



## **SAFETY NOTICE: GENERAL UK LEGISLATIVE REQUIREMENTS**

This is part of a letter from an Environmental Health Officer [acting as an agency of HSE] following a rope access accident which covers legislative issues of a general nature. It is circulated as an example to members as an indication of what would be expected following an incident.

The specific details of the accident are deleted. I can confirm that it is not our intention to undertake formal proceedings against your company in relation to this accident. This means that we will not prosecute your company – however a series of requirements have been made which you must comply with.

I should stress that these requirements were based on matters uncovered by the investigation. Whilst the majority of legislation is now available to view free at [www.opsi.gov.uk](http://www.opsi.gov.uk), you are advised to purchase a copy of the Management of Health and Safety at Work Regulations 1999 Approved Code of Practice which gives more advice and guidance on the application of the regulation. The ISBN is 0717624889 and is priced at £8.00.

### **1. Health and safety training**

#### **1.1 Senior management**

The Management of Health and Safety at Work regulations require employers to ensure that adequate health and safety training is provided within their organisation, and that this is repeated periodically.

It was noted that a substantial period of time had elapsed since those senior within the organisation undertook general health and safety training.

It is advisable to undertake formal training at least every five years, with shorter refresher training sessions taking place more frequently. As I have already indicated, you will need to review your provision of health and safety training to ensure that it is adequate.

This review must be completed, and the training undertaken by 1 October 2009.

The law relating to this manner is:

*Regulation 13 of the Management of Health and Safety at Work Regulations 1999*

### **2. Health and safety assistance**

It is a requirement of the Management of Health and Safety at Work Regulations that you appoint at least one person suitably competent in health and safety to assist you in addressing your health and safety arrangements. This person may be directly employed, or may be engaged as a contractor.

For the day-to-day issues within your business, a senior member of the organisation, duly trained as outlined above, will most likely suffice. For the more high risk elements of the work that you do, you may need to engage the services of a specialist unless you are confident of the competency within your business. Competency is defined as having sufficient training and experience or knowledge and other qualities as necessary to allow the rendering of proper assistance in respect of this matter.

Remote advisory services who have little interaction with the business, and who simply send updates on all health and safety legislation, not necessarily being limited to only applicable legislation, are unlikely to be deemed adequate in this respect.

The role and importance of the competent person should not be underestimated particularly in respect of auditing your arrangements.

You must ensure that you have complied with this requirement by 1 September 2009.

The law relating to this matter is:

*Regulation 7 of the Management of Health and Safety at Work Regulations 1999*

### **3. Health and safety monitoring and review**

There is a further requirement of the Management of Health and Safety at Work Regulations that you must make such proper arrangements as are necessary for the effective management of health and safety within your organisation. This is broken down to require you to plan, organise, control, monitor and review these preventative and protective measures.

In this circumstance it is important to consider the monitoring and review aspects. To quote from the Approved Code of Practice [ACOP]:

#### *'Monitoring*

*Employers should measure what they are doing to implement their health and safety policy, to assess how effectively they are controlling risk, and how well they are developing a positive health and safety culture. Monitoring includes:*

- (a) having a plan to make adequate routine inspections and checks to ensure that preventative and protective measures are in place and effective. Active monitoring reveals how effectively the health and safety management system is functioning;*
- (b) adequately investigating the immediate and underlying causes of incidents and accidents to ensure that remedial action is taken, lessons are learnt and longer term objectives are introduced.*

*In both cases it may be appropriate to record and analyse the results of monitoring activity, to identify any underlying themes or trends which may not be apparent from looking at events in isolation.*

#### *Review*

*Review involves:*

- (a) establishing priorities for necessary remedial action that were discovered as a result of monitoring to ensure that suitable action is taken in good time and is completed;*
- (b) periodically reviewing the whole of the health and safety management system including the elements of planning, organisation, control and monitoring to ensure that the whole system remains effective.'*

From (b) under monitoring onwards, I include this mainly for your information.

The part I particularly wish to focus on is clause (a) under monitoring 'a plan to make adequate routine inspections and checks to ensure that preventative and protective measures are in place and effective'. This statement requires employers to make spot checks on the manner in which their employees are working.

It is well known that people will be tempted to cut corners if it makes a job quicker and if they think that they can get away with it. 'Getting away with it' means not just the boss not

witnessing it, but also not being injured as a result. Where most people save time and effort is in relation to safety and to procedures. Unfortunately a majority of accidents do occur during these deviations from standard practice, and many people misjudge the likelihood of injury occurring.

Undertaking unannounced spot checks of staff, particularly remote working staff involved in high risk activities, can help to reduce the temptation of staff to cut corners, and ultimately therefore reduce the likelihood of accidents and injuries.

As is also mentioned in the ACOP, recording the findings of the monitoring can be useful for analysis – however this will also provide valuable evidence of your compliance with this requirement of the law.

You must make adequate provision for the proper monitoring of your health and safety arrangements by 1 September 2009.

The law relating to this matter is:

*Regulation 5 of the Management of Health and Safety at Work Regulations 1999*

#### **4. Planning work at height activities**

The Work at Height Regulations 2005 require that all work at height is properly planned.

In order to achieve this where your staff are peripatetic in their nature, it is essential to ensure that you liaise in advance of any works with building owners or managing agents to determine any site specific hazards at the premises, as well as the location of anchorage points and eye bolts for rope access and other functions. You will then need to take action to deal with the results of this interaction as necessary. For premises within the areas where you work which you currently undertake work at height activities, you will need to review your arrangements for the planning of work at height to ensure that these are adequate.

You must comply with these requirements by 1 August 2009.

The law relating to this matter is:

*Regulation 4 of the Work at Height Regulations 2005*

*Regulation 3(1) of the Management of Health and Safety at Work Regulations 1999*

30 August 2009