



Risk Assessment

NUT HEALTH & SAFETY BRIEFING

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This briefing gives information on the legal requirement for employers to carry out risk assessments and the extent to which teachers can be required to assist in the process.

The Purpose of Risk Assessment

Risk assessment is an important tool in ensuring health and safety at work. It means, simply, that employers set out to identify hazards to health and safety, evaluate the risk of harm resulting from those hazards and take appropriate action to protect employees and others.

The Health and Safety at Work etc Act 1974 places general duties on employers to ensure the health and safety of employees and others. These duties implicitly include a duty to assess risks and take necessary precautions. Employers also, however, have specific legal duties to carry out risk assessments for all aspects of workplace health and safety due to the requirements of the Management of Health and Safety at Work Regulations 1999 and other regulations such as the manual handling, COSHH and fire safety regulations.

Risk assessment is also a useful tool for safety reps in taking up issues of health and safety. Where a potential problem has been identified, safety reps can pose an immediate question to the employer or manager simply by asking to see the risk assessment for the activity or process in question.

Legal Responsibilities for Risk Assessment

It cannot be emphasised too strongly that it is the employer who has the legal responsibility for risk assessment. In schools, this means the LEA or, in voluntary aided or foundation schools, the governing body.

In practice, the risk assessment process will obviously need to be delegated by the employer to someone who manages the process and someone who carries out risk assessments on the employer's behalf.

The extent to which teachers should be involved in risk assessment will depend upon two things: firstly, teachers' conditions of service and professional duties and any management responsibility which they have for, inter alia, health and safety matters; and secondly, whether they are competent to take part in the risk assessment process on the employer's behalf.

> Conditions of Service and Management Responsibilities

The contractual responsibilities of school staff relating to risk assessment, subject to the provisos set out in the next section, can be summarised briefly as follows:

- Headteachers' professional duties include responsibility for managing health and safety in schools. They also have a duty to co-operate with their governing body and LEA so far as is necessary to ensure compliance with health and safety requirements. As a result of this, they may be required by their LEA or governing body to manage the process of risk assessment in their schools but this does not necessarily mean they must carry them out themselves.

- Deputy and assistant headteachers may be required to undertake any of the headteacher's professional duties reasonably delegated to them by the headteacher and may also therefore be required to manage the process of risk assessment. Heads of department or subject may, as a result of their managerial role, be required to do so for their area of responsibility. Again, however, this does not necessarily mean they must carry the risk assessments out themselves.
- Classroom teachers who are not heads of department/subject have no obligation under their conditions of service and professional duties to become involved either in managing or undertaking risk assessments. Any teacher may, however, agree if they wish to contribute to the risk assessment process.
- Non-teaching staff may be required to undertake risk assessments if this is provided for under their contracts of employment.

> **Who is a Competent Person?**

Employers are legally obliged by the law on risk assessment to ensure that those carrying out risk assessments are "competent" to do so. This is a very important matter in determining the extent to which teachers, in particular heads and deputies, should be involved in carrying out risk assessments on behalf of the employer.

The Management of Health and Safety at Work Regulations 1999 clarify that employers should, wherever possible, use competent employees in preference to external sources of advice and assistance on health and safety.

The Regulations define "competence" in terms of sufficient training, experience or knowledge to undertake the assessment. This does not mean that a risk assessment can only be carried out by qualified health and safety specialists. It does, however, mean that anyone who is asked to carry out a risk assessment, or who agrees to do so, is entitled to expect proper support.

This should include training in risk assessment and other guidance of the kind set out later in this document. Otherwise, the risk assessment will not have been carried out by a "competent person" and will not be recognised as a valid risk assessment. The employer will have failed to discharge the legal responsibility for risk assessment.

The following sections consider the role of firstly managers (including heads, deputy and assistant heads and heads of department/subject) and secondly classroom teachers in more depth.

The Role of the Manager

As noted above, employers are legally obliged to ensure that risk assessments are carried out by "competent persons". Headteachers and other managers who are requested to undertake risk assessments should therefore ensure that they obtain all the necessary support outlined later in this document in order that they are "competent persons". If they do not, the risk assessments will not be valid.

Managers may consider that it is desirable to involve other members of staff, particularly where they have specific areas of expertise. For example, the schoolkeeper or premises manager might be consulted. Depending on who is undertaking the risk assessment, heads of department/subject might be involved only in such a consultative role. Managers cannot, however, require classroom teachers or non-teaching staff to undertake duties which do not form part of their contractual or professional obligations.

Managers should also bear in mind that all members of staff who are required to or who agree to take part in the risk assessment process should also be given support and training in the principles of risk assessment, otherwise they may not necessarily be fully competent in identifying risks to which attention should be given.

The Role of the Classroom Teacher

Classroom teachers who are not heads of department or subject cannot be required to undertake risk assessments under their conditions of service. The list of professional duties set out in the Pay and Conditions Document includes the "safeguarding of the health and safety of pupils", but this does not create any responsibility for preparing formal risk assessments.

Of course, many teachers carry out informal risk assessments every day by, for example, visually inspecting equipment before use and reporting any defects to the appropriate person. This is part of the normal work process. It also reflects the duty placed on all employees under the Health and Safety at Work etc Act 1974 to take reasonable care for their own health and safety and the health and safety of other persons who may be affected by their actions or omissions. This duty is, however, completely separate from the responsibility placed on employers to prepare formal risk assessments within the workplace.

Classroom teachers may nevertheless be prepared to contribute to risk assessments for the particular area in which they work, provided that they have received appropriate support and training in the principles of risk assessment. Their day to day knowledge of the area and processes involved will be valuable. Their involvement will also foster a sense of ownership of the process and, most importantly, will allow them an effective input on school health and safety matters. It is sensible, for example, for science staff to be involved in risk assessments for areas within their jurisdiction. Teachers should not, however, be involved in risk assessments in, for example, the school kitchen, the boiler room or in community facilities.

The Legal Implications of Involvement in Risk Assessment

Undertaking a risk assessment for a particular workplace does not mean that the person who undertakes it will be held liable for any accident which subsequently takes place in that workplace. This applies equally to those who contribute to the risk assessment process.

The principal responsibility for health and safety remains with the employer who would be likely to be held responsible for failure to institute safety measures recommended by the risk assessment or to carry out an adequate risk assessment. Any legal liability on the part of any individual who had contributed to a risk assessment for any injury sustained by another would depend on whether the injury directly resulted from that individual's negligence or failure to fulfil a duty of care. In addition, even where any individual might have any theoretical legal liability, it is still almost certain that the employer would be sued instead under the system of "vicarious liability".

Teachers should ensure that any risk assessment is "handed back" to the employer for adoption by the employer. This process of "handing back" will emphasise that the risk assessment is the employer's property and that any responsibility is also that of the employer.

How a Risk Assessment should be Undertaken

Risk assessment is simply a careful examination of the hazards in a workplace and an assessment of whether the particular hazard is likely to harm anyone and what precautions need to be taken.

The definitions of 'hazard' and 'risk' adopted by the HSE are helpful in understanding what is involved:

- Hazard means anything that has the potential to cause harm (e.g. chemicals, electricity, working from ladders etc);
- Risk is the likelihood, great or small, that someone will be harmed by the hazard.

The Health and Safety Executive has proposed a "five step approach" to risk assessment. The following sections outline how this five step approach would govern risk assessment in schools.

> **Look for hazards**

Hazards come in many forms. They are "anything that can cause harm" and can include substances, processes, the layout or structure or condition of premises, machines etc. In schools, they can even include pupils.

The important matter is that a wide-ranging examination is undertaken. A risk assessment which looked only at work procedures and processes might miss a hazard associated with, for example, a slippery surface on a staircase. It is better for a person undertaking a risk assessment to think creatively and look for all factors which might create a hazard, in order to include the widest range of possible hazards, than to leave something out.

> **Decide who might be harmed and how**

In schools, consideration must be given to the number of staff who might be harmed by a particular hazard and also to the number of pupils and visitors who might be harmed.

> **Evaluate the risks and decide whether existing precautions are adequate or whether more should be done**

"Risk" reflects a combination of the likelihood that a particular hazard will cause harm or injury and the likely severity of that harm or injury. The risk assessment process will assess the level of risk in the particular circumstances and identify the measures to be taken.

For example, a slippery floor surface is a hazard wherever it occurs. A slippery surface on a steep staircase is likely to cause injuries of a more severe nature than those caused by a slippery surface in a corridor. The risk assessment might therefore identify a greater level of risk from the staircase surface and propose significantly greater protective measures there. Where, however, the corridor was very busy and the staircase rarely used, the level of risk might nevertheless be greater in the corridor due to the likely greater frequency of injuries.

There are a number of methods of assessing levels of risk. Some risk assessment guidance involves mathematical calculations, which combine the likely frequency of harm or injury and the likely severity of harm or injury. The Appendix attached gives examples of the kind of guidance which might be encountered.

Once the risk has been evaluated, the employer should adopt a three-tier approach to instituting safety precautions:

- The first priority is to seek to remove the risk altogether by removing the hazard or discontinuing the hazardous process.
- Where this is not practicable or possible, the employer should, as a second priority, seek to reduce the risk by modifying the work processes involved and thereby making the activity less hazardous, reducing the number of people exposed, reducing the length of exposure etc.

- The third priority, only acceptable where none of the first two are feasible, is to institute appropriate protective measures such as providing protective equipment or isolating or drawing attention to the hazard.

> **Record the findings**

This is a legal requirement where there are 5 or more employees, but should always be a matter of course in schools due to the presence of pupils.

> **Review the assessment from time to time**

The requirement to review the risk assessment applies particularly when significant changes have taken place in schools which may have introduced new hazards.

Support Required by Head teachers and Teachers

In offering this advice and guidance on risk assessment, the NUT is not encouraging employers to ignore their responsibilities. The NUT will continue to press LEAs and other employers to provide full advice, guidance and training on risk assessment and to recognise that they retain statutory responsibility for the risk assessment process.

Where the task of undertaking risk assessments is delegated to school managers, the NUT believes that the following support should be provided.

> **Training**

As noted earlier, risk assessments must be undertaken by competent persons. Risk assessments undertaken by untrained or inadequately trained people are likely to be worthless and fail to discharge the employer's responsibility for risk assessment. They may even lead to additional hazards, whereas proper risk assessments may identify hazards previously hidden or unknown.

Headteachers, teachers and non-teaching staff therefore require quality training and guidance from LEAs on the principles of risk assessment and on how to assess risks in a systematic way. Without this, they will not know where or how to begin to assess risks in their school. LEAs should, of course, pay for this training and any supply cover required as a result.

> **Standard Risk Assessment forms**

Standard risk assessment forms, together with advice and examples of how to complete them, will be invaluable to anyone who is unsure of how to organise and present a risk assessment. They should be supplied by LEAs and should make the risk assessment process more manageable for schools.

> **“Model” or “Generic” Risk Assessments**

Most schools contain certain standard equipment and make use of it in much the same way. "Model" or "generic" risk assessments should be provided for work patterns, processes and equipment which are common to all schools in order to avoid duplication of work between schools. They also provide a quality standard and ensure a consistent approach.

Examples of areas where generic risk assessments may prove useful could include office accommodation, CDT rooms, gymnasia and science laboratories. Generic risk assessments are published by many LEAs and can also be found, for example, for science processes in CLEAPSS and Hazards publications and guidance.

Where generic risk assessments are provided, it may be that very little adaptation to the school's individual circumstances is needed. The need for such adaptation must, however, always be considered by those carrying out the risk assessment.

> **Monitoring and Funding**

Schools need reassurance that the way in which they have undertaken risk assessments is adequate. This can only be achieved if LEAs (or governing bodies where appropriate) monitor the whole process and are able to provide assistance when problems arise. LEAs also need to ensure that risk assessments are reviewed on a regular basis, and when changes in the workplace are introduced. Safety representatives have the right to copies of risk assessments undertaken in their schools and can play an important role in the monitoring process.

Funding should be provided to ensure that supply cover is available for teachers undergoing training in risk assessments. It is, of course, essential that risk assessments take place while the building is in use so that actual practice is observed.

The Role of the NUT School Safety Representative

The NUT safety representative's role in representing members is to seek to ensure that risk assessments have been properly carried out by the employer and that recommended control measures have been implemented.

Safety representatives should not allow their NUT role to become confused with the role which properly belongs to management. In particular, they should not be asked or agree to carry out risk assessments merely due to their health and safety knowledge. They should also refuse to take responsibility for training staff in undertaking risk assessments, since such a dual responsibility could lead to a conflict of interests.

Safety representatives are entitled to receive copies of risk assessments. They should be provided with copies of risk assessment forms and should always examine them carefully. In examining risk assessments, safety reps should particularly refer to their own inspection reports in order to ensure that points raised in their reports are also dealt with in the risk assessment. They should, however, bear in mind that merely because a risk assessment addresses their own points, it does not mean that it has necessarily assessed all significant risks in the school.

Safety representatives in grant-maintained or independent schools will need to be especially vigilant since their schools may not have access to LEA advice and support.

Where problems arise in relation to the risk assessment process, health and safety representatives or members should refer the matter either to their NUT division or association health and safety adviser or to their NUT Regional/Wales office.

Action Points for Safety Reps

Make sure that:

- your school has undertaken risk assessments in line with the guidance set out in this briefing note; and
- you receive copies of all risk assessments and examine them carefully, in particular to check that all known hazards have been identified and that any recommendations have been acted upon.

Appendix : Calculating Risk

The following are two examples of different tables setting out ways in which levels of risk may be calculated and the need for action prioritised under the risk assessment process.

<p><u>Consequences (C)</u></p> <p>The most probable result of an accident arising.</p>	<ul style="list-style-type: none"> * Multiple Fatalities - Damage over £500,000 * Fatality - Damage over £200,000 * Serious Injury (amputation, permanent disability) - Damage £5,000+ * Damage up to £5,000 * Minor cuts, bruises, bumps: minor damage; nuisances 	<p>50</p> <p>25</p> <p>15</p> <p>5</p> <p>1</p>
<p><u>Exposure (E)</u></p> <p>Frequency of use of facility, etc. and therefore frequency of potential hazard event.</p>	<ul style="list-style-type: none"> * Continuously (many times daily) * Frequently (approx daily) * Occasionally (once a month) * Unusually (once a year) * Rarely (has been known) * Remotely possible (has not been known) 	<p>10</p> <p>6</p> <p>3</p> <p>2</p> <p>1</p> <p>0.5</p>
<p><u>Probability (P)</u></p> <p>Likelihood of accident occurring.</p>	<ul style="list-style-type: none"> * Most likely * Quite possible, not unusual, say 50/50 chance * Would be unusual or a coincidence * Has never happened previously after years of exposure * Is practically impossible 	<p>10</p> <p>6</p> <p>3</p> <p>0.5</p> <p>0.1</p>
<p><u>FORMULA:</u></p> <p>CONSEQUENCES (C) X EXPOSURE (E) X PROBABILITY (P) = RISK</p>		

SEVERITY OF CONSEQUENCES

	HIGH	MEDIUM	LOW
HIGH	ACTION REQUIRED IMMEDIATELY		
MEDIUM		ACTION REQUIRED WHEN PRACTICABLE	
LOW			ACTION NOT REQUIRED

LIKELIHOOD OF ACCIDENT