) have been identified they can be measured, prioritised and managed appropriately.

It is very important to ensure that any significant risks are recognised and separated out from less significant ones in order that major issues requiring management are not lost in a 'fog' of minor matters.

It is also important to recognise that every person's perspective of 'riskiness' is different. There are numerous reasons for these differences, for instance, they could be as a result of age, gender, cultural differences or simply differences in an individual's life experience. A place of work, or work activity, that is well understood by one person (who is fully trained and competent) may be highly dangerous to another person who is unfamiliar with the hazards and safe methods of achieving the task.

3.3 Working safely as a property professional

The exposure to risk will change as circumstances change. Some of the work undertaken by property professionals is relatively low risk and can be conducted in a familiar office environment. For instance, the preparation of briefing documents, specifications, reports and drawings can, usually, be safely conducted within an office environment. It

is important to remember, however, that just sitting for extended periods at a desk in front of a computer can cause health problems if the work equipment is not appropriately adjusted and adequate breaks are not taken. These matters are addressed in the *Display Screen Equipment (DSE) Regulations* 1992 and should be subject to a specific, individual risk assessment.

If the work takes property professionals out of their office the risks may increase. For instance, the majority of inspections, where the work can be carried out without the need to access roofs or enter roof spaces, riser ducts or confined spaces are likely to remain relatively low risk. However, if it is necessary to use ladders, enter restricted areas (such as roofs, scaffolds, plant rooms or confined spaces) the inherent risk will increase.

If the property professional is required to visit premises or construction sites (including refurbishment and demolition), they could be exposed to toxic/hazardous materials, be required to drive for extended periods, be lone working or working close to vehicles, fast flowing/deep water or working in any number of other environments where the likelihood of risk, and consequences, of harm could increase substantially.

3.4 Assessing risk

When assessing the potential for risks with negative outcomes the assessment should start with taking time to identify all the 'inherent' risks – i.e. what are all the (significant) issues that could cause harm to people or property, assuming there are no 'controls' in place?

Controls can be as simple as adequate and appropriate training and wearing appropriate PPE (personal protective equipment) in lower risk environments. However, as the risks increase so will the measures required to control them in order to reduce the risk to an acceptable level.

Risk assessment has been described by the HSE in their publication *Five steps to risk assessment* (2006) as 'a careful examination of what, in your work, could cause harm to people so that you can weigh up whether you have taken enough precautions or should do more to prevent harm'.

For the purposes of this guidance, and with regard to occupational health and safety, risk assessment involves the management of two key concepts: hazard and risk.

A 'hazard' is something with the potential to cause harm to someone. The harm could be an injury or ill health. 'Risk' is the likelihood (whether high or low) of the harm being realised. Importantly, risk increases, as the severity, or likelihood, or the number of people affected by the harm increases. It should be noted that if a risk is not categorised as 'low' it could be deemed to be 'higher risk'; this does not necessarily mean 'high risk' – just higher than low.

Simple guidance for risk assessment in regard to occupational health and safety is outlined in many of the UK enforcement authority's (HSE) guidance documents, including the *Five steps to risk assessment* (www.HSE.gov.uk) which can be summarised as:

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

3.5 Evaluating risk

There are several methods for measuring risk as there are numerous people and businesses trying to do so; each organisation will have its own way of undertaking a risk assessment and, where appropriate, recording them. Similarly, there are many ways to deliver the important task of ensuring everyone who could be affected by the risk(s) are advised of them, and trained how to undertake the work safely (often called a 'safe method of working' or 'method statement').

All risk assessments should be undertaken by a competent person (e.g. appropriate qualifications, training and experience).

This guidance document will therefore seek to illustrate the process and methodology rather than give prescriptive rules. Each organisation, and individual, will need to consider how to assess risks in their workplace in a way that is appropriate to the organisation, and the risks to which it is exposed. Much detailed guidance is published on assessments of risks, and the sophistication necessary to remain within the law will differ from organisation to organisation.

It is worth considering what level of sophistication is appropriate for the organisation to ensure the information gained from the process is put into practice rather than being lost in too much paperwork. It is good practice to review the process on a regular basis and, as is so for all management systems, implement a strategy of continuous improvement.

Measurement of risk can be by either quantitative or qualitative evaluation, or in some cases, by both.

Figure 2 is an example of a very simple risk assessment matrix that illustrates how a risk may be provided with a relative value, by multiplying the values on the vertical and horizontal axes. Please note it is the responsibility of each organisation to define and provide guidance on what is meant by 'high', 'medium' and 'low' on both axes.

Figure 2: Example of a simple risk assessment matrix

Severity of outcome ↑	High	3	3	6	9
	Medium	2	2	4	6
	Low	1	1	2	3
			1	2	3
			Low	Medium	High
			Likelihood of occurrence →		

As a general guide, any risk assessment with a value of 9 will need to be eliminated or reduced; similarly a risk assessment value of 4 or 6 will also need to be reduced. Risk assessment values of 2 or 3 can have 'control measures' implemented and information provided to those at risk. Risk assessments of 1 are not normally considered as significant. Figure 3 illustrates a slightly more complex risk assessment matrix.

Figure 3: Example of a more complex risk assessment matrix

Severity of Outcome ↑	Multiple Fatality	5	5	10	15	20	25
	Single Fatality	4	4	8	12	16	20
	Significant Injury (multiple)	3	3	6	9	12	15
	Significant Injury (Single)	2	2	4	6	8	10
	Minor Injury	1	1	2	3	4	5
			1	2	3	4	5
			Very Unlikely	Unlikely	Likely	Very Likely	Certain
			Likelihood of occurrence →				

In Figure 3, as a general guide, any risk assessment with a value of 12 to 25 must be eliminated or reduced; a risk assessment value of 6 to 10 should also be reduced; risk assessment values of 3 to 5 should have 'control measures' and information provided to those at risk. Risk assessments of 1 and 2 are not normally considered as significant. There are many different variations of the above matrices and the general guide on the interpretation of the risk assessment value is subjective. Different competent persons will each have their own view on the risk assessment values and appropriate control measures.

Not all organisations attempt to place a value on individual risks, instead choosing to simply identify the risks in a more subjective manner and establish whether, (and what) control(s) are required to reduce it to an acceptable level or remove it altogether.

This may be achieved by reviewing the risks and deciding that anything that is not 'low' risk is simply a 'higher' risk; organisations often choose to divide into 'low', 'medium' or 'high' risk. This more subjective approach is illustrated in Figure 4.

There are organisations that choose to combine a subjective evaluation with a scoring technique, thereby adding more definitive prioritisation. Depending on the approach taken it may be advantageous to take expert advice to initiate a process appropriate to the organisation's business undertakings.

It is worth noting that it is important not to allow significant risks to be lost in among a wide range of trivial matters. Although this will depend on the particular circumstances under assessment, the intention of risk assessment is to identify significant risks and either eliminate or control them, not to create a risk free environment.

The HSE provide guidance on assessment of risk in many areas of interest to the property professional. The basic risk assessment form provided by way of the example in Figure 5 has been published by the HSE as an example for estate agents (www.hse.gov.uk/risk/casestudies/pdf/estateagency.pdf).

Unless the work/task is deemed very low risk it is likely that a written risk assessment may be required, especially where it will be necessary to advise others. The following format may be suitable for lower risks. Note, however, that the more significant the risk exposure, the more detail and sophistication of assessment and development of safe working practices (which may include a permit system) will be necessary.

It is highly recommended that property professionals of all disciplines consult with appropriately qualified health and safety professionals in relation to the adequacy and methodology for undertaking risk assessment within their organisation.

