

Risk Assessment – What does the law require?

Louise Mansfield

BHSEA

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Pinsent Masons

MHSWR 1999

Risk assessment

- 3.— (1) Every employer shall make a suitable and sufficient assessment of—
 - (a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
 - (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

For the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions

- 3. - (3) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the employer or self-employed person who made it if—
 - (a) there is reason to suspect that it is no longer valid; or
 - (b) there has been a significant change in the matters to which it relates; and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them

MHSWR 1999

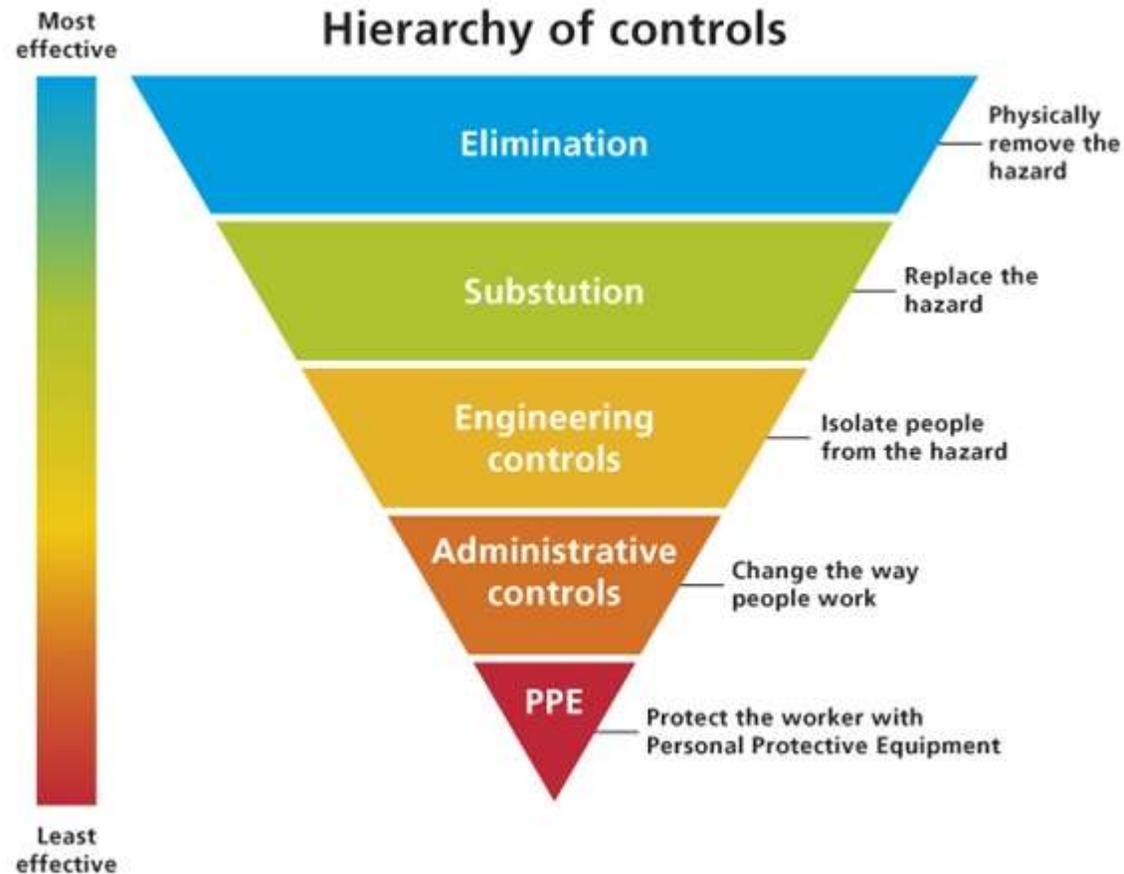
Health and safety arrangements

- 5.— (1) Every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

RA Steps

- Identify the hazards
 - Observe
 - Speak to employees
 - Check manufacturers' instructions
 - Look back at your accident and ill-health records
 - Take account of non-routine operations
 - Remember to think about long-term hazards to health
- Who might be harmed?
- Evaluate the risks
- Decide on the appropriate controls, taking into account the controls you already have in place
- Record your significant findings
- Ensure control measures actually implemented
- Review

Hierarchy of control



What is suitable and sufficient?

- A proper check was made;
- You asked who might be affected;
- You dealt with all the obvious significant hazards, taking into account the number of people who could be involved;
- The precautions are reasonable, and the remaining risk is low;
- You involved your employees or their representatives in the process.

Common pitfalls

- RA not suitable and sufficient:
 - RA not done at all
 - No RA for relevant activity
 - Doesn't relate to what actually happens in practice / cover everything that happens
 - Written by someone not competent
 - Not updated
 - Not approved
 - Recommendations unrealistic
 - Recommendations not complied with
 - Not communicated to employees
 - Employee doesn't follow RA

Example case

- Construction site
- Sub-contractor working in riser
- Sub-contractor risk assessments didn't cover particular task - task wasn't therefore considered in sequencing of works
- IP self-tasked himself – work wasn't planned or briefed
- Sub-contractor stepped onto wooden floor in riser – floor wasn't supported (support had already been removed) and he fell to floor below
- RAMS signed off by PC
- Employee hadn't attended morning briefing
- No supervisor

Regulatory Reform (Fire Safety) Order 2005

- Are you a 'responsible person'?
- Duty to:
 - carry out a fire safety risk assessment and keep it up to date
 - ensure that adequate and appropriate fire safety measures are in place (and maintained) to minimise the risk of injury or loss of life in the event of a fire
 - inform and train staff
- Risk assessment
 - Identify the fire hazards.
 - Identify people at risk.
 - Evaluate, remove or reduce the risks.
 - Record your findings, prepare an emergency plan and provide training.
 - Review and update the fire risk assessment regularly

FRA – Things to consider

- Emergency routes and exits
- Fire detection and warning systems
- Fire fighting equipment
- The removal or safe storage of dangerous substances
- An emergency fire evacuation plan
- The needs of vulnerable people, for example the elderly, young children or those with disabilities
- Providing information to employees and other people on the premises
- Staff fire safety training

FRA – Lakanal House

- Fire on 3 July 2009
- 6 people died
- Council "did not prioritise carrying out fire-risk assessments" on residential properties".
- Council pleaded guilty to 4 offences under RRO:
 - failure to make a fire risk assessment;
 - allowing breaches of fire-resistant structures between each maisonette staircase and the common internal doors;
 - a lack of compartmentation in the false ceiling structures of common corridors; and
 - a failure to provide fitted intumescent strips (which swell when heated) and smoke seals on fire doors.
- £270,000 fine plus £300,000 costs

FRA – Gibson Court Care Home

- Large fire on 20 September 2011
- One resident died
- First Port Ltd – 4 offences under RRO
 - failure to create a suitable and sufficient risk assessment,
 - failure to take general fire precautions,
 - failure to implement suitable fire system maintenance and
 - failure to ensure that employees are provided with adequate safety training
- Fined £360,000 with £100,000 costs

FRA - Tips

- Ensure you are fully satisfied that FRA is completed by a competent person.
- Always check you really understand the results and recommendations, query them if they don't seem to make sense or don't seem to properly apply to your premises and swiftly take steps to resolve any issues.
- Draw up a plan for implementation, resolving high risk issues as soon as possible and then prioritising the order in which you resolve other problems.
- Have an established system of maintenance.
- Ensure all the staff are properly trained in the content of the risk assessments.

Questions?