**Part 1.1: Legislative factors**

**Health and Safety at Work Act (1974)**

This act sets out the core principles of health and safety within the work place. The main way it does this is by defining the health and safety responsibilities of both theemployer and employee.

The purpose of the Health and Safety at Work Act 1974 is to provide a legislative

framework to promote, stimulate and encourage high standards of health and safety at work. The Act is an 'enabling' act, which means that other regulations can be created to deal with specific issues of health and safety, but breaches of those

regulations will be punishable under the provisions laid down by this Act.

The legislation applies to all persons at work which include employer, employees

and self employed people. However it should be noted that the legislation protects

not only persons at work but also the general public who may be affected by the

work activities at a facility.

**Employer’s responsibilities**

The employer has an obligation to ensure, so far as is reasonably practicable the

health safety and welfare of employees. This includes:

 Ensuring safe plant and equipment: Is the plant up to the necessary standard?

When new plant is installed is latest good practice taken into account?

 Ensuring safe systems of work: Is there a thorough check of all operations,

especially operations carried out infrequently? Such checks will ensure that

danger of injury or to ill health is minimised

 Ensuring safe use, handling, storage and transportation of articles and

substances

 Providing information, instruction, training and supervision to employees to

ensure they can do their job safely

 Maintaining adequate access and egress

 Maintaining a safe working environment. The working environment should be

regularly monitored to ensure that if toxic contaminants are present, that

protection conforms to the current hygiene standards

The employer has a responsibility to ensure that his undertaking does not adversely

affect anyone who is likely to come into contact with it. Therefore the employer

must examine those areas where other people may be affected by what he does,

and seek to minimize or eliminate the chances of harm occurring.

For example a company producing chemicals must consider not only how the

chemicals may affect employees but also how other people in the surrounding areas

may be affected by any chemical emissions.

Other areas covered are dangerous plant and equipment that members of the public

may have access to and obligations to contractors and self employed people working

on the site.

By law employers who have 5 or more employees must:

 Have a written health and safety policy

 Communicate it to employees and anyone else working under the organization’s

control

 Make it available for inspection

 Review it regularly

**A health and safety policy document is in three parts:**

Part 1 – The General Statement of Policy

This is the statement of an organization’s commitment in writing to tackle health and safety issues. It must be dated and signed.

Part 2 – Responsibility for Carrying out the Statement of Intent

Those persons with specific areas of responsibility, such as those in charge of fire

procedures or first aid provision, should be identified.

Part 3 – The Arrangement and Procedures

The systems and arrangements you have made to comply with your statement of

intent will form this part of the policy, e.g., fire procedures, accident reporting,

copies of risk assessments and other specific procedures.

An employer of five or more people must prepare a written statement

(arrangements) of the general policy, organisation and arrangements for health and

safety at work, keep it up to date by revision and bring it to the notice of the

employees.

**Detailed arrangements may include:**

 Accident reporting procedure

 Fire/emergency evacuation procedures

 Compliance with the 'six pack' of regulations

 Inspection and auditing

 Compliance with control of substances

 Manual handling regulations

 Welfare arrangements

 Hazardous to health regulations

 Dealing with contractors

 Compliance with noise at work regulations

 First aid and fire warden arrangements

 Training staff

 Smoking policy

 Portable electrical testing

 The maintenance of local exhaust ventilation

 Procedures relating to the assessing and maintaining of pressure vessels

**Employees’ legal responsibilities**

 Employees must take care of the health and safety of themselves and anyone

likely to be affected by their actions (or omissions) whilst at work

 Employees should cooperate with the employer to meet legal obligations and

they must not, either intentionally or recklessly, interfere with or misuse anything

provided by the employer to meet health and safety obligations

**Additions to the Health and Safety at Work Act (1974)**

In 1992, six new health and safety regulations, known as the six pack were

introduced by the Government. This regulation was in response to European

directives on health and safety at work and effectively replaced and enhanced much of the earlier law on workplace safety. As a result of these changes much of the Factories Act has now been replaced by more detailed and specific regulations. The change saw a shift from duties for employers being reasonably practicable to them now being of an absolute or strict nature. The regulations (all dated 1992) cover general workplace health and safety, computer use, load handling, work equipment and safety gear and the management of health and safety in the workplace.

In 1999 the regulations were updated with the introduction of the concept of risk

assessment.

**Management of Health and Safety at Work Regulations**

**(MHSWR 1999)**

Under the Management of Health and Safety at Work Regulations (MHSWR 1999) all employers must organise their approach to health and safety.

**Responsibilities of employers**

 Write a safety policy

 Set up an organisation plan to establish who is responsible for what

 Make arrangements (systems that must be set up to ensure the risks are at an

acceptable level and not liable to occur)

 Carry out risk assessments (identification of these hazards and risks)

 Monitor and review (how often the systems are checked, with re-examination

should changes occur)

 Keep records (recording who, why, when, where, what, which, and how as

appropriate)

The Management of Health and Safety at Work Regulations (MHSWR 1999), state

that organisations must have clear systems, policies and procedures in place for

managing health and safety in the workplace.

By law employers must display copies of the following:

 A current certificate from an insurance company showing that the

organisation has employers' liability insurance

 A Health and Safety Law poster for employees. Organisations should also be

encouraged to provide information leaflets about health and safety issues

 Action to be taken in the case of fire, how to raise the alarm, what to do when

the alarm is sounded, how to call the fire brigade, fire escape route, muster

points, emergency exits, fire extinguisher points, fire doors (as designated on

the fire certificate)

 Location of first aid point/box, name and location of trained first aid persons or

the appointed person

 Copy of any specific information or posters regarding regulations that apply to

your premises where it is a requirement of those regulations to display

information

 There is also a legal requirement to give people access to copies of the health

and safety policy

**Report of Injuries, Diseases and Dangerous Occurrences**

**Regulations (RIDDOR) 1995**

**Reporting accