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# Carraig Safety Consultants

Safety Management

QQI Level 6

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# Health & Safety for Managers and Supervisors

Module 2

LEGISLATION & SAFETY MANAGEMENT SYSTEMS

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# Legislation

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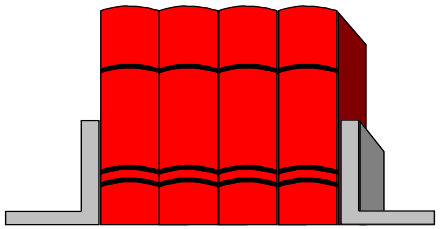
# Health & Safety for Managers / Supervisors

The Legal System :

Sources of Law



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# Health & Safety for Managers / Supervisors

**History of Irish Health & Safety Legislation**

Factories and Workshop Act, 1901

Factories Act 1955

Mines & Quarries Act 1965

Dangerous Substance Act 1972

Safety in Industry Acts 1955-1980

All covered only 20% of the working population

The Barrington Commission Report – Introduction of the **Safety Health and Welfare at Work Act 1989**

Covers all Workplaces

**Safety Health and Welfare at Work Act 2005**

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# Health & Safety Legislation

- Two central pieces of legislation
  - Safety Health and Welfare at Work Act 2005
  - Safety Health and Welfare at Work (General Applications) Regulations 2007

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# Civil and Criminal Law

- Civil law
  - Compensate victim for damages etc.
  - Initiated by person sustaining damage
  - Can insure against claims
- Criminal law
  - Intended to punish with, e.g. fines
    - imprisonment for up to 6 months in the District Court, with up to 2 years imprisonment and/or €3 million fine in the Circuit Court – on the spot fines
  - Initiated by State, e.g. HSA an Garda Siochana
  - Cannot insure against sanctions

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# Interaction - Civil & Criminal

- Illustrated by car injuring pedestrian
  - If driver to blame, Gardai may prosecute
- **Criminal law**
- If guilty, fine, ban, or imprisonment
  - Whether or not criminal prosecution
- Pedestrian may claim damages
- **Civil law**

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# Statute and Common Law

- **Statute law**, mainly criminal, written in
  - Acts
  - Regulations and Orders
  - Approved Codes of Practice
  - Guidance

- **Common law**, mainly civil, judges decide
- Written down if judgements recorded

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# Key Legal Phrases

- Will now look at meaning of
  - Reasonable care
  - Negligence
  - Vicarious liability
  - Contributory Negligence
  - Levels of duty

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# Reasonable Care

- We all have a common law duty of care
- Employers must:
  - Understand risks inherent in work
  - Protect against foreseeable injury etc.
- Normally discharged by provision of
  - Adequate materials, plant & premises
  - Systems of work, effective supervision
  - Competent staff

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# Negligence

- ***Negligence*** - plaintiff must show
  - Duty of care exists
  - Breach of that duty
  - Damage resulted from that breach
- Now extended to damage such as stress,
  - Northumberland CC, Fletcher Case – Supreme Court
- ***Vicarious liability*** - employer responsible for actions of employee

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# Common Law

***Contributory Negligence***

Where the employer is still found to be liable (negligent) for the loss, but the Judge has decided that the employee was also negligent and contributed to the accident

Only partial defense and damages reduced according to proportion of blame

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# Levels of Duty

- Three levels
  - Absolute
  - Practicable
  - Reasonably Practicable

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# Range of Legislation

- Large amount of detailed legislation
- Much of it specific to
  - An industry, e.g. railways, mines
  - A source of risk, e.g. pressure vessels
- You only have to deal with it if relevant
- Can check what is relevant from
  - List of current H&S legislation, and HSA

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# Pre 1989

- Only 20% of workforce covered
- Acts & Regulations □ “lists” of rules
- Comply rather than prevent

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# Barrington Commission

"Safety an integral part of the management process"

"Responsibility should rest with those who have power to make decisions"

"Function of Safety Officers is to provide advice & support"

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# The law in Ireland and the European Union and its implementation in the workplace

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# The History of Health & Safety Law in Ireland

- **1983**

  Commission of Inquiry on Safety, Health and Welfare at Work - (Barrington Report).
- **1989**

  The Safety, Health and Welfare at Work Act – 01.11.1989
- **1993**

  The Safety, Health and Welfare at Work (General Application) Regulations - 01.09.1993
- **2005**

  The Safety, Health & Welfare at Work Act 2005 – 01.09.2005
- **2007**

  The Safety, Health & Welfare at Work (General Application) – 01.11.2007.

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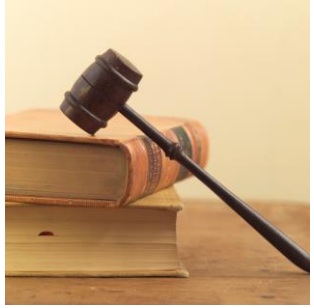
# Background to the Safety, Health & Welfare at Work Act 1989

- The Safety, Health & Welfare at Work Act 1989 was a radical piece of legislation applying modern concepts to Health and Safety in Ireland – as with all health and safety law its primary aim was the prevention of accidents and ill health.
- It was a framework act which for the first time covered all persons in their place of employment as previous legislation such as the Factories Act 1955 was specific to industry.
- It established general duties on employers and employees for the first time
- It required employers to prepare a Safety Statement as a method of managing their health and safety
- It established the National Authority for Occupational Safety and Health – (renamed as the Health & Safety Authority under the 2005 Act)



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# The Safety, Health & Welfare at Work Act 2005

*"Safety is something that happens between your ears, not something that you hold in your hands"*

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## Main Provisions of the Safety, Health & Welfare at Work Act 2005 - Part I

- The Directors of any undertaking (Commercial or Not For Profit) or similar officers of the corporate body will be held **personally liable** if they are found to have contributed to an offence by authorising breaches of health and safety law, by neglect or by connivance*
- *The onus of proof will be on these people to prove a measure was not reasonable or practical to implement*
- Maximum fine €3 million and/or imprisonment up to 2 years – Circuit Court Level
- At District Court the penalties on conviction are €3000 / 6 months imprisonment or both.
- On the spot fines by H.S.A. Inspectors for both employees and employers €100 to €1000

*Ref: Section 80.0 & 80.1 – SHWAWA 2005*

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# Main Provisions of the Safety, Health & Welfare at Work Act 2005

- Employees must not be under the influence of an intoxicant. Employees may be subject to testing.
- *Carraig Safety recommend a Pre Employment Medical Check is carried out on all potential employees*
- The HSA compile a list of all legal actions and publish it at www.hsa.ie – for example * (currently listed on the website.)

DRUGS & ALCOHOL ...in the workplace

## Hodgins Architectural Facades Ltd

On the 14th of November 2011, sentencing was handed down in Galway Circuit Court. Hodgins Architectural Facades Ltd pleaded guilty to one charge. Hodgins Architectural Facades Ltd was appointed PSCS for the removal and replacement of windows at Scoil Chuimsitheach Chiarain, Carraroe, Co. Galway. During this work the presence of asbestos panels behind the windows was discovered. Asbestos panels were not stored properly and as a result, the rear school yard became contaminated with asbestos debris.

| Contravention | Legislation | Verdict | Fine |
|---|---|---|---|
| Section 12 contrary to Section 77(2)(a) | Safety, Health & Welfare at Work Act, 2005 | Guilty Plea entered | €10,000 |

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HEALTH AND SAFETY AUTHORITY

The Authority responsible for the promotion and development of Health and Safety in Ireland

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# The Health & Safety Authority

- The Health & Safety Authority - established under the Safety, Health & Welfare at Work Act 1989 - to promote health and safety in the Irish workplace.
- The H.S.A. reports to the Minister for Enterprise, Trade & Employment
- Health & Safety Authority, The Metropolitan Building, James Joyce Street, Dublin 1
- Ph: 01 662 0400 / Fax: 01 662 0417 / E Mail: info@hsa.ie / Website: www.hsa.ie or Workplace Contact Unit – Lo Call 1890 289 389

HEALTH AND SAFETY AUTHORITY

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HEALTH AND SAFETY AUTHORITY

# Strategic Goals

The six strategic goals for the Health and Safety Authority are:

1. Raise the level of general awareness of occupational safety, health and welfare in the workplace among employers, employees and society in general.
2. Target the workers and managers of the future by fostering a culture of safety through early and continued interventions in the education and training systems.
3. Make relevant specific information and guidance easily available to those who manage and promote workplace safety in all sectors and assist them to achieve their targets.
4. Enforce occupational safety, health and welfare legislation through targeted and prioritised inspections and through legal action where necessary.
5. Develop a research programme on current, emerging and future high risk areas in workplace safety, health and welfare which will inform all our actions.
6. Ensure that the Authority, its staff, resources and facilities deliver on our corporate goals in line with best practice and value for money.

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# Inspections by the Health & Safety Authority

HEALTH AND SAFETY AUTHORITY

Inspectors of the HSA carry out reactive and pro-active inspections of workplaces. Reactive inspections may arise following an accident, incident or complaint. Pro-active inspections may be routine or targeted.

Inspectors carry out inspections for three main reasons:

- Monitoring
- Promoting
- Enforcing

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# Actions taken by Inspectors

An Inspector of the Health and Safety Authority to take actions where statutory contraventions are observed or where there is a risk of serious personal injury. There are two main Notices that can be issued by an Inspector:

**Improvement Notice**
It is an inspectors opinion that a duty holder has contravened a provision of an Act or Regulation, and requiring that the contravention be addressed within a certain time period. A reply must be submitted to the H.S.A. in an approved format.

**Prohibition Notice**
An inspector is of the opinion that an activity is likely to involve a risk of serious personal injury to any person. The Inspector has the right to close down all operations through legal proceedings or "voluntary closure".

*An inspector may apply 'ex-parte' to the High Court to seek an interlocutory Order under Section 71 of the Safety, Health and Welfare at Work Act 2005 to restrict or prohibit work activities at part or all of a workplace.*

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HEALTH AND SAFETY AUTHORITY

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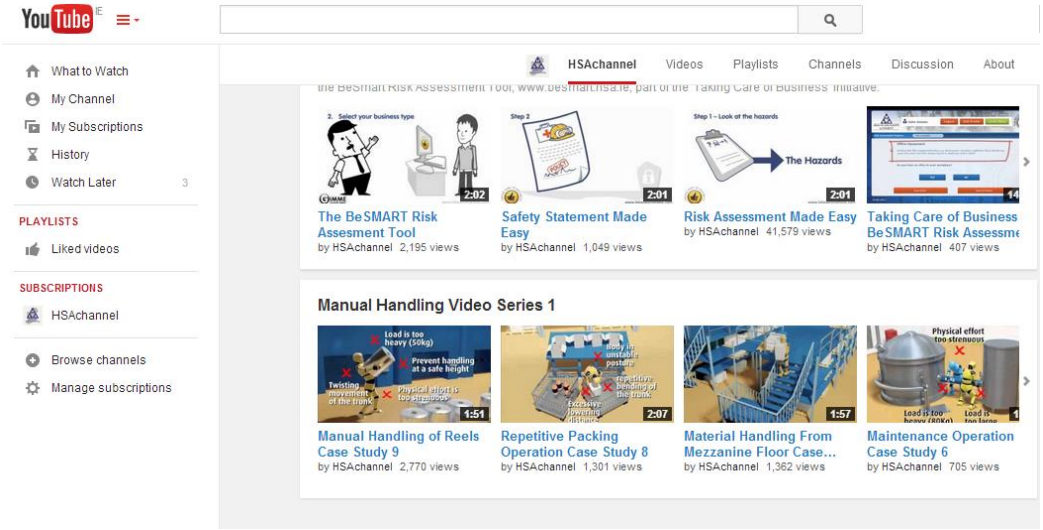
# 3 x Educational Resources from the H.S.A.

hsalearning.ie
HSA Online Courses

BeSMART.ie



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# THE RESPONSIBILITIES OF AN EMPLOYER AS DIRECTED BY THE SAFETY, HEALTH & WELFARE AT WORK ACT 2005 – SECTION 8

The responsibility of an employer is to deliver Behaviour Based Safety which is a process that creates a safety partnership between management and employees that continually focuses people's attentions and actions on theirs, and others, daily safety behaviour.

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## The Legal Responsibilities of an Employer – Part I

To ensure the safety, health and welfare of staff an employer must:

- Manage and conduct work activities in a planned and structured manner
  *e.g, this requires planning of work activities to protect all stakeholders.*
- Prevent improper conduct and behavior in the workplace
  *e.g. prevention of physical trick acting and behavior such as bullying or harassment .*
- Design, provide and maintain a safe place of work that has access and egress and that uses plant and equipment that is safe and without risk to health
  *e.g. the maintenance of emergency plans including fire drills/ machinery inspection and certification records e.g. Lifts*

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# The Legal Responsibilities of an Employer – Part 2

To ensure the safety, health and welfare of staff an employer must:

- Plan, organise, maintain and revise systems of work according to need and demand – *e.g. this involves a structured and planned approach to activities and reviews where necessary.*
- Prevent risks to staff from the use of any articles or substances and from noise, vibration, radiation or any other physical agent.
  *e.g. Chemical MSDS (Material Safety Data Sheets) must be available to provide information to employees on correct handling procedures*

HEALTH AND SAFETY AUTHORITY

REACH
REGISTRATION, EVALUATION AND AUTHORISATION OF CHEMICALS

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# The Legal Responsibilities of an Employer – Part 3

To ensure the safety, health and welfare of staff an employer must:

- Provide and maintain adequate welfare facilities – *e.g. toilets, canteen and rest areas*
- Inform, instruct, train and supervise staff – *the provision of training is critical.*
- Maintain records of such training and supervision – *these records can be used as a demonstration of the duty of care*
- Report to the H.S.A. any notifiable accidents and diseases and dangerous occurrences- *Any accident or incident which results in an employee being absent or sick for more than three (3) calendar days* ***or*** *any injury to a member of the public requiring medical treatment by a doctor must be reported to the H.S.A. – Forms IR1 or IR3*

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# The Legal Responsibilities of an Employer – Part 5

To ensure the safety, health and welfare of staff an employer must:

- Provide and maintain suitable personal protective clothing and equipment – *staff may be disciplined for not wearing PPE*
- Prepare and revise emergency plans and measures to be taken where there is an emergency or a risk of serious or imminent danger - *It is recommended that a Crisis Management Plan is in place*

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# The Legal Responsibilities of an Employer – Part 6

To ensure the safety, health and welfare of staff an employer must:

- Obtain where necessary the services of a competent person for ensuring the safety, health and welfare of their staff
- *A **competent** person is deemed to be a person with a combination of skill, knowledge and experience of health and safety management*

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Safetymatters

# THE RESPONSIBILITIES OF EMPLOYEES AS DIRECTED BY THE SAFETY, HEALTH & WELFARE AT WORK ACT 2005 SECTION 13

Organisations with a positive safety culture are characterised by communications founded on mutual trust, by shared perceptions of the importance of safety and by confidence in the efficacy of preventive measures.

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# The Legal Responsibilities of Employees 2005 – Part I

**Employees** must

- Comply with health and safety legislation to protect their own safety, health and welfare and that of others who may be affected by their acts.

*Failure to comply may indicate negligence on the behalf of an employee*

- Ensure they are not under the influence of an intoxicant and submit to any appropriate, reasonable and proportionate tests for intoxicants. *The testing of employees is case specific and covered by contractual arrangements.*
- Co-operate with their employer and any other person (*e.g. safety reps / consultants*) to enable them to comply with safety and health legislation.

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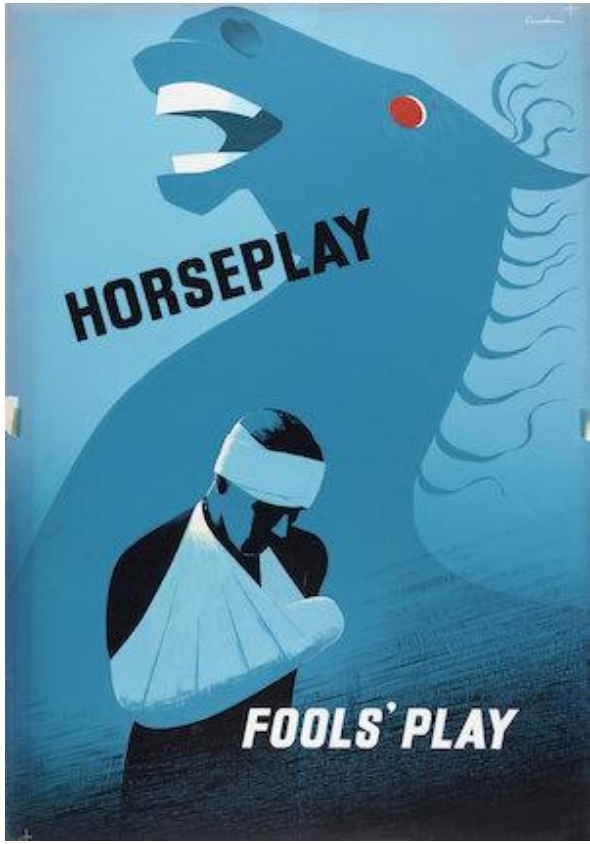
# The Legal Responsibilities of Employees – Part 2

Employees must

- Not engage in improper conduct or other behavior, such as horseplay, that is likely to endanger their own safety, health or welfare or that of any other persons;
- Attend training and undergo assessment of the training required by their employer or that is required by safety and health legislation;



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# The Legal Responsibilities of Employees – Part 3

Employees must ~

- Make correct use of any article or substance provided for the protection of their safety and health including any personal protective equipment;
- Report any defects in plant, article, substance or systems of work that poses a threat;

*The format for the reporting of defects should be agreed and communicated to staff – the "good catch" philosophy should become part of the work culture.*

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## Provisions of the Corporate Manslaughter Act 2016(?)

- Senior managers in companies found guilty of causing the death of employees through negligence could face prison sentences under a new law being planned by the Government
- Two new criminal offences **'Corporate Manslaughter'** and '**Grossly Negligent Management Causing Death'** are set to be introduced under a Bill being prepared by the Department of Justice following approval by the Government.
- The '**Corporate Manslaughter**' offence will provide for criminal liability for corporate fatalities to be attributed to the corporate entity and could result in monetary penalties being applied.
- The '**Grossly Negligent Management Causing Death**' offence will provide for criminal liability to be attributed to an individual serving in a senior managerial role within a company and could result in a prison sentence for a person found guilty of the offence.

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# Additional Resources

- H.S.A. – Guidance Document for Hotels, Restaurants and Bars

  *H.S.A. Publication is included in the Training Programme Note*
- "Guidance for Directors and Senior Managers on their Responsibilities for Workplace Safety and Health"

  *H.S.A. Publication is included in the Training Programme Notes*
- "Leading Health & Safety"

  *A Guide from the British Institute of Directors and the Health & Safety Executive in the UK is included in the Training Programme Notes*
- Occupational Health & Safety Act 2005

  *A full copy of the OHS Act 2005 is included in the Training Programme Notes*
- Guide to the Safety, Health and Welfare at Work Act 2005

  *H.S.A. Publication is on included in the Training Programme Notes*
- Safety Toolkit and Short Guide to General Application Regulations 2007 Small Business Edition *is available to download at the H.S.A. Website – www.hsa.ie*

*These documents are in PDF Format – download a PDF Reader from this website:*

*www.adobe.com/products/reader*

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# Managing Health & Safety

- Manage & conduct work activities to ensure the Safety, Health & Welfare at Work of his/her employees
- Manage & conduct work activities to prevent any improper conduct/behaviour likely to put the Safety, Health & Welfare at Work of his/her employees at risk
- Accident prevention – risk assessment
- Application of management principles
- Safety Management System – Safety Statement
- Consultation

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# General Principles of Prevention

- **Avoid risk**
- **Evaluate unavoidable risks**
- **Combat risk at source**
- **Adapt work to the individual**
- **Adapt to technological progress**
- **Replace dangerous with safe/less dangerous**
- **Develop a policy (technology, organisation of work, working conditions, social Factors & the influence of the overall working environment)**
- **Give collective measures priority over individual ones**
- **Provide appropriate training & instruction**
  - Schedule 3 SHWW Act 2005

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# Key Sections

- Section 12 - Duty to Non employees
- Section 15 - Duty concerned with places of work to persons other than employees
- Section 20 - Health & Safety Policy
- Section 25 - Safety representatives
- Section 25 (4) - Co-operation with representatives

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# Regulations – Detailed Health & Safety Rules

Under 1989/2005 Act includes:

- SHWW (General Application) Regulations 2007
- SHWW (Chemical Agents) Regulations 2001
- SHWW (Pregnant Employees etc.) Regulations 2000
- SHWW (Construction) Regulations 2006
- SHWW (Misc. Welfare Provisions) Regulations 1995
- SHWW (Confined Spaces) Regulations 2001

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# General Applications Regulations

- Part 2
  - Chapter 1 Workplace
  - Chapter 2 Use of Work Equipment
  - Chapter 3 PPE
  - Chapter 4 Manual Handling
  - Chapter 5 DSE

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# General Applications Regulations

- Part 3 Electricity
- Part 4 Work At Height
- Part 5 Physical Agents
  - Chapter 1 Control of Noise
  - Chapter 2 Control of Vibrations
- Part 6 Sensitive Risk Groups
  - Chapter 1 Protection of Children and Young Persons
  - Protection of Pregnant Employees
  - Night and Shift Work

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# General Applications Regulations

- Part 6 Safety Signs and First Aid
  - Chapter 1 Safety Signs at Places of Work
  - First-Aid
- Part 8 Explosive Atmospheres

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# Other Legislation

- Organisation of Work Time Act 1997
- Fire Services Act 1981
- Mines & Quarries Act 1965
- Dangerous Substances Act 1972
- Offshore Installation Act 1987
- Radiological Protection Act 1991

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# Technical Standards

- **Approved Codes of Practice (ACoPs)**
  Health & Safety Authority
  Practical information on compliance
  Failure to comply with ACoP = non-compliance with statutory regulation

- **Irish Standards**
  National Standards Authority of Ireland (NSAI)
  Technical safety standards for wide variety of products
  Indicates ‘best practice’

- **EC/EU Technical Standards**
  Agreed Directives which lay down technical standards
  2 areas
  - chemicals
  - machinery & other manufactured products

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# Enforcement

- HSA Inspectors
- Provide advice as well as enforcing law
- Wide powers including right to:
  - Enter  premises
  - Examine premises, equipment, etc
  - Order premises left undisturbed
  - Seize or render harmless any article
  - Require any person to give help

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# Other enforcement powers

- Inspectors can issue three types of notice
  - Improvement Notice
  - Improvement Direction
  - Prohibition Notice
- Section 39 Injunction
- Now look at range of safety legislation

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# Safety Management Systems

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# Health & Safety Management Systems

**On completion of this session, participants will be able to:**

- **list the components of a health & safety management system & explain their interrelationship**
- **describe the role of each of the components in achieving a healthy & safe workplace**
- **critically evaluate their own safety management system**

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# Safety Management Systems

- Various management systems
  - E.g. Quality – IS EN ISO 9001:2000
  - Environment – IS EN ISO 14001
  - Health & Safety – IS EN ISO 18001
- We will look in more detail at SMS
- Use “Successful H&S Management”
  - Commonly known as HSG 65

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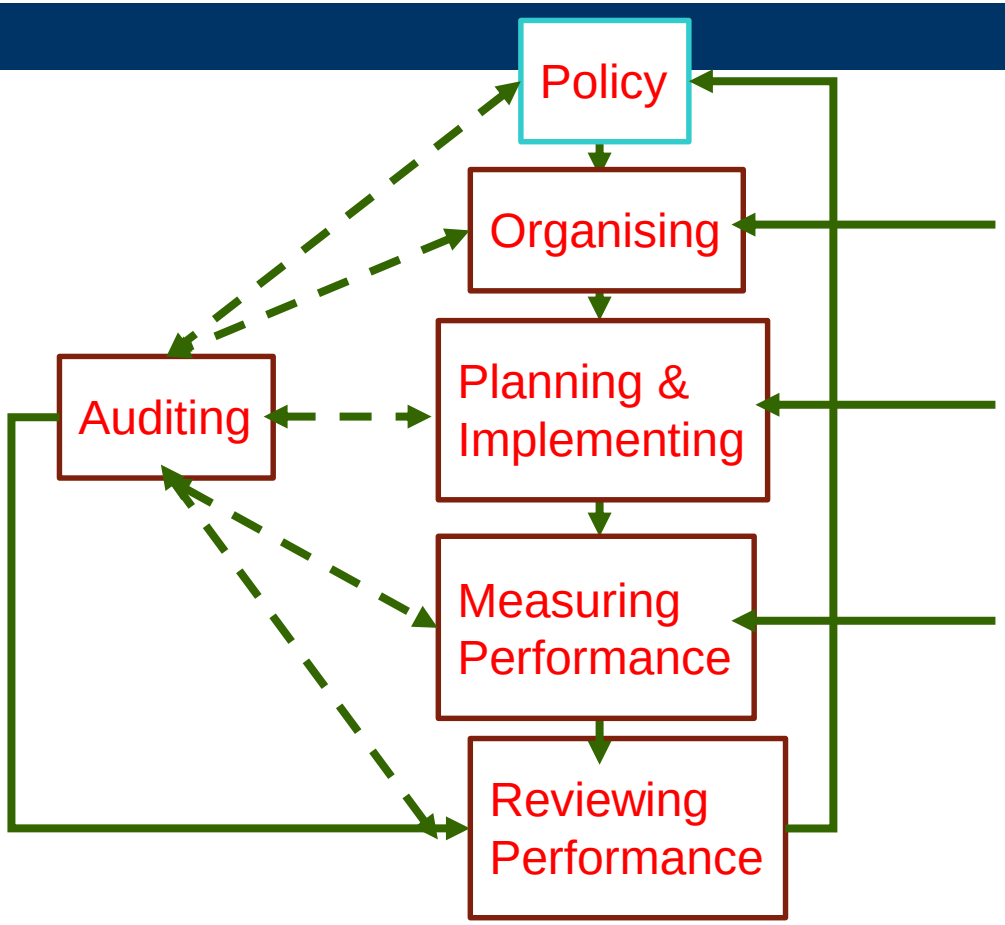
# Health & Safety Management






HS(G) 65

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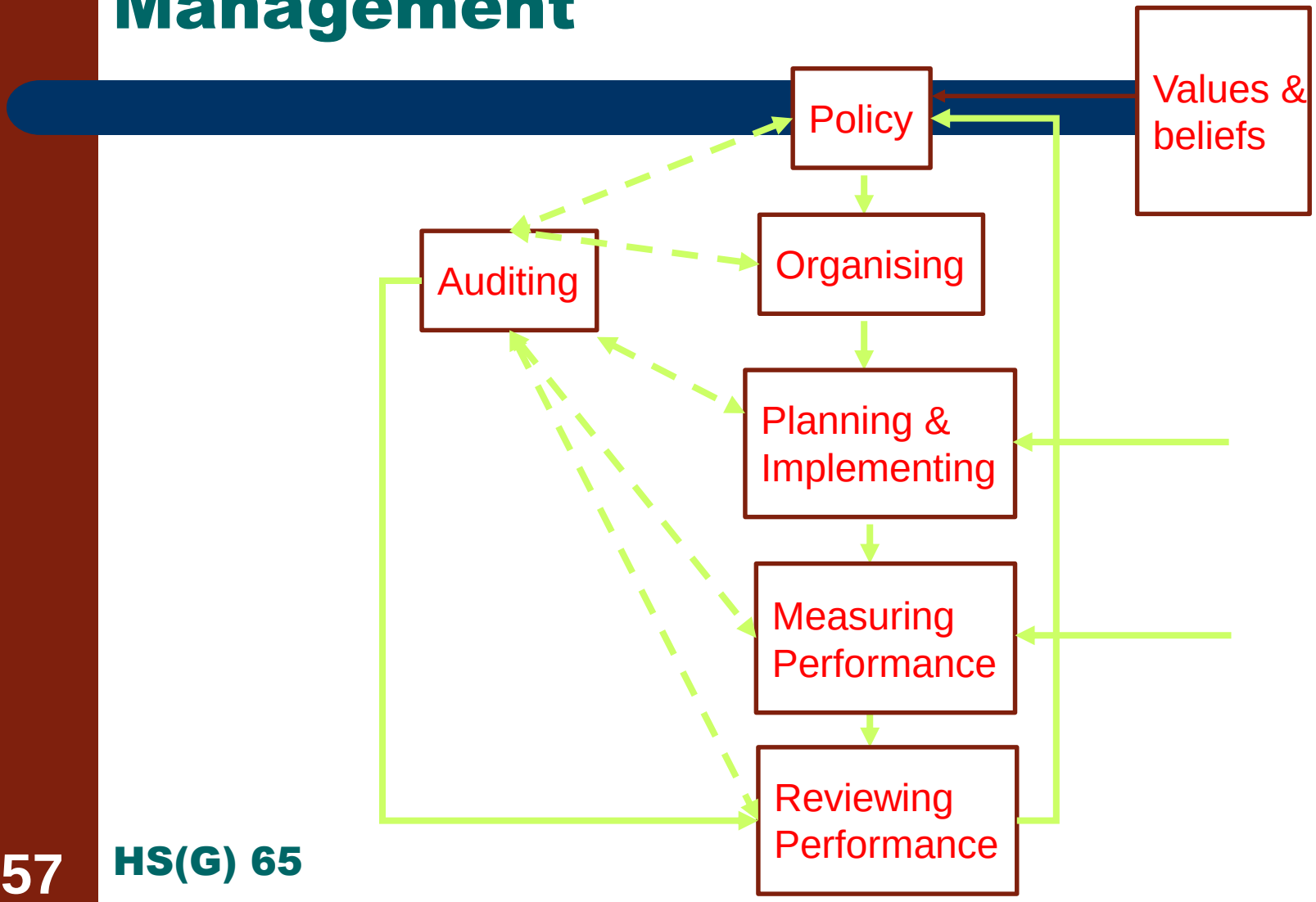
# Health & Safety Management




HS(G) 65

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# A Safety Statement is:

- The employer’s safety management system in writing

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# Policy – Safety Statement

- *Your Safety Statement*
- *Must cover*
  - What
  - Who
  - How
- Foundation of SMS - know content
- Review as designated in section 19 of SHWW Act 2005
- Ensure Statement is read by your staff

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# Safety Statement

| | |
|---|---|
| Policy Statement | Signed by General Manager |
| General Safety Management Arrangements | Describes safety system |
| Hazard Management | General hazards & controls<br>Specific hazards & controls |
| Appendices | |

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# A Safety Statement must:

- Specify how health & safety will be secured
- Be based on a systematic risk assessment
- Incorporate written risk assessments, which must be periodically evaluated & revised
- Identify arrangements, resources & level of co-operation
- Specify names of key individuals

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# A Safety Statement must be:

- integrated into on-going activities
- reported on in the Directors' Report of Public companies (s158 companies act 1963)
- communicated to everyone in the workplace
- revised at the direction of HSA inspectors

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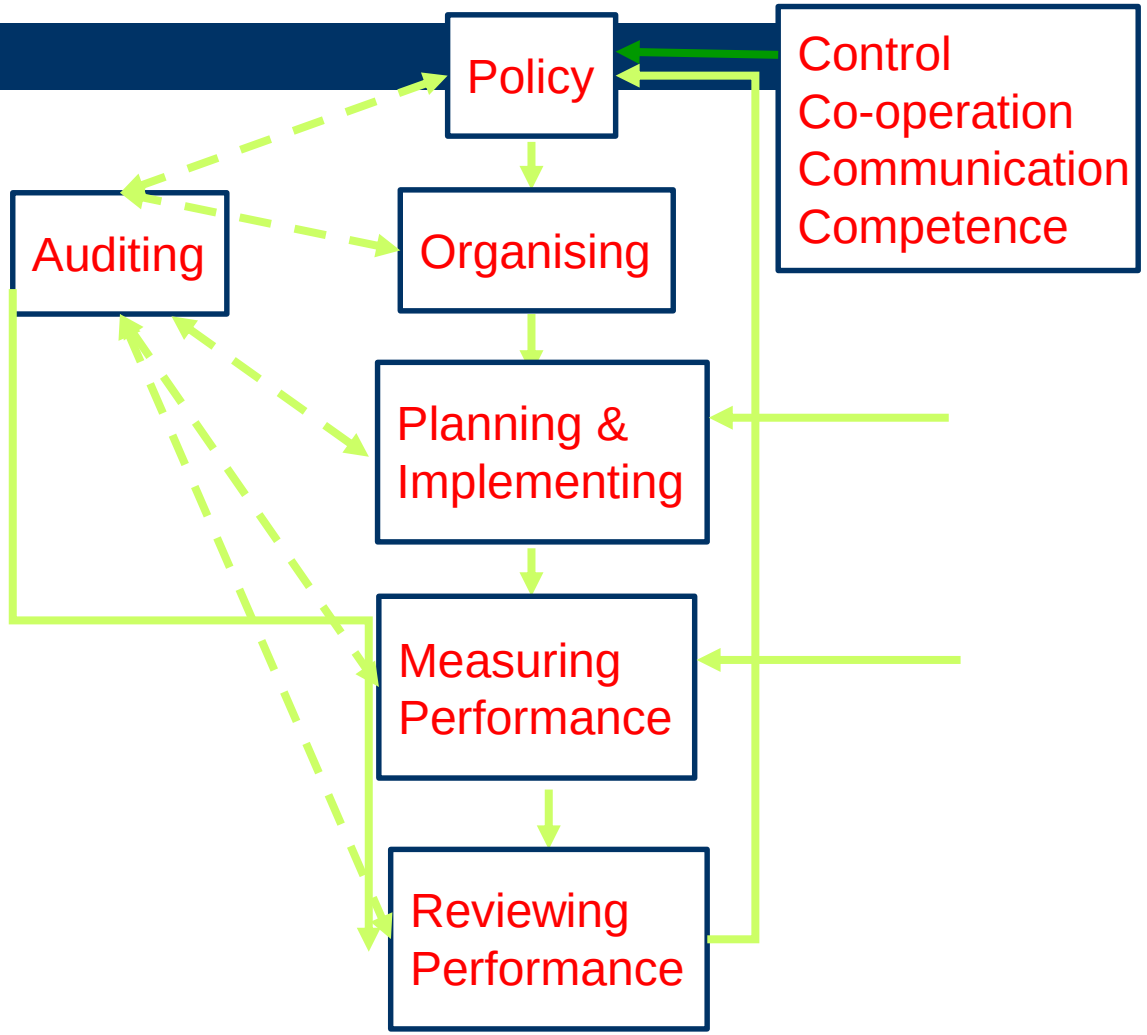
# Health & Safety Management




HS(G) 65

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# Organising for Health & Safety

Define the responsibilities & relationships which promote a positive health and safety culture.

- Split into four sections, four Cs
  - Co-operation
  - Communication
  - Control
  - Competence

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# Co-operation

- Consult …. not just inform
- Actively promote involvement
- Required by legislation

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# Co-operation

- Safety is everybody's business
- Co-operation on everything - especially
  - Hazard identification
  - Use of workplace precautions
- True co-operation means consultation
- Good practice and legal requirement
- Raise safety issues

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# Communication

- No co-operation without communication
- Informal communication on safety
  - e.g. hazards, workplace precautions
- Also need formal communications
- Role of  Safety Representatives and Safety committees
- *Matters requiring communication?*

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# Consultation - Safety Representatives

- Members of workforce who volunteer
- Normally chosen by colleagues
  - Entitled to time off for training etc.
  - Activities - inspections, investigations
- Can deal with unresolved issues
- Being representative good way to learn

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# Safety Committees

- Good practice
- *Main purposes*
  - Monitor safety performance
  - Suggest remedial action
  - Ways of improving SMS
- *Find out about work of committee*
  - Read minutes
  - Talk to committee member

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# Management Aspects of Communication

- Communicate on safety matters
  - Ask questions
  - Pass on information
- Facilitate work of
  - Safety representatives
  - Safety committees

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# Control

- Law requires employers to control safety
  - Managers, supervisors responsible
- Law can be broken by
  - You, e.g. not wearing PPE
  - Supervisor letting you get away with it
- Do not ignore safety arrangements
  - You will be breaking the law

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# Control by Management

- Important management issue
- Legal obligations and good practice
- Safety often treated differently
  - *What are control problems?(281)*
  - *How are they solved for other issues?*
- Now look at last of 4 Cs

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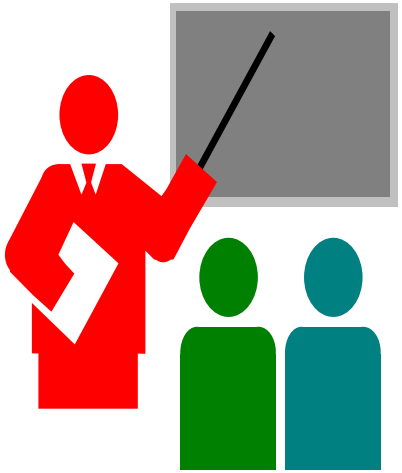
# Competence

- Skill
- Knowledge
- Aptitude & Ability
- Training
- Experience



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# Competence

- Definition of Competence
- ‘….a person is deemed to be a competent person where, having regard to the task he/she is required to perform and taking account of the size or hazards (or both) of the undertaking or establishment...person possesses sufficient training, experience and knowledge appropriate to the nature of the work undertaken
- Section 2(2) Safety, Health & Welfare at work Act 2005

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# Information, Instruction etc.

- Provision of information required by various regulations e.g. chemicals, noise
- General requirement if employees at risk
- To be provided *' in a language that is reasonably likely to be understood by employees'*
- Training shall be provided to employees
    - On recruitment
    - In the event of transfer/change of task
    - On introduction of new equipment, system of work or changes in current arrangement
    - On introduction of new technology

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# Safety Signs

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# Management Competence

- Having knowledge and skills you need
  - *What knowledge do you need?*
  - *What skills do you need?*

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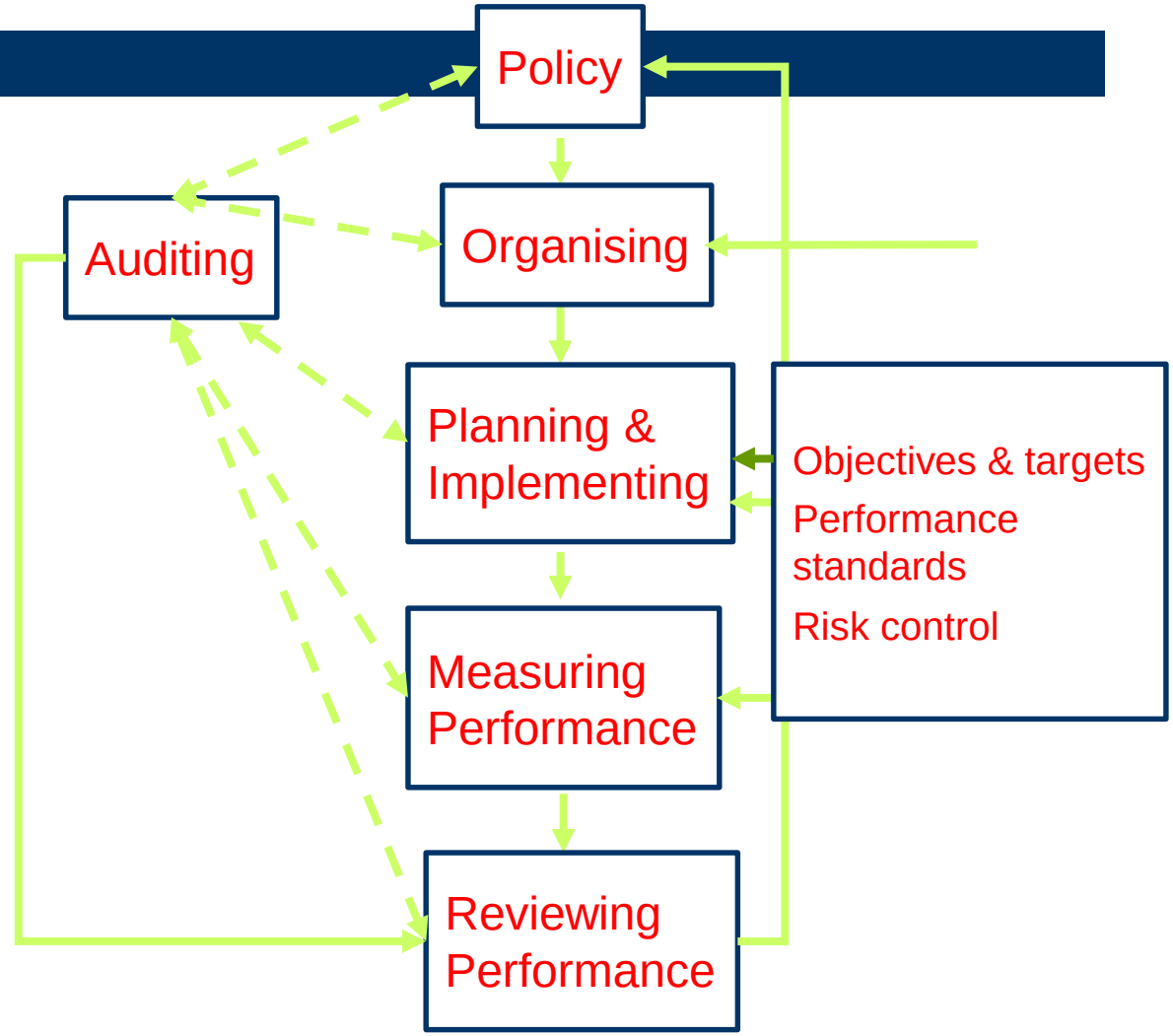
# Health & Safety Management




HS(G) 65

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# Performance Standards

- Identify & clarify the contribution people at all levels in the organisation.
- Incorporate in operating of the health & safety system.

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# Planning and Implementing

- Important management tool
- Safety planning need not be onerous
- Use work already being done
  - Risk assessment
  - Active monitoring

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# Planning and Implementing

- Detailed techniques in BS 8800
  - BS8800 is essentially a guide to occupational health and safety management systems. It was last published in July 2004 (ISBN 0580439879), and is intended to assist in developing a framework for managing OHS.
  - It explains how the various elements in developing a OH&S management system can be tackled and integrated into day-to-day management arrangements, and how the system can be maintained as OH&S evolves, responding to internal and external influences.

- Implementing - see Common Hazards

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# Health & Safety Objectives

- **S**pecific
- **M**easurable
- **A**greed
- **R**ealistic
- **T**imescale

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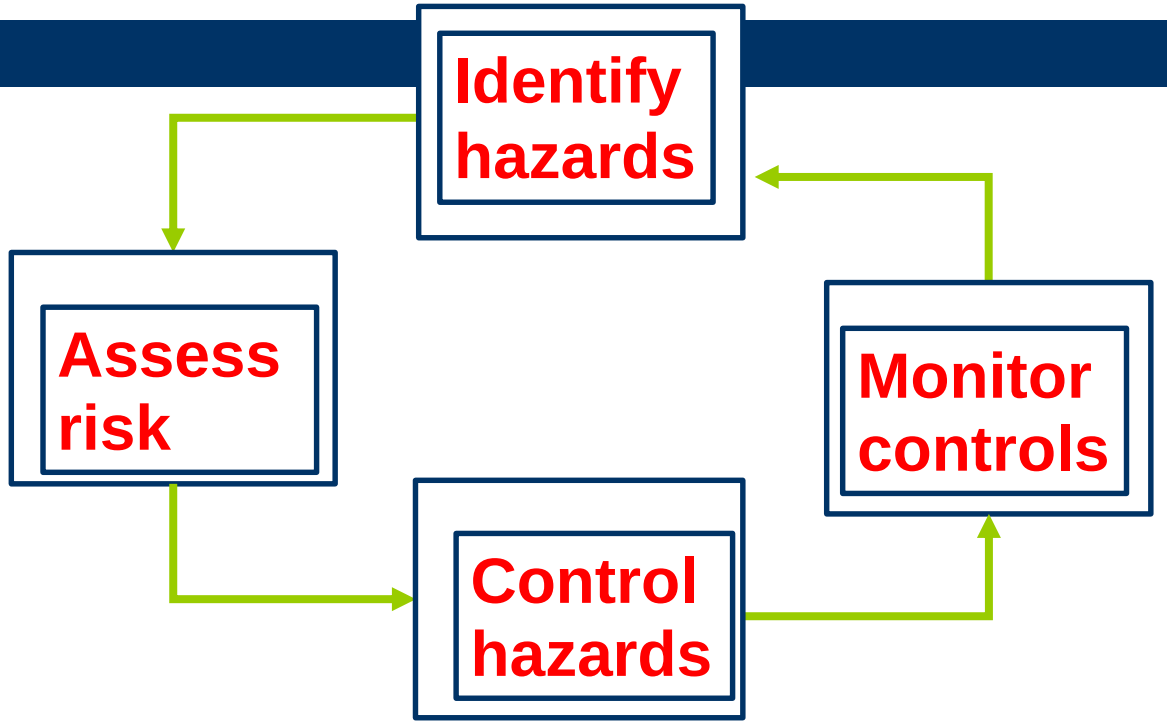
# Risk Control



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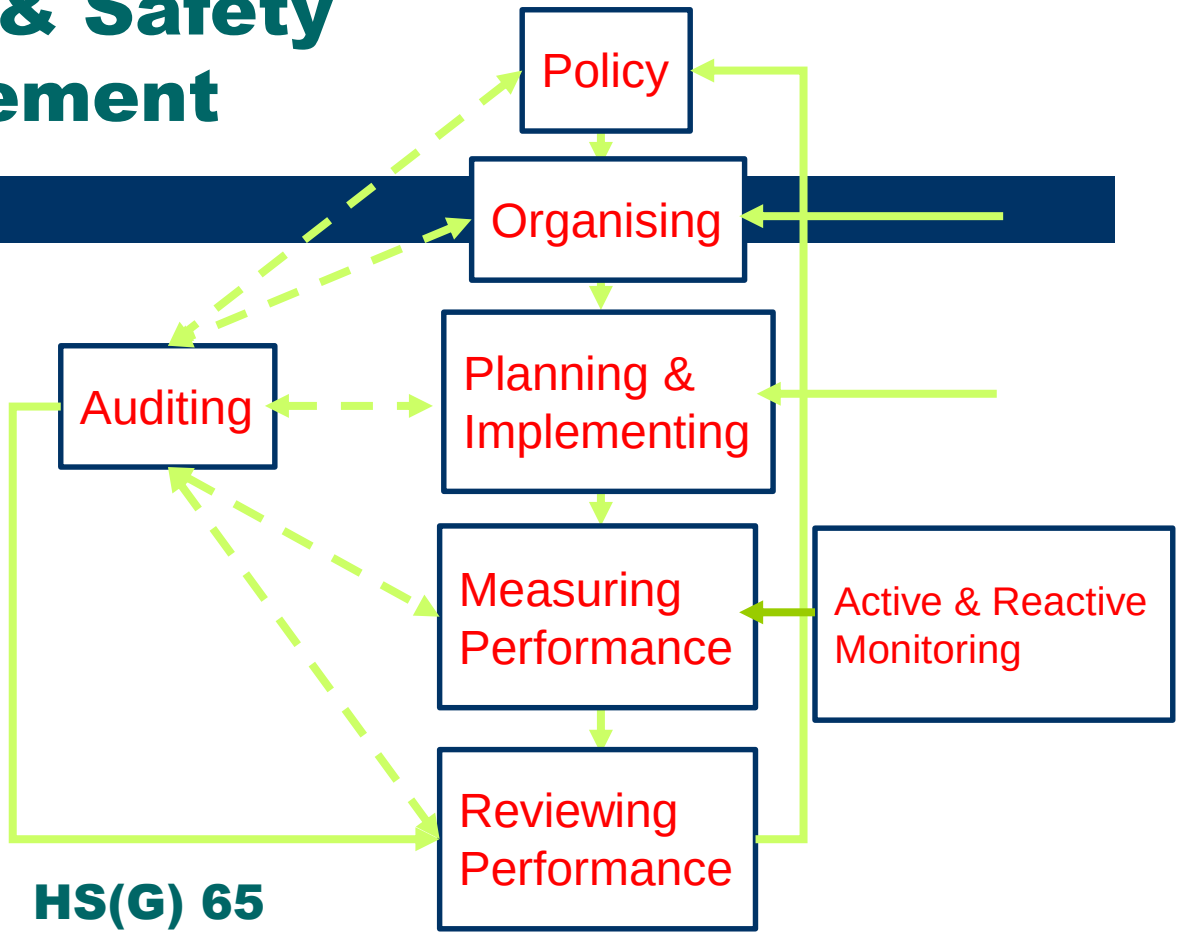
# Health & Safety Management

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# Monitoring

## Active

- Inspection
- Monitoring
- Auditing

## Reactive

- Absence/Illness
- Reporting & Monitoring
- Accident/Incident
- Reporting & Investigation

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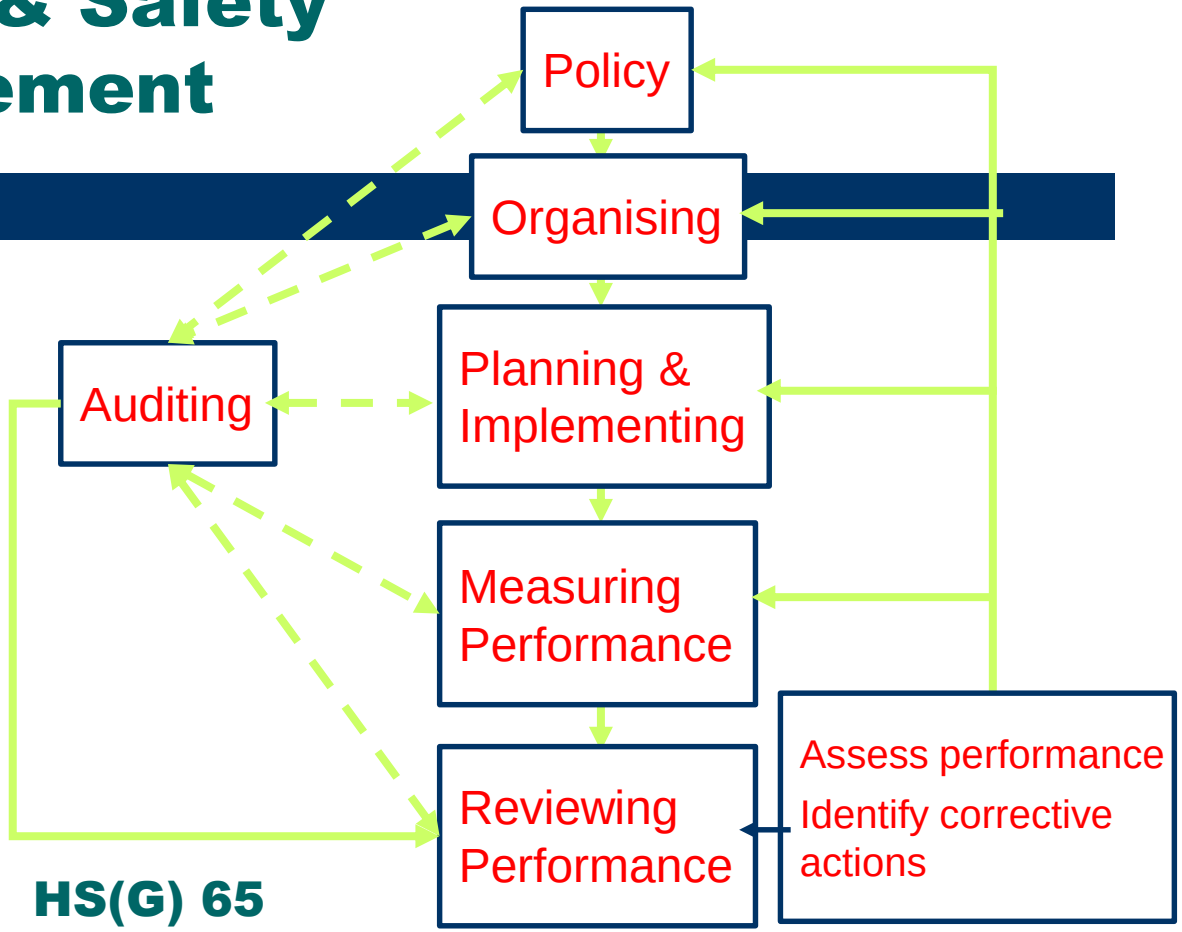
# Health & Safety Management

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# Review and Audit

- Review enables learning by experience
  - Conduct regularly
  - Integrate with management review
  - Or safety on quarterly basis
- Audit
  - Systematic, independent view
  - Cannot audit own performance

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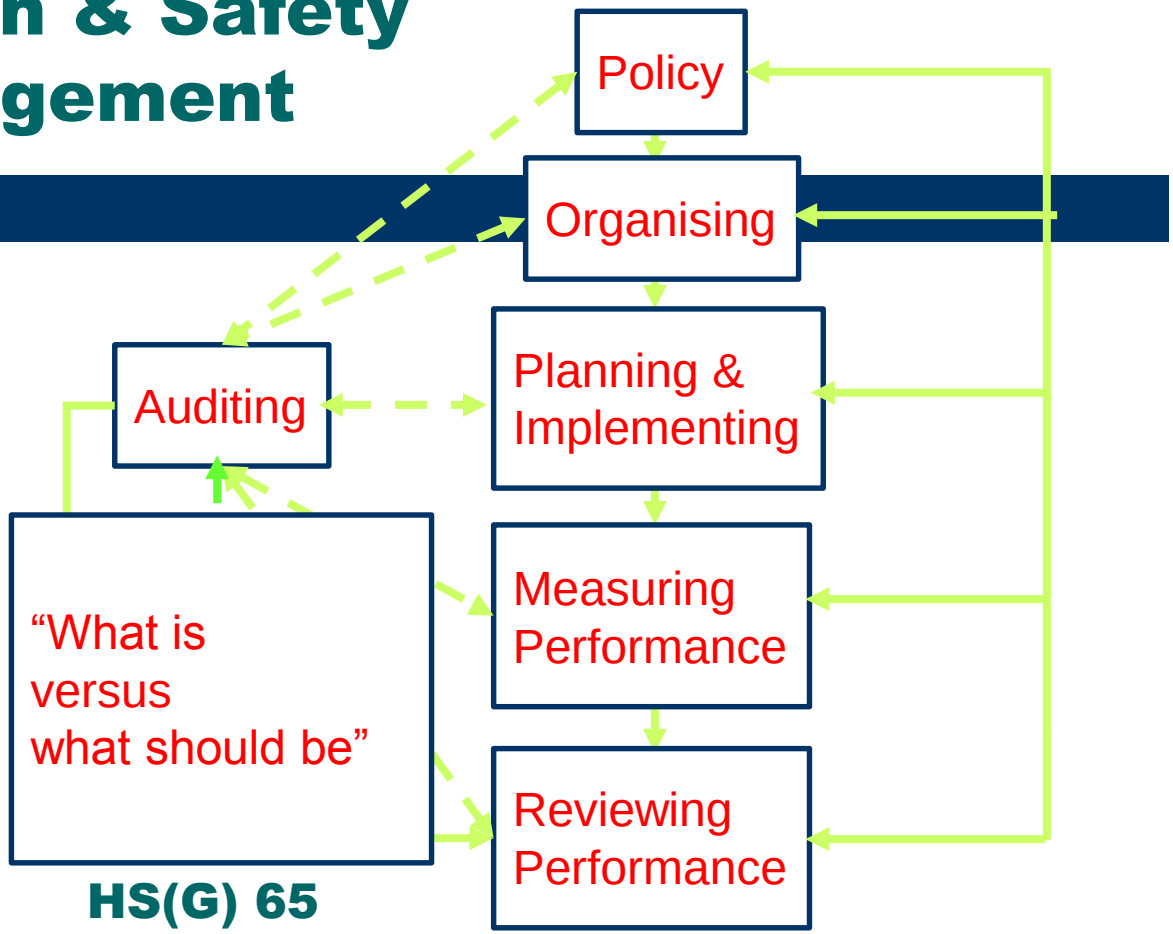
# Health & Safety Management

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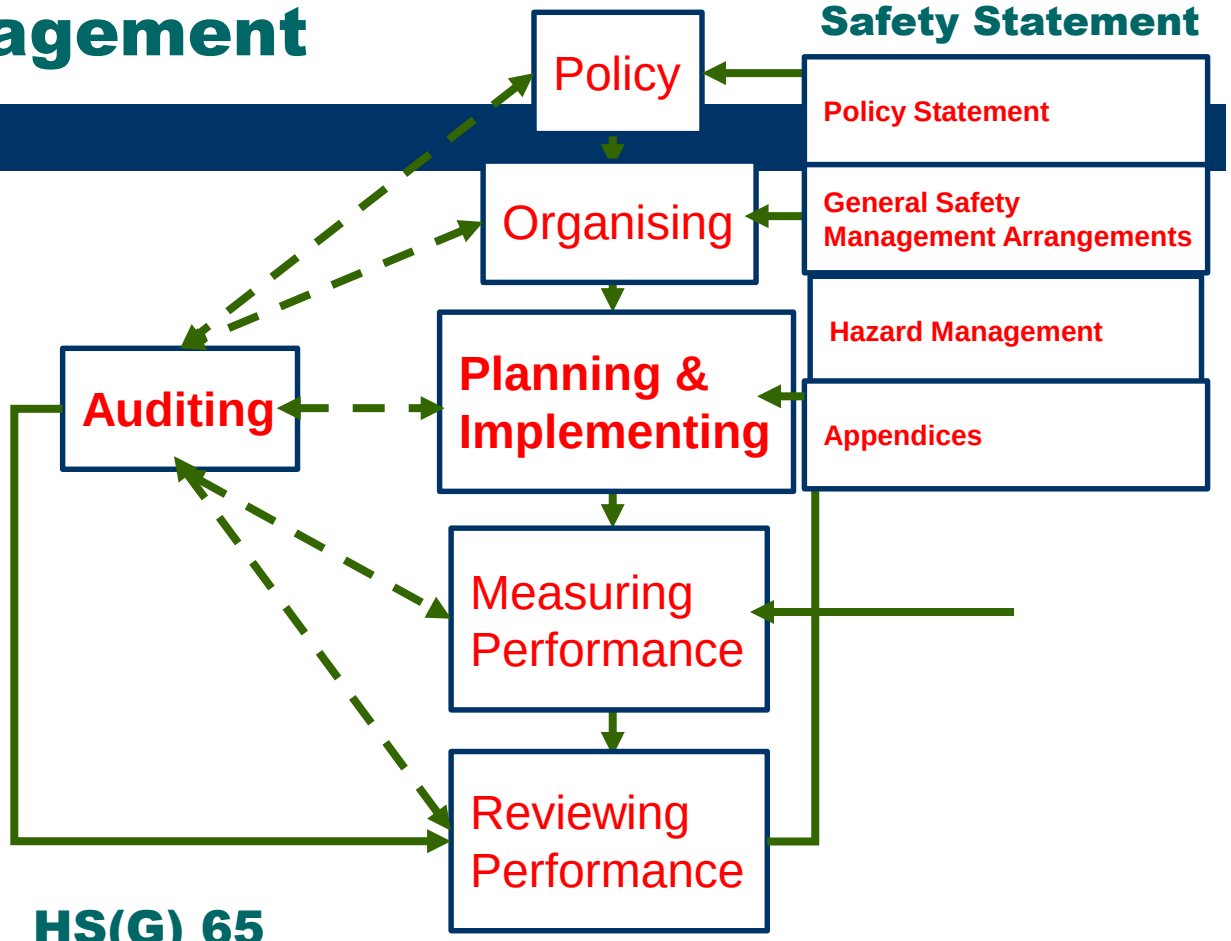
# Health & Safety Management

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**

**Covers all workplaces and workers**

- Employers must have, ‘so far as is reasonably practicable’
  - A safety place of work
  - Safe access & egress
  - Safe plant & machinery
  - Safe systems
  - Provide information, instruction & training
  - Provide Personal Protective Equipment (PPE)
  - Competent Persons
- A proactive safety management approach required

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**

**'Reasonably Practicable'**

Means a level of precaution which takes account of the risk involved in a particular hazard and the cost of remedying that risk

High risk = must take precaution irrespective of the cost

Low risk = may not need to take precautions if major cost is involved

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# Health & Safety for Managers / Supervisors

- **Safety Health and Welfare at Work Act 2005**
  - **Employees must:** (Part 2, Section 13)

comply with all relevant statutory provisions

take reasonable care to protect the safety of themselves and others who might be affected by their acts and omissions

ensure they are not under the influence of an intoxicant or in such a state that they might be a danger to themselves or others.

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# Health & Safety for Managers / Supervisors

submit to reasonable, appropriate testing, if reasonably required by the employer .

The Act gives scope for Regulations to be made that provide for employees to be required to undergo tests for intoxicants to be carried out by or under the supervision of a registered medical practitioner. Such Regulations are yet to be developed and until they are made, an Employer may not require such testing although local agreements may apply. The employer may, however, prevent an employee from working if it is apparent that he or she would be a danger to themselves or others.

co-operate with his or her employer so far as is necessary to enable compliance with the relevant statutory provisions

not engage in any improper conduct or dangerous behavior

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**

**Employees must:** (Part 2, Section 13)

attend training and undergo such assessment as may be necessary

make correct use of any article or substance provided for use or for the protection of the employee, including protective clothing and equipment

report to his or her employer as soon as practicable:

- any work being carried out which might endanger themselves or others
- any defects in the place of work, the system of work, any article or substance which might endanger themselves or others
- any contravention of the relevant statutory provisions of which he/she is aware

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## Health & Safety for Managers / Supervisors

- Notify the employer or the employer‘s nominated registered practitioner if they become aware that they are suffering from any disease or physical or mental impairment which affects their performance of work activities that could give rise to risks to the safety, health and welfare of persons at work.
- The duty is on the employer to protect themselves and others.

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**
(Part 2, Section 13)

**An employee may not:**

Miss-represent himself or herself to an employer with regard to their level of training

Interfere, misuse or damage anything provided for the safety, health and welfare or employees

Place at risk the safety, health and welfare of persons in connection with work activities

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**
**Safety Statement**

The Act specifies the information that must be given to employees and this is outlined above. (Employer's duties)

The safety statement must be accessible to all employees and the sections of the safety statement relevant to the employees must be brought to their attention, with particular regard to the specific hazards, risks and prevention measures concerning their particular job. The safety statement must be brought to the attention of all employees at least annually.

# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**

**Consultation**

Employers must consult with employees

Employees have the right to elect a safety representative

Safety Representative has the right to:

Make representations to the Employers and the Health & Safety Authority (HSA)

Carry out inspections, investigate accidents

Separate consultation arrangements required for construction activities

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# Health & Safety for Managers / Supervisors

**Safety Health and Welfare at Work Act 2005**
**Important Regulations made under 2005 Act**

Safety Health and Welfare at Work (General Application) Regulations 2007

Safety Health and Welfare at Work (Chemical Agents) Regulations 2001

Safety Health and Welfare at Work (Construction) Regulations 2013

Others: Noise, Pregnant Employees, Young Workers, Confined Space, Biological Agents etched.

## **SHWW (General Application) Regulations** 2007

General Principles of Prevention

- Avoidance of risk
- Evaluation of avoidable risk
- Combating risk at source
- Adaptation of work to the individual
- Adaptation of the place of work to technical progress
- Replacement of dangerous articles / systems with safe one
- Adequate prevention policy – use of new technology, social & human factors, organisation of work etc.
- Favouring collective measures over individual protection
- Providing appropriate training & instruction to employees

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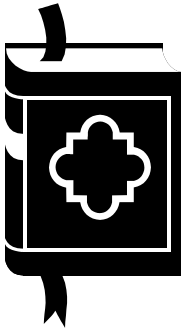
# Health & Safety for Managers / Supervisors

## Health and Safety in Ireland :

## The Civil Litigation Perspective



# Health & Safety for Managers / Supervisors

## The Common Law of Employer's Liability

**Employer must:**

Take reasonable care to ensure employee safety against risks that are reasonably foreseeable

Applies to all employees in all workplaces

If proven that employee injury due to employer's failure to take reasonable care employee will be awarded damages

This law not preventative-only compensates.

# The Common Law of Employer's Liability

**Safe Place**

Premises where employee is expected to work is safe including access and egress

*Kielty Vs Ascon (1970)* –Employee fell from narrow wall used as recognised means of access-employer liable

**Safe Equipment**

Provide and maintain safe equipment

*Burke Vs John Hall & Co. Ltd (1967)* - Employee using dull blade to cut steel, extra forces required, suffered hernia = employer negligent

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# Health & Safety for Managers / Supervisors

## The Common Law of Employer's Liability

**Safe System**

Catch all duty that defines how the work is done

*Walsh Vs Securicor Irl Ltd. (1993)*-Security van same route for 7years- raided - employer liable.

**Safe Co-Employees**

Employees not to be put at risk from actions of co Employees

*Hudson Vs Ridge Manufacturing Ltd. (1957)* Employee had Incurable habit of tripping people - ongoing for 4 years reprimanded on several occasions - employer liable

# Health & Safety for Managers / Supervisors

## The Common Law of Employer's Liability

**Contributory Negligence**

Somebody may have contributed to their own accident – award

may be reduced accordingly

Change - May 2004

Introduction of the Personal Injuries Assessment Board (PIAB)

# Health & Safety for Managers / Supervisors

## Safety Management Systems

Compare existing health and safety practice with:

- Requirements of health and safety legislation
- Provisions set out in company Safety Statement
- Internal company health and safety guidance
- Existing authoritative and published external guidance
- Best practice in the industry sector
- Document review, identify shortcomings and formulate policy and plan

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# Health & Safety for Managers / Supervisors

## Health & Safety Policy

Management should develop a health and safety policy which:

- Is appropriate to risks and commits to protect health and safety of employees
- Includes a commitment to comply with legislation, codes of practice and guidance as a minimum
- Provides a framework for measuring performance
- Is documented, understood and implemented at all levels of the
- organisation
- Clearly places the responsibility for health and safety management with line managers from the most senior executive to front-line supervision
- Identifies how employees will be consulted and emphasises the co-operation required from employees.

# Health & Safety for Managers / Supervisors

## Planning

Planning should be structured and a health and safety management plan

formulated which:

- Sets objectives and targets based on legal requirements – measurable
- Sets clear performance standards - communicate to all levels in the organisation
- Defines a work programme - targets for the plan duration
- Designates responsibilities - names and positions
- Sets time frames for completion of activities - hold those responsible / accountable.

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# Health & Safety for Managers / Supervisors

## Implement and Action

- Communicate roles and responsibilities to all levels of management
- Provide adequate resources to implement plan
- Ensure appropriate organisational structure is in place
- Ensure key personnel have the authority to act
- Hold employees accountable for discharging their responsibilities
- Clear and unambiguous reporting relationships
- Developing a health and safety culture
- Involve employees-consultation at all stages
- Demonstrate senior management commitment by being visible - chair meetings, conduct audits, active involvement in accident investigations etc.
- Ensure tight document control systems.

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# Health & Safety for Managers / Supervisors

## Measuring Performance

Active measuring:

- Systematic inspection of workplaces - at defined frequencies
- Plant / machinery inspections
- Environmental sampling (noise, dust etc.)
- Documentation reviews - safety statements, method statements etc
- Benchmarking with like organisations
- Employee behaviour sampling
- Safety Management System audits.

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# Health & Safety for Managers / Supervisors

## Measuring Performance Contd.

- Identify audit protocol - resource, methodology, report, corrective actions
- Tracking completion of audit findings
- Reactive measuring
- Accident / incident / near miss reporting
- Accident / incident / near miss investigation
- Root cause identification, corrective actions, review and revise procedures
- Accident statistics / trends

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# Health & Safety for Managers / Supervisors

## Reviewing Performance

- Senior management responsibility - review performance against measurable targets
- Review as necessary
- Review information received from:
- Measuring activities (monitoring and auditing)
- Statistical performance- accident, incident and ill health data
- Benchmark - other like organisations performance
- Performance against targets (number of audits achieved, external accreditation etc)
- Changes to legislation, guidance or best practice
- Lessons learned
- Project milestones / achievements / failures
- Review process ends in revised plan and target setting.

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# Recap