Figure 4: Illustrative guidance for categories of risk using low/medium/high

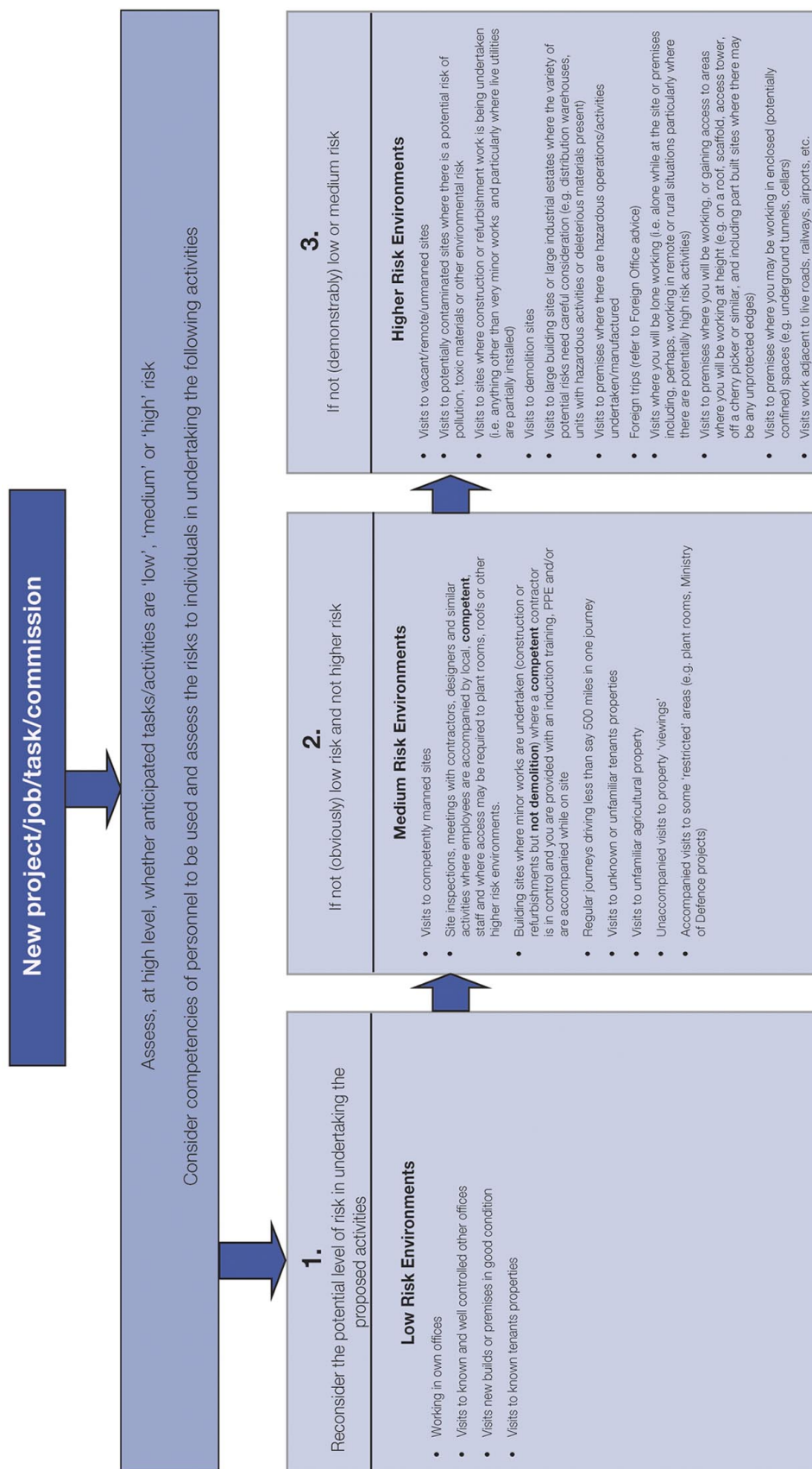


Figure 5: Extract from an example risk assessment for an estate agency (HSE 2010)

What are the hazards?	Who might be harmed and how?	What are you already doing?	What further action is necessary?	Action by who?	Action by when?	Done
Manual handling, e.g. deliveries of heavy items such as PCs or handling bulk mailings.	Staff may suffer injuries such as strains or bruising from handling heavy/bulky objects.	Computers are only moved by supplier, as per contract. No heavy stock on top shelves. 'For Sale' signs are put up/ removed by a contractor.	Talk to the contractor to make sure that, along with their staff, they are handling the signs safely.	Manager to speak to the contractor.	20/3/11	20/3/11
Slips, trips and falls	Slips, trips and falls Staff and customers may be injured if they trip over objects or slip on spillages.	Good housekeeping in customer areas. Good lighting in all areas. Trailing cables managed.	Better housekeeping in staff areas, e.g. clear up spills in kitchen promptly.	All staff	20/3/11	19/3/11
Working at height, e.g. pinning up property details or changing light bulbs.	Falls from any height can cause bruising and fractures.	None at present, staff stand on a chair to pin up property details.	No-one is to stand on chairs to do jobs. A stepladder will be bought and staff shown how to use it safely.	Manager to buy stepladder and to check it's kept in good repair.	3/3/11	19/3/11

4 Property professionals' places of work

4.1 General

Property professionals undertake a variety of work, tasks and activities in a very broad range of locations, so it is not possible to provide prescriptive guidance as to what health and safety related provisions should be implemented in every 'place of work'.

A 'place of work' is a physical location where general work-related activity is undertaken, as opposed to a 'workplace', which, for the purposes of this guidance, will be defined as the actual point where the work is executed (e.g. a desk, a plant room, a confined space, or a visit to a premises or construction site).

While much work undertaken by many property professionals may take place in a relatively low risk environment, such as their office, the extent of many RICS members' professional interests extend beyond the office. Their place of work may include locations that will present differing levels of health and safety risk, for example, at, on, or near other premises such as:

- residential properties/estates
- remote field/moorland
- construction/demolition/refurbishment sites
- industrial sites
- shopping centres
- leisure centres
- quarries or other mineral works
- near or over water
- roads
- airfields
- oil or other drilling rigs.

It is also sometimes the case that a car or other vehicle may be a regular 'place of work' if it is used for the execution of work activities. In Great Britain, road traffic accidents or collisions have been expressly identified as one of the highest work-related causes of serious (and fatal) injuries suffered by employees while at work.

4.2 Perception and behaviours

It is important to keep in mind that each individual's perception of their place of work, and subsequently their behaviour will differ, dependent on their knowledge, experience and competence within that location and the attendant risks and opportunities.

Individuals who are exposed to new environments attract a significantly greater potential risk of harm than those individuals who already have a robust knowledge and understanding of that environment. This is often due to the newcomer not fully comprehending the inherent risks in the new environment (and the procedures to manage them effectively), rather than their overall competence; and highlights the need to provide comprehensive induction training in all such circumstances. Conversely it is also recognised that individuals who are extremely familiar with their environments can become complacent and fail to maintain appropriate vigilance.

It is also worth considering the following:

- It can prove valuable to have a comprehension of any potential enhancement of risk due to the property professional's gender, age, culture, language and other individual and personal circumstances and abilities (or those individuals accompanying them while working).
- It is important to recognise that although a place of work may have had a benign risk profile under one set of circumstances, it may be very different under other circumstances (e.g. driving a car for a short distance on a bright summer's day when compared to driving a long distance in the dark while snow falls. Or a development site during the early stages of construction compared with the same site once the work has been completed and it is open for occupation).

4.3 Geographical location

As well as the immediate physical characteristics, the geographical location of the place of work in the world (and therefore the prevailing jurisdiction)

will have an effect on the legal requirements for the provision of health and safety management in that country's place of work.

Much of the prevailing law that relates to places of work in Great Britain is referred to in section 2 of this publication, however, there are further rules, regulations and guidance which may affect the manner in which health and safety risk in the place of work is managed. For example, rules on building construction will be different should the building be erected in an earthquake zone; and rules for working in areas subject to the risk of flooding may be different to those where there is no such inherent risk.

There are many different national rules and regulations regarding the standards required to maintain safe use of utilities and operation of equipment (such as supply of electricity, gas, water, air conditioning plant/heating/boilers, etc.). There are also wide variations internationally, for the management of fire risk, the use and disposal of deleterious materials (e.g. asbestos) as well as clinical and other inherently 'riskier' waste materials.

4.4 Historical use

If the place of work is located on ground that has previously been used for alternative uses (e.g. a brownfield site), it is worth establishing whether there remains any potential contamination or similar matters of relevance from past usage.

4.5 Immediate locality

Consideration should be given to the other inhabitants of the property and/or those in its immediate surroundings (e.g. could they be hostile to the presence of the property professional?). This is of particular importance where the property professional may be lone working and dealing with cultural differences and/or perhaps unfriendly occupants and animals.

Adjacent land use, neighbours and other potential hazards may present additional risk to the place of work. For example, if there are government buildings, military establishments, major transport hubs, agricultural/construction equipment and/or 'signature' buildings or local landmarks, all of these attract a greater threat of civil disturbance or

terrorism. Some will add other risks such as excessive noise (e.g. aeroplanes, trains), large volumes of people (e.g. well attended protest marches in or around local landmarks) or geological issues such as a risk of flooding due to proximity to rivers or ineffective local drainage.

4.6 Risk identification and management

It is necessary to identify the risks of working at (or in/on) a particular place of work, which may include consideration of factors outside the immediate limits of the premises or site.

It is important that information concerning the risks and the safe method(s) of managing them is provided to all those who may be affected; this may include visitors, contractors, clients and the general public, as well as the property professionals and their immediate colleagues.

It is recommended that part of the risk management process includes the careful selection of appropriately competent personnel and an appropriate induction process prior to their commencing work at the location.

4.7 Common requirements at places of work

With regard to the more common places of work such as offices and site-based work there are a number of matters that it can prove valuable to put in place. Often the following matters may be termed 'welfare' or 'work place environment'.

Wherever people are expected to work for extended periods of time at a particular place of work it is accepted practise to put in place basic requirements to make the place of work comfortable and an efficient and productive operational centre, to comply with the *Workplace (Health, Safety and Welfare) Regulations 1992*.

These basic needs include:

- toilet facilities (appropriate for the number of personnel and with regard to the numbers of men and women, and those who may have limited mobility)
- access to good, wholesome drinking water
- appropriate control over temperature such that extreme temperatures (either too hot or too cold) are avoided

- appropriate replacement of fresh air, such that fresh, wholesome air is available with sufficient changes of recycled air being in place where this is necessitated
- adequate light, preferably natural light and such that it is not too bright and/or the surfaces on desks and computer screens, etc. do not reflect too much and cause discomfort
- appropriate emergency arrangements (see below) which will include adequate provision of First Aid (and appropriately trained personnel to administer it)
- space for storage of files, etc. as well as space for storage of clothing (hats and coats, etc.) including, potentially a place to dry wet workclothes/overalls/PPE
- an area where it is safe and free from hazards (dust, noise, etc.) where personnel may eat, drink and take occasional rest breaks
- assessment of the risks attendant to the workplace. For example, this may include assessment of the desk and computer arrangements to avoid repetitive strain injuries, suitability of any personal protective equipment issued to employees, any need to consider noise, dust, light, dangerous atmospheres, hazardous materials, areas of restricted access, etc.
- emergency arrangements (see 4.8); arrangements to detect dangerous situations, alert everyone and evacuate (or otherwise) personnel to a place of safety.

4.8 Emergency arrangements

Wherever individuals are required to undertake work, it is important to have appropriate procedures in place to ensure they can be evacuated to a place of safety in the event of an emergency situation.

What is appropriate and necessary for each location will depend on the specific threats to the safety of the people and property at that location.

It is worth considering that some emergencies may affect the organisation and employees for a long time after the initial event. For example, if a building is burned out by fire, damaged by high winds, hurricanes, flooded or is otherwise contaminated (e.g. with legionella in the water system) it may take

weeks, months or years to relocate. If anyone was hurt or killed in the incident this will affect the people, as well as having an impact on the organisation's reputation. These wider matters are addressed by business continuity/resilience planning and it is recommended that these issues are also clearly considered and addressed by all organisations of all sizes.

In complex situations it is recommended that expert opinion is sought before re-occupation of the location is allowed.

The most common major threat in the built environment is fire and the resilience of buildings to fire, smoke and similar catastrophic events will differ greatly depending on the structure and compartmentalisation of the building.

It is often useful for basic emergency preparation to include:

- provision of appropriate detection (i.e. heat, smoke or gas)
- consideration of prevention procedures (inspection routines, removal of combustible materials, especially if these have the potential for explosion or the generation of toxic fumes or dusts), which will include the proper storage of fuels such as gas cylinders, oil, gasoline, etc.
- consideration of extinguishing agents, which may include fire extinguishing systems such as hand held devices, sprinklers or inert gas (e.g. in server/communication/plant rooms)
- provision of appropriate alarms; these may include sounders, sirens and lights (especially where there are audibly disabled personnel present). It is of great importance to ensure alarms can be heard/seen in all locations (e.g. in cellars, undercrofts and on roofs or external areas)
- maintenance regimes for all of the above
- the travelling time for any third party emergency services, including fire services and the location of doctors, hospitals, etc.
- provision of robust evacuation procedures leading to a safe place (note it is possible that retiring to a safe haven within a building may also be an effective procedure in certain circumstances) – it is advisable to consider more than one safe place as there is the

potential for a single location to be compromised by the event itself

- assessment of the risk of fire and other emergencies and clear description of how these are managed should be provided to all occupants of all locations
- at least two full practice evacuations undertaken annually, as people will tend to do what they are used to doing when traumatic events occur.

There is a legal responsibility for occupiers of buildings to undertake Fire Risk Assessments in non-domestic properties and to share the information with affected occupiers. Therefore in multi-tenanted buildings there may be several fire risk assessments necessary. In the event that a tenant (or other occupier) does not provide a suitable Fire Risk Assessment for areas of a property for which they are responsible it may be necessary for the managing agent (or other person in control of the building) to consider, after making due request, informing the appropriate enforcement authority if the tenant still fails to comply with the statutory requirement.

4.9 Building Services

Most places of work will have significant amounts of equipment installed that affect the effective operation of the premises. It is recommended that all such equipment is serviced and maintained in accordance with manufacturers' recommendations. Many items of plant and equipment will also require statutory testing and certification.

Some examples of equipment requiring regular testing and maintenance are:

- lifts and lifting equipment
- air conditioning and ventilation/heating systems
- water (drinking and otherwise) equipment
- other utility services (e.g. gas or electricity).

4.10 Maintenance of Buildings

Maintenance of the building fabric will normally require the use or provision of temporary access equipment such as Mobile Elevating Work Platforms (MEWPs), which include 'scissor lifts' or 'cherry pickers', or the erection of temporary scaffolds, in order to gain access to those parts of the structure or fabric that require work to be undertaken. Proof that the access equipment has been inspected by a competent person for safety should be obtained before use.

4.11 Fixed equipment

Fixed equipment is often installed, especially in high rise buildings for the purpose of regular cleaning of cladding glazing and other external surfaces to the building fabric and may include:

- cradles, suspended or tracked specialist equipment housed at high level or at roof level
- gantries, fixed ladders and tracked ladders.

All plant and equipment should be the subject of regular inspections (statutory inspections are required under several sets of regulation to be carried out by competent persons with written reports or records to be maintained), kept in good working order and, where appropriate, worn, damaged or defective components replaced.

5 Occupational health

5.1 General

Occupational health can be considered as the promotion and maintenance of physical and mental well-being of all staff. As such, it concerns health issues that may not be immediately apparent or develop over a period of time (referred to as chronic conditions in medical terms).

For many people working in service industries, occupational health issues may represent the principal areas of risk in terms of managing health and safety. While working in an office environment is generally lower risk, many property professionals will be exposed to higher occupational health risks in the course of their duties when away from the office.

A health and safety management system may include arrangements for the management of the following matters:

- stress
- violence, bullying and harassment
- alcohol and drug misuse
- manual handling
- Repetitive Strain Injuries (RSIs)
- noise
- asbestos
- hazardous substances
- diseases
- biosecurity
- new and expectant mothers
- sun protection
- environmental factors
- health monitoring and health surveillance

These are explained briefly below.

5.2 Stress

The HSE describe stress as ‘the process that arises where work demands of various types and combinations exceed the person’s capacity and capability to cope’.

Current HSE guidance recommends the use of a set of management standards, which define the characteristics, or culture, of an organisation where the risks from work-related stress are being effectively managed and controlled. The management standards cover six key areas of work that, if not properly managed, are associated with poor health and well-being, lower productivity and increased sickness absence. In other words, they cover the primary sources of stress at work. The ‘management standards’ are:

Demands – this includes issues such as workload, work patterns and the work environment.

Control – how much say the person has in the way they do their work.

Support – this includes the encouragement, sponsorship and resources provided by the organisation, line management and colleagues.

Relationships – this includes promoting positive working to avoid conflict and dealing with unacceptable behaviour.

Role – whether people understand their role within the organisation and whether the organisation ensures that they do not have conflicting roles.

Change – how organisational change (large or small) is managed and communicated in the organisation.

The management standards represent a set of conditions that, if present, reflect a high level of health well-being and organisational performance.

A standard five-step risk assessment approach can then be used to: identify the risk factors; identify people at risk; evaluate the risks; record the findings; and monitor and review the assessments.

Further guidance is available from the HSE website (www.hse.gov.uk).

5.3 Violence, bullying and harassment

For the purposes of this document, violence is ‘any incident in which a person is abused, threatened or assaulted in circumstances relating to their work’.

Bullying at work can take many forms. It can involve:

- ignoring or excluding someone
- spreading malicious rumours or gossip
- humiliating someone in public
- giving someone unachievable or meaningless tasks
- constantly undervaluing someone's work performance
- cyber nuisance.

There is no legal definition of workplace bullying. 'Bullies' are often, but not always, more senior than the person they are bullying. 'Bullies' sometimes target groups as well as individuals.

Harassment relates to unlawful discrimination on the grounds of race, sex, disability, age, religion or belief, or sexual orientation.

It is recommended that employers have a policy in place that enables them to identify these problems; to provide appropriate communication channels for the problems to be addressed; and to put in place impartial and fair systems to address and resolve problems.

5.4 Alcohol and drug misuse

The misuse of alcohol and drugs (whether prescription or illegal drugs) is a major cause of workplace absenteeism and impaired performance. At worst, it can be a direct cause of workplace accidents.

It is recommended that employers put in place a policy to address the misuse of alcohol and drugs. In some cases, this might extend to a ban on the consumption of alcohol and associated screening for alcohol and drug use together with disciplinary procedures for breaches of the rules.

It is worth considering that an alcohol or drug habit may be related, in part, to work related stress, and this should be investigated as a possible underlying cause.

5.5 Manual handling

Manual handling is a major cause of a range of musculoskeletal disorders (MSDs) including back pain and upper limb disorders.

Manual handling operations are not restricted to lifting and lowering heavy loads and can also include:

- pushing
- pulling
- bending
- twisting
- reaching and
- carrying.

A risk assessment should address not only the weight of the loads being handled but also:

- the nature of the materials being handled (sharp edges, container shape, temperature, etc.)
- the physical capabilities of the people involved
- the task involved (duration, distance, etc.)
- the environment (slippery or uneven surfaces, poor visibility, etc.).

All manual handling operations should be planned, giving due regard to the risk assessment for the task, and that training in manual handling techniques be provided to employees who undertake manual handling operations.

5.6 Repetitive strain injuries (RSIs)

Another significant cause of MSDs is a range of activities that can result in repetitive strain injuries (RSIs) and which commonly manifest themselves as upper limb disorders (ULDs) affecting the arms, from fingers to shoulder and the neck.

One of the primary causes of RSI for employees in service industries is poor workstation design for computer users. The *Health and Safety (Display Screen Equipment) Regulations 1992* require employers to:

- analyse workstations to assess and reduce risks
- ensure workstations meet specified minimum requirements
- plan work activities so that they include breaks or changes of activity
- provide eye and eyesight tests on request, and special spectacles if needed and
- provide information and training.

The analysis of workstations to ensure that they are designed correctly should address the comfort of

the user (room to move freely, adjustable chair and screen) as well as the conditions of the immediate environment (lighting levels, glare, reflection, etc.) Guidance is available from the HSE website.

5.7 Noise

Exposure to noise at work will need to be addressed where employees are required to work near noisy plant or machinery for anything other than brief periods of time, such as undertaking a valuation inspection of plant and equipment in a functioning woodworking factory or being near a noisy operation on a construction site.

As a guide, the HSE suggest the following basic tests to determine whether noise levels are a problem requiring further action *source: Health and Safety in Roof Work – HSE HSG33, 3rd edition (p. 68).*

Test	Probable noise level	A risk assessment will be needed if the noise is like this for more than
The noise is intrusive but normal conversation is possible	80 dB (lower exposure action value)	6 hours
You have to shout to talk to someone 2 metres away	85 dB (upper exposure action value)	2 hours
You have to shout to talk to someone 1 metre away	90 dB (Note: The exposure limit value is 87dB)	45 minutes

General risk assessment procedures require exposure to noise to be avoided and, where this is not possible, for noise levels to be reduced as far as possible and for hearing protection to be made available and used.

At the lower exposure action value of 80 dB(A), hearing protection must be available for employees to wear and employees must be provided with information, instruction and training.

At the upper exposure action level of 85 dB(A), the workplace must be designated as a 'hearing protection zone' and personal hearing protectors must be provided to and used by employees within the zone (and anyone else entering the zone) in accordance with the *Noise at Work Regulations*

2005. The extent of the zone must be marked with warning signs in an approved format.

Anyone entering a hearing protection zone must wear appropriate hearing protection when noisy work activities are in progress, irrespective of the duration of their exposure to noise.

Other guidance is available in the HSE publication: *Noise at work – guidance for employers on the Noise at Work Regulations 2005 – HSE INDG 362* (available at www.hse.gov.uk).

5.8 Asbestos

Asbestos is a naturally occurring rock mineral which has heat and fire resisting properties. It was used extensively in a wide range of building materials until 1985 (1999 for chrysotile asbestos) when its use in Great Britain was banned. Figure 6 shows typical locations of asbestos containing materials in a building

Asbestos fibres can cause a range of lung-related disorders when the fibres are inhaled. The more serious conditions result in significantly impaired lung function and death, often many years after exposure to the asbestos.

Anyone in the vicinity of asbestos containing materials (ACMs) which are being disturbed (e.g. drilling into walls; sanding materials; removing cladding; etc.) may be exposed to any asbestos fibres released from those materials. The widespread use of asbestos in building construction up until the relatively recent past means that exposure is likely unless appropriate health and safety precautions are taken.

The identification of ACMs and the production of a management plan for preventing exposure to asbestos (in accordance with the *Control of Asbestos Regulations 2006*) The recommended starting point is as follows:

- 1 a management survey to manage ACMs during the normal occupation and use of premises
- 2 a refurbishment/demolition survey where the premises, or part of the premises, need upgrading, refurbishment or demolition
- 3 asbestos awareness training for anyone liable to be exposed to asbestos fibres at work.

Upon identification of ACMs not already addressed by way of a management plan, the use of specific

procedures to avoid exposing people to asbestos fibres, including the use of licensed contractors under the HSE asbestos licensing scheme to work with ACMs (other than certain asbestos cement materials).

Case study 7

A health and safety consultant who died in 2007 at the age of 61 from asbestos-related lung damage wrote an account of his earlier working life and how exposure to asbestos had cut short his life.

Writing for *Safety and Health Practitioner* (IOSH 2007), Robert Owen CMIOSH said:

'During the 1960s I served an apprenticeship as a heating engineer, which involved work with asbestos-cased pipe insulation materials. The exposure could be extreme at times and no hazard warning was provided, either by the employer or by the college during C&GLI training. I completed my apprenticeship at the age of 21. I have not worked with asbestos since.'

Forty years later, in 2005, I noticed that when gardening or undertaking any exercise activity, my breathing became laboured very quickly and I would need to stop for a rest. I put this down to smoking and age and so did not report to my doctor. In December that year, I lost my appetite for many things but, being overweight, I didn't worry as I figured, well, I could do with losing a few pounds. But when I'd lost more than two stone and felt no fitter or better in any way, I finally went to my GP. As soon as I mentioned shortness of breath he asked about asbestos. Of course, I knew the implications.'

After x-rays and CT scans I was diagnosed with mesothelioma on 8 September 2006 and told that if I lived for 12 months it would be a bonus.'

He died the day after writing the article.

Further guidance on controlling the risks presented by asbestos is available from the HSE website (www.hse.gov.uk), and RICS guidance note, *Asbestos and its implications for members and their clients*.

5.9 Hazardous substances

In addition to managing asbestos, arrangements for managing health and safety should include provisions for managing any other hazardous substances. Such substances may include not only purchased materials, such as cleaning products (e.g. bleach), pesticides or solvents used in

production processes, but also substances which are by-products of such processes and naturally occurring substances. For example:

- pesticides (agrochemicals, timber treatments, vermin baits) in store or in use
- lead paint dusts (from abrasion of old painted surfaces)
- industrial solvents
- Respirable Crystalline Silica (sand blown around in quarries)
- engine exhaust fumes
- dusts and spores from decomposing vegetation.

A risk assessment should be undertaken in the form of a COSHH assessment (in accordance with the provisions of the *Control of Substances Hazardous to Health Regulations 2002*) with the aim of avoiding exposure to hazardous substances and, if this is not possible, controlling exposure by measures that are proportionate to the health risk.

Working procedures are required to include the provision of information and suitable training so that people know:

- what substances they are working with and what harm the substances can cause
- what the symptoms are of harmful exposure
- what medical treatment and other action to take in the event of harmful exposure
- what control measures are required in order to work safely with the substance.

Case study 8

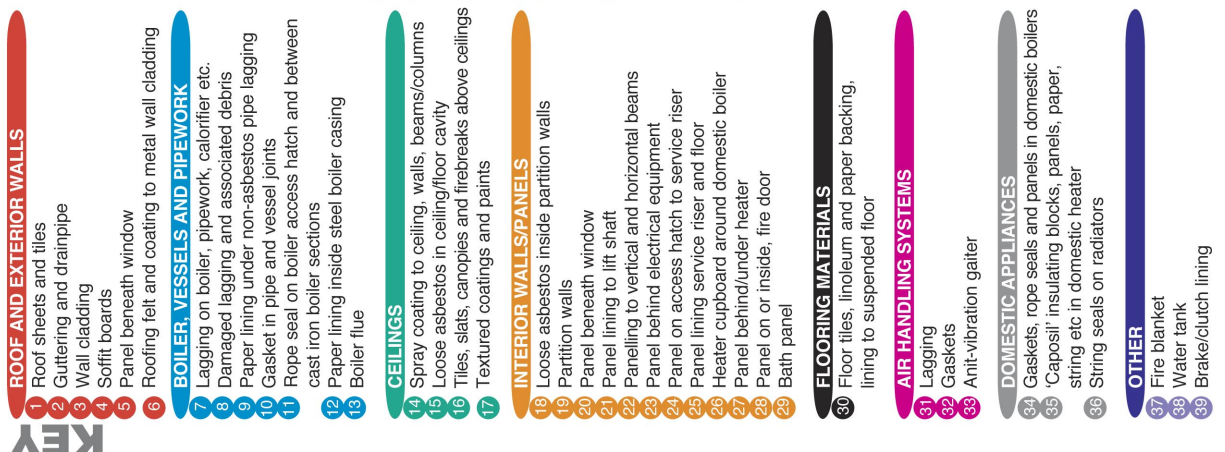
A housing association was fined £70,000 after a security guard was killed by carbon monoxide poisoning on a construction site. A petrol powered generator was used inside the site office and the resulting fumes that the security guard inhaled caused fatal levels of carbon monoxide to accumulate in his blood.

A risk assessment should have been undertaken for the operation on site so that the hazard could have been identified, the nature and degree of risk evaluated, and remedial action taken such as considering alternative power sources or putting the generator outside in a safe position. The security guard was a contractor and the housing association had a duty to keep him safe under section 3 of the *Health and Safety at Work etc. Act 1974*.

Figure 6: Asbestos in a building

ASBESTOS BUILDING

TYPICAL LOCATIONS FOR THE MOST COMMON ASBESTOS-CONTAINING MATERIALS



Note: This diagram does not show all possible uses and locations of asbestos-containing materials. A detailed survey will be required to identify all asbestos-containing materials present in a building. Further information can be found in the HSE publication MDHS100 *Surveying, sampling and assessment of asbestos-containing materials*^a

5.10 Diseases

A range of diseases can arise from work-related activities. In terms of relevance to property professionals, diseases fall into two broad categories as follows:

1. Chronic diseases arising from repeated or ongoing exposure to hazardous substances. Such diseases include:

- skin diseases such as dermatitis (also known as eczema), urticarial, and skin cancers
- respiratory diseases such as occupational asthma, chronic obstructive pulmonary disease, and silicosis.

2. Transmitted diseases caught by people who are exposed to the organism that causes the disease concerned. Such diseases include:

- **Legionnaires' disease** – a potentially fatal form of pneumonia caused by the bacterium *legionella pneumophila* and related bacteria that can be found naturally in environmental water sources such as rivers, lakes and reservoirs, usually in low numbers. As they are commonly found in environmental sources they may also be found in purpose-built water systems such as cooling towers, evaporative condensers and whirlpool spas. The disease is caught by the bacteria being dispersed or sprayed into the atmosphere. Such purpose built water systems therefore need to be subject to specific hygiene procedures (refer to the ACoP and guidance document *Legionnaires disease – The Control of Legionella Bacteria in Water Systems (L8)*).
- **Zoonoses** – this is a general term for diseases that can be transmitted from animals to humans such as Weil's Disease, Lyme Disease and Psittacosis (see below). There are approximately 40 potential zoonoses in Great Britain and the more common diseases include Ringworm (a fungal skin disease) and Orf (a virus carried by sheep and goats which commonly causes ulcers on the face, hands or arms of infected people and which last six to eight weeks). Appropriate PPE and good personal hygiene are therefore important health and safety control measures.
 - *Weil's disease (a form of leptospirosis)* – a serious, and sometimes fatal, bacterial

infection that is transmitted to humans by contact with urine from infected rats. The symptoms are a 'flu-like illness starting with a persistent and severe headache which can then lead to vomiting, muscle pain and more serious symptoms.

- *Lyme disease* – a bacterial infection transmitted to humans by the bite of an infected tick. The symptoms are a 'flu-like illness, sometimes with a skin rash around the area of the bite. There may also be enlarged glands in the armpit, groin or neck. More serious conditions can develop later if the disease is not treated.
- *Psittacosis* – a bacterial infection that can be acquired from contact with birds or bird droppings. The symptoms can include fever, diarrhoea, headache, and severe pneumonia, potentially leading to coma in severe cases.

Risk assessments for work activities and COSHH assessments for hazardous substances can ensure that harmful levels of exposure are avoided. However, some degree of occupational health supervision should be provided where the findings of assessments show that exposure may be significant or where people have allergies or pre-existing conditions that make them more susceptible to harm than might be the case for most people.

5.11 Biosecurity

Biosecurity is an occupational health issue, which may not necessarily have a direct impact upon human health but is important to many businesses that property professionals may visit. It is important for anyone visiting premises which are subject to biosecurity to ensure that they follow all procedures required by the business operating from the premises in order to reduce risks.

At agricultural production units, vehicles, clothes and footwear of visitors should be clean in order to limit the spreading of weed seeds and transmittable diseases between premises (foot and mouth disease, avian 'flu, swine fever, etc.)

At food preparation, storage and distribution premises, food hygiene requirements should be complied with in order to avoid contamination of

food and transmission of diseases to humans (e.coli. Salmonellosis, etc.)

At hospitals, care homes or other premises where clinical waste may be present (used needles, wound dressings, etc.), suitable precautions including appropriate disposal, the use of appropriate PPE and good personal hygiene practices should be taken in order to avoid infection or contamination. Similar precautions may be necessary at vacant or derelict premises frequented by drug abusers.

5.12 New and expectant mothers

Employers have a legal obligation under the *Management of Health and Safety at Work Regulations* 1999 to ensure a safe and healthy work environment for their pregnant or breastfeeding employees, so it is important that employees know that they should inform their employers if they are expectant or new mothers. Risk assessments for work activities undertaken by personnel should take account of the special needs of new and expectant mothers.

Examples of matters that require careful consideration or avoidance include:

- exposure to hazardous substances (particularly those affecting the reproduction systems such as lead or ionising radiation)
- intensive manual handling activities
- contact with animals (such as sheep at lambing time).

5.13 Sun protection

Risk assessments for personnel working outside should take account of exposure to sunlight and the associated risks of damage to skin, which can include:

- sunburn
- blistering
- skin ageing and
- skin cancer arising from longer term exposure.

It is important that information is provided to people and they should be encouraged to keep skin covered; to use sunscreen of at least sun protection factor (SPF) of an appropriate level of

protection on exposed skin; and to schedule work activities to avoid periods of intense exposure to the sun when at work.

5.14 Environmental factors

A number of occupational health conditions can arise from a wide range of environmental factors in the workplace such as:

- poor lighting
- high or low temperatures
- background noise.

Such matters may be identifiable as specific problems, in which case remedial action can be planned and implemented having regard to legal requirements (particularly the provisions of *the Workplace (Health, Safety and Welfare) Regulations* 1992) and associated guidance.

Sometimes, personnel may exhibit symptoms of occupational health problems from the building environment (e.g. headaches, runny noses, etc. and generally increased sickness absence) but it may be difficult to identify specific causes (sometimes caused by bad air and referred to as ‘sick building syndrome’), in which case specialist advice should be sought and health surveillance may be necessary.

5.15 Health monitoring and health surveillance

The importance of addressing both health and safety matters means that both areas need to be covered fully in the health and safety policy and arrangements for a business.

It is recommended that employers obtain essential health information from employees in order that risk assessments can address the particular needs of employees with relevant medical conditions such as:

- allergies
- asthma and other lung conditions
- eyesight.

It is recommended that health surveillance should be carried out periodically where the risk assessment has indicated it is necessary.

The extent to which information is needed and acted upon will depend largely upon the nature of

the work activities concerned and employers can formulate a policy accordingly. This might extend to a medical questionnaire or medical examinations for new employees; regular medical examinations for existing employees; and health surveillance or screening for critical exposures.

It should be noted that such data may be subject to Privacy/Data Protection legislation.

6 Visiting premises and sites

6.1 Before visiting a property

Before a visit to a premises or site to carry out an inspection, survey or site investigation of land, structures or occupied buildings, the property professional should carry out a pre-assessment of the hazards and risks that are likely to be encountered on the visit.

The company or organisation should have a set of procedures in place for carrying out this type of assessment including suitable training and instruction for employees. These may range from a fairly simple generic assessment for visiting a property under their management where they already have a wealth of information readily available, to a detailed assessment of sites where access equipment may need to be hired in, or arrangements need to be made to enter a confined space or gain access to a restricted area.

It is important to collect as much information as possible from the client or person who has requested the visit, or from the organisation or person who is in control of or managing the premises or site. At this stage it is useful to have a check-list available to ensure the right questions are asked, but remember that there may be matters requiring action that may not be on the check-list.

As full an assessment as is reasonably possible should be made, consulting with others as necessary. Remember that, if the visit is not planned properly, it may not be possible to visit certain parts of the property upon arrival. Ultimately, it may be necessary to abandon the visit and re-visit once the necessary arrangements have been made.

6.2 Checklist of matters to consider

6.2.1 Travelling to and from site

- Will it be safer to use public transport or use your own transport?
- Has the journey been planned to avoid driving too fast, for too long or when tired?
- Is the property professional particularly vulnerable (e.g. under prescribed medication)?

- Be aware of where to park (clear, secure, good lighting, easy to exit and not locked before you leave).

6.2.2 Lone working

- Does the organisation have specific requirements or procedure for lone working that must be followed?
- Is lone working a safe option and if so what provisions are made for communications in an emergency? Does the organisation have a record of employees' mobile phone numbers and would you have a good signal at the premises or site?
- Who has a record of where the lone worker is and when to expect them back in the office or at home?
- Have procedures been made for regular 'check-in' calls?
- How would access for rescue be achieved?
- Does a lone worker suffer from any medical condition which could affect personal safety, such as epilepsy, diabetes, etc?
- Ask the question 'If I did not come back from the property; who would know that I was missing and how would they be able to find me?'

6.2.3 Condition of property

- Are the premises known to be derelict or in poor condition, and if so what is the extent and nature of the damage?
- Are any areas defined as unsafe for access?
- Are security measures in force and how is access to be gained?
- If a construction site, what stage has been reached?
- What are the site rules?
- Is protective clothing or special equipment needed?

6.2.4 Occupation

- Is the property occupied? If so, do the occupants know a visit is being made and have they made any special access arrangements?

- Who is likely to be encountered on the property (e.g. members of the public, children, squatters, vagrants, animals)?
- Are the occupants or neighbours likely to be aggressive or disaffected?

6.2.5 Activity

If the property is occupied, what is the nature of that occupation? For example

- residential
- retail
- offices
- transport hub
- manufacturing
- warehousing
- agricultural, etc.

The hazards should be considered e.g. environmental or process/activity such as noise, fumes, vehicle movements, electronic equipment, mechanical plant or machinery, animals, etc?

6.2.6 Site rules and welfare

- Does the occupier have house or site rules?
- What are the emergency arrangements?
- Are there 'permit to work/enter' procedures to be followed?
- Are there site induction procedures to be followed?
- Are toilet, wash and first aid facilities available and, if so, what are the arrangements? (Refer to the *Workplace (Health, Safety and Welfare) Regulations 1992* and *Construction (Design and Management) Regulations 2007*).

6.2.7 Roofs

- Is it necessary to go on to the roof or can inspection be undertaken from elsewhere (e.g. neighbouring buildings, with binoculars, CCTV)?
- If it is necessary to go on to the roof, is a safe means of access provided and is there a safe route once on the roof?
- Does the roof have edge protection (minimum 950mm above roof level)?

6.2.8 High structures

- If a scaffold exists, has a competent person checked that it is safe for use?

- Are towers, masts, etc. to be visited, and if so how will they be accessed?
- Is a 'cherry picker' or other special access equipment/Mobile Elevating Work Platform (MEWP) needed? If so it should be managed by a competent supplier and checked to confirm it has been certified as safe for use under the provisions of the *Lifting Operations and Lifting Equipment Regulations 1998* (LOLER).

6.2.9 Dangerous substances

- Are there likely to be any hazardous substances (refer to the *Control of Substances Hazardous to Health Regulations 2002* (COSHH)) such as chemicals, radiation, asbestos, gas or other noxious atmosphere, explosives, etc? What safety precautions are needed? Seek specialist advice as necessary.
- Are records such as a register of asbestos containing materials (ACMs) or environmental reports available? What do they reveal and what special precautions need to be taken under the *Control of Asbestos Regulations 2006*?

6.2.10 Diseases

- Is the nature of the site such that it could be contaminated with any form of clinical waste?
- Are there likely to be any used syringes/needles, condoms, razor blades, etc?
- Could the site be a source of anthrax which, for example, could be present in very old haired plaster?
- Could legionella bacteria be present in disused water storage systems?
- What hazards might arise from the presence of vermin (e.g. Weil's disease)?
- Do any biosecurity procedures need to be followed (e.g. hygiene procedures for pig and poultry farms)?

6.2.11 Special access

- Will special access arrangements be required (e.g. underground, abseiling) and who will provide it and manage it?
- Is special training needed?

6.2.12 Special risks

- Is the nature of the building or site such that it presents special hazards, e.g. railway premises, security establishments, plant rooms, roof top telecoms equipment (microwave radiation from satellite dishes and other transmission equipment), old hospital premises (radiation in former x-ray units), excavations (unsupported sides, unventilated atmosphere), etc?
- Are there confined spaces? These are not just narrow or small spaces but poorly ventilated or enclosed spaces where the atmosphere may be toxic, lacking in oxygen or flammable/explosive (special precautions will be required under the *Confined Spaces Regulations 1997*).
- Specialist advice should be obtained if any of these hazards exist.

6.2.13 Access equipment

Do you need to take access equipment or arrange for it to be provided at the property, such as:

- ladder
- Mobile Elevating Work Platform (MEWP).

6.2.14 Other equipment

In certain circumstances any of the following equipment may be necessary (refer also to the *Personal Protective Equipment Regulations 1992* (PPE)):

- gloves
- respirator or face mask
- safety helmet
- ear defenders
- eye protection
- boots
- high visibility clothing
- temporary/task lighting.

6.2.15 Environmental matters

- Will weather conditions and/or light levels increase risk? (e.g. snow storms on the journey or windy conditions on high structures)
- Will temperature extremes present a hazard?

6.2.16 Personal matters

- Does gender or level of fitness have any bearing on the hazards which have been

identified? Pregnant or nursing mothers need special consideration. Would lack of fitness present a hazard in itself?

- Will phobias (e.g. vertigo or claustrophobia) or issues (e.g. a medical condition) impair judgment or affect personal safety?

The above lists are by no means exhaustive and the extent to which any of the items might be relevant in a particular circumstance will vary.

6.3 Arriving and during visits to property

However well a visit is planned in advance, matters that are unknown until arrival at the property will need to be considered during the visit. This may arise simply through a general lack of information about the site, or because the condition of the property, its occupation or other factors are different or have changed unexpectedly.

If significantly dangerous situations are noticed (whether it is likely to affect safety or health) there is a duty to report the issue to an appropriate person (e.g. building owner, occupier, site manager) as soon as reasonably possible.

On arrival, review the original risk assessment of the hazards and be alert during the visit to other hazards such as those outlined in 6.3.1 to 6.3.12 below. If property professionals feel uncomfortable or are not competent to manage the risks at any time during their visit, they must not continue and must obtain the assistance of a competent person.

6.3.1 Structural stability

The chance of partial or total collapse of:

- chimney stacks, gable walls or parapets
- leaning, bulged and unrestrained walls (including boundary walls)
- rotten or corroded beams and columns
- roofs and floors
- corroded metal fire escapes, platforms, balconies and walkways.

6.3.2 Timbers, glass and sharp objects

- rotten and broken floors and staircases. Flimsy cellar flaps and broken pavement lights

- floorboards, joists and buried timbers weakened by age, decay or insect attack
- projecting nails and screws, broken glass
- glazing in windows and partitions may be loose, hinges and sash cords weak or broken; glass panels in doors and walls may be painted over
- sharp edges and projecting objects.

6.3.3 Roofs

- fragile asbestos cement and plastic coverings
- fragile roof lights (often obscured by dirt or temporary coverings)
- low parapets or unguarded roof edges, loose copings
- rusted, rotten or moss covered fire escapes, access ladders and guard rails
- rotten roof decking and joists
- slippery roof coverings (slates, moss or algae covered slopes)
- broken access hatches
- mineral wool dust, mortar droppings and birds' nesting material and excrement in roof voids
- cornered birds and vermin
- insects, including bee and wasp colonies
- water cooling plant may harbour legionella bacteria
- unguarded flat roofs
- broken, loose, rotten and slippery crawling boards and escape ladders
- weak flat roofs
- high winds during roof access
- ill-secured or flimsy, collapsible, sectional or fixed loft ladders
- projecting ceiling joists and low purlins
- ill-lit roof voids.

6.3.4 Unsafe atmospheres

- confined spaces with insufficient oxygen including manholes, roof voids, cellars, vaults, ducts and sealed rooms
- rotting vegetation, which may consume oxygen and give off poisonous fumes

- accumulation of poisonous and flammable gases in buildings on contaminated land
- stores containing flammable materials such as paint, adhesives, fuel and cleaning fluids
- hazardous substances, including toxic insecticides, herbicides and fungicides.
- gas build-up in subfloor voids.

6.3.5 Danger from live and unsecured services

- electricity, gas, water and steam supplies
- high voltage rooms, sub-stations and fuel stores
- temporary lighting installations: mains connections and generators
- hidden cables and pipes (beware intrusive investigations)
- overhead electrical cables.

6.3.6 Slip, trip and fall hazards

- slippery surfaces
- overgrown vegetation
- changes in level
- obstacles.

6.3.7 Hidden traps, ducts and openings

- lift and services shafts, stairwells and other unguarded openings
- unsecured, corroded or missing covers to underground chambers
- manholes, including those obscured by vegetation
- cesspools, wells and septic tanks
- surfaces concealed by debris or standing water
- poorly illuminated areas.

6.3.8 Other people/animals on the property

- physical dangers from squatters, vagrants or guard dogs
- disease risks from discarded syringes and condoms
- structures weakened by vandalism or arson
- aggressive tenants or property owners.

6.3.9 Contamination

- asbestos, lead and other substances hazardous to health
- chemicals in storage or leaked
- contaminated water supplies
- contaminated air conditioning systems (legionella bacteria).

6.3.10 Rural Environments

- hazardous operations such as tree felling or tractor work
- shafts, holes, pits, ditches, etc.
- farm animals
- chemicals in storage or in use
- unstable ground conditions (waterlogging, flooding, etc.).

6.3.11 Adverse weather conditions

- ice/snow
- extreme heat/sun
- high winds (falling slates/tiles, falling tree branches, risks of being blown from high structures).

6.3.12 Vermin and birds

- rats and mice (Weil's and other diseases)
- bird droppings (Psittacosis)
- lice and fleas may be present in bedding, soft furniture and carpets
- Lyme disease from ticks present in vegetation or birds' nests.

6.4 Securing the site and leaving

Upon completion of the visit, the property should be left secure and any occupier or manager who is present at the property should be informed that you are leaving.

Similarly, it is recommended that someone in the office or at home knows where you are and when you are due to return. Let them know as you leave and confirm when you expect to be back.

It is worth considering on completion of the visit to the property concerned:

- Whether there are any 'lessons learnt' and whether any changes should be made to your procedures or to those of your company or organisation.
- If any hazards on the property need to be notified to the property manager for remedial action.
- If any accidents, incidents or 'near miss' occurrences need to be entered into your company/organisation's accident book and notified to the occupier or manager of the property.

7 Procurement and management of contractors and construction work

7.1 General procurement of contractors

Property professionals may be involved in the procurement, instruction and management of a variety of different types of contractors. These may include, for example:

- cleaners (premises, windows, plant and equipment, etc.)
- 'for sale' board fitters
- security guards
- bailiffs
- other RICS property professionals (valuers, building surveyors, etc.)
- other professionals (architects, engineers, etc.)
- facilities management companies
- building maintenance workers
- construction companies.

The principles for the management of contractors are the same, regardless of the type of work that is to be undertaken, although special rules will apply for construction work (including building maintenance) as described in section 7.2.

In summary, the person instructing the contractor has a duty to think carefully about what the work will involve; to check that the contractor is competent; and then to provide any relevant information about the property to the contractor before work starts. It is recommended that there are adequate arrangements in place for the monitoring and control of the work and, upon completion, reviewing the arrangements to determine if any improvements can be made in future.

This can be broken down into the following:

1. Identify the job

Consider the particular skills required for the work, bearing in mind the details of what is to be done. For example, a cleaning job may appear simply to be a job for a cleaning contractor but, if the work involves any of the aspects listed below then specialist skills, training or authorisation will be

needed. This should be checked with the contractor and it may be necessary either to provide for additional contractors or to use a different contractor who can supply all of the necessary skills:

- Work at height (ladders; step ladders; specialist access equipment)
- Waste removal (waste carrier licensing, appropriate removal equipment)
- Work with hazardous substances (acid based cleaning compounds, bird droppings, clinical/hazardous waste, etc.)
- Is there any need for special licenses.

2. Select a suitable contractor

Having identified the job and the range of skills required, the contractor must have a sufficient level of competence (including health and safety competence) for the work. This should include:

- suitable training for personnel engaged in the work
- membership of any relevant professional bodies or trade organisations
- experience with similar work having been completed satisfactorily (ask for references)
- a check on any enforcement action or prosecution by the HSE in the past
- appropriate arrangements for managing health and safety (policy; risk assessments; sub contractor arrangements; etc.)
- sufficient insurance cover (employer's liability and public liability).

Many organisations choose to use an 'approved contractors' list onto which contractors are added once their competence has been checked and copies of supporting documents have been obtained. Checks may also need to be undertaken with regard to competence and resources for specific activities.

3. Discuss details of the work with the contractor before instructions are issued for the job

The person instructing the contractor is likely to know more about the property than the contractor and therefore has a duty to pass on any relevant information to the contractor. This will allow the contractor to plan the work safely.

Ask yourself the question: 'If I were the contractor, what would I want to know about this property before starting work?'

For example:

- What are the induction arrangements?
- Who else will be at the premises?
- Who are they, what will they be doing and when?
- Where are the electricity, gas and water services located?
- Is there any asbestos where I will be working?
- What facilities can I use to rest and wash?
- Where can I leave vehicles and equipment?
- What are the emergency arrangements?

It is recommended that a record of these details is kept, and many people choose to use a standard form or checklist. The amount of information concerned and the extent to which the details are recorded will increase with the size and complexity of the job.

At this point, the contractor should be able to price the job accurately regarding health and safety issues and a decision can be made as to whether to instruct the contractor.

4. Monitor the work

Arrangements should be confirmed for ongoing monitoring of the work, including provision for regular meetings, site visits or any other methods necessary to supervise the work effectively.

Again, the extent of the arrangements needed will increase with the size and complexity of the job. Furthermore, a new contractor will require greater supervision than a contractor who is familiar with both the property and the work, and who has demonstrated safe and effective working methods in the past.

5. Review the arrangements

Upon completion of the work, it is recommended that the person who instructed the contractor reviews the arrangements in order to establish whether any lessons can be learned from the process; and whether any changes are needed to the arrangements for the selection and control of contractors.

The HSE publication, *Use of contractors – a joint responsibility* (HSE 2002) sets out the action required by the parties involved and gives details of further reference sources.

7.2 Procurement and management of construction work

7.2.1 Definition of construction work

The *Construction (Design and Management) Regulations 2007* (CDM) define construction work as the carrying out of any building, civil engineering or engineering construction work and includes:

- the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure or the use of corrosive or toxic substances), decommissioning, demolition or dismantling of a structure
- the preparation for an intended structure, including site clearance, exploration, investigation (but not site survey) and excavation, and the clearance or preparation of the site or structure for use or occupation at its conclusion
- the assembly on site of prefabricated elements to form a structure or the disassembly on site of prefabricated elements which, immediately before such disassembly, formed a structure
- the removal of a structure or of any product or waste resulting from demolition or dismantling of a structure or from disassembly of prefabricated elements which immediately before such disassembly formed such a structure and
- the installation, commissioning, maintenance, repair or removal of mechanical, electrical, gas, compressed air, hydraulic, telecommunications,

computer or similar services which are normally fixed within or to a structure.

7.2.2 What is not construction work?

The ACoP for the CDM Regulations states that construction work does not include (among others) the following:

- putting up and taking down marquees and similar tents designed to be re-erected at various locations
- general maintenance of fixed plant, except when this is done as part of other construction work, or it involves substantial dismantling or alteration of fixed plant which is large enough to be a structure in its own right, e.g. structural alteration of a large silo; complex chemical plant; power station generator or large boiler
- tree planting and general horticultural work
- positioning and removal of lightweight movable partitions, such as those used to divide open-plan offices or to create exhibition stands and displays
- surveying – this includes taking levels, making measurements and examining a structure for faults
- off-site manufacture of items for later use in construction work (e.g. roof trusses, pre-cast concrete panels, bathroom pods and similar prefabricated elements and components).

7.3 Who procures and manages construction work?

If the work that contractors are undertaking is construction work, then CDM 2007 will apply, irrespective of the size or the duration of the work.

Property professionals likely to be involved in the procurement and management of construction works include:

- those employing contractors on behalf of clients
- those responsible for managing their client's property portfolio (e.g. asset and managing agents, etc.)
- those responsible for managing their own organisation's property or property portfolio (e.g. local/central government, the armed

forces, health, education, commercial and manufacturing organisations, etc.)

- consultants involved with construction projects on behalf of their clients (e.g. project managers, designers, cost consultants, CDM co-ordinators, contractors, etc.)
- property developers and their employees
- those employed in organisations undertaking private finance initiatives (PFI) and public-private partnerships (PPP) type projects.

The responsibilities and liabilities will depend upon a number of factors and relationships (see section 7.6 below) but in general terms compliance with the general duties under health and safety, fire and environmental legislation will apply regardless of the method of procurement and contractual arrangements for undertaking the works.

7.4 Client duties for construction work

When procuring or managing construction work it is essential to have knowledge of the CDM Regulations and to comply with them.

CDM defines a project as including or intending to include construction work including the planning, design, management and other works involved in the project until the end of the construction phase.

CDM applies to all construction work and there is no lower limit on the size of the project or the amount of construction work in time or number of people undertaking the work, for CDM to apply. There will always be CDM duties for clients (except 'domestic clients' who have work done on their own or family members' homes), designers and contractors.

It is the client's duty under CDM to provide pre-construction information to designers and contractors (CDM – ACoP Appendix 2). If some of the pre-construction is not available then surveys and investigations will need to be provided by the client (e.g. asbestos, contaminated ground, hidden services).

Property professionals may be the client or acting on behalf of the client (e.g. as a consultant project manager). Those acting on behalf of the client may have a contractual agreement with the client to ensure the client's CDM duties are discharged, but the client still retains their legal duties under CDM.

It is therefore important to establish who is the client, as some property professionals, although acting as consultants, can be the client (e.g. asset/property managers) if their appointment includes seeking or accepting the services of others to carry out a project for them or they carry out the project themselves (e.g. facilities managers). The CDM ACoP states that:

‘where...it may not be immediately obvious who is legally the client...take into account who:

- ultimately decides what is to be constructed, where, when and by whom;
- commissions the design and construction work (the employer in contract terminology);
- initiates the work;
- is at the head of the procurement chain;
- engages the contractors.’

7.5 Designers for construction

Designers have duties under CDM 2007 and include anyone who, in the course of their business, is involved in preparing designs for construction work (including variations), which can include drawings, design details, specifications, bills of quantities, specifying articles or materials.

Many property professionals are therefore designers, including architects, engineers, building surveyors and other consultants who specify the use of a particular method of work or material or stipulate a particular layout for a building, such as a project managers, design managers, quantity surveyors and clients. Contractors are also designers when they carry out design work as part of their contribution to a project, such as those providing design, procurement and construction management services.

Designers are required to avoid foreseeable risks in their designs (so far as is reasonably practicable) and the greater the risk, the greater the weight that must be given to eliminating or reducing it. This applies to the construction phase of a project and extends to those who will maintain, repair, clean, refurbish and demolish structures, as well as the health and safety of ‘users’ of workplaces.

Where significant risks remain when designers have done what they can to avoid or reduce risks to health and safety, they should provide information

with the design to ensure that those who may be affected are aware of the remaining risks and can take account of them.

If property professionals are acting as designers they must be able to demonstrate they are competent to undertake their duties under CDM 2007.

Designers’ duties are defined in CDM 2007, Regs 11 and 18.

7.6 Competence

Regardless of the type of work being procured or managed, it is necessary to ensure that everyone involved is competent to undertake their work, including employers, employees, the self-employed, consultants and contractors. The CDM Regulations require that clients undertaking construction work assess the competence of the designers, contractors and CDM co-ordinators before they are employed or appointed to undertake design and construction work.

The competence assessment should focus on the type of work being undertaken and be proportionate to the risks, size and complexity of the work. It must ensure the contractor has sufficient knowledge of the specific tasks to be undertaken and the risks the work will entail. They should also have sufficient experience ability to carry out their health and safety duties in relation to the work, to recognise their limitations and know what actions to take to prevent harm to themselves and anyone else who may be affected by the work.

The ACoP for the CDM Regulations states that the assessment of competence for being involved with construction work should be carried out in two stages. Stage 1 is an assessment of how they organise and manage their health and safety arrangements. Stage 2 is an assessment of their experience and previous work undertaken to establish they are capable of undertaking the work and recognise their limitations and how they should be overcome. Appendix 4 of the CDM Regulations ACoP sets out the criteria, standards and examples of evidence to demonstrate how to meet the competence requirements of Stage 1 and Stage 2.

Some organisations have an approved supplier chain or panel of framework consultants and contractors. For construction work, it is important

they are assessed for competence and resources in accordance with the requirements of the CDM Regulations.

There are third party registration bodies that assess consultants and contractors health and safety competence, some of which are accredited members of the HSE recognised Safety Schemes in Procurement (SSIP) forum. The registered members of SSIP have agreements that if an organisation has already been assessed by a SSIP registered member, it is not necessary to have a full assessment undertaken by another SSIP registered member (see www.ssip.org.uk for the list of accredited registered members). The supplier who is registered or accredited as compliant or approved with an SSIP member will normally have been assessed to the threshold standard of Stage 1. Further assessment of their competence will only then need to focus on the project or job specific assessment of Stage 2.

The use of consultants and contractors registered with one of the SSIP accredited members is an indication of a level of health and safety competence, but does not divest clients (or their representatives) of the client's duty to check and ensure they are competent under the requirements of the CDM Regulations.

7.7 Notifiable projects

When a project is anticipated to take longer than 30 days of work on site (they do not need to be consecutive) or more than 500 person days (a person day being one shift of, say, 8 hours), the project becomes 'notifiable' to the Health and Safety Executive (HSE) and the client must appoint in writing, two further duty holders (in addition to designers and contractors). The first is the CDM co-ordinator, who is appointed to advise and assist the client on all aspects of CDM and to co-ordinate

the health and safety issues of the design. This appointment should be made before the detailed design stage of the project commences to ensure the health and safety issues of the design are considered and addressed at concept design stage. The second is the principal contractor, appointed to be responsible for planning and managing the health and safety issues of all contractors working on the site and to liaise with all parties that are involved or may be affected by the construction works. This appointment should be made as soon as possible and will depend on the method of procurement used, to determine whether this will be early or later in the design process.

On 'notifiable' projects the CDM co-ordinator will provide the pre-construction information on behalf of the client (the client still has to make information available). There are also some additional requirements for the client to ensure the construction work does not start on site until a construction phase (health and safety) plan has been sufficiently developed by the principal contractor and the client is satisfied that suitable welfare facilities will be provided (the CDM co-ordinator will assess these issues on behalf of the client). At the end of the project the CDM co-ordinator must ensure (with the co-operation of the principal contractor and designers) that a health and safety file is provided for safe keeping by the client. The client must make the health and safety file available to anyone who may require access to the premises for cleaning, maintenance repair or future works, to ensure they are aware of the health and safety issues that may affect their work. The contents of the health and safety file are detailed in the CDM ACoP.

Further guidance on the CDM Regulations can be found in the RICS publication *CDM 2007: A guide for clients and their advisors*.

Surveying safely

1st edition, guidance note

This guidance is for RICS members and other professionals involved with the property industry.

It considers health and safety responsibilities at both a corporate level (whether the organisation is large or small), and at the level of the individual property professional.

Covering property-related businesses, it identifies the moral, ethical and practical issues that confront property professionals everywhere, in all the work that they undertake.

This guidance is based on health and safety law in Great Britain, which covers England, Wales and Scotland.

The following key areas are covered:

- Personal and corporate responsibility for property professionals
- Legal considerations and duties
- Assessing hazards and risks
- Property professionals' places of work
- Occupational health
- Visiting premises and sites
- Procurement and management of contractors and construction work



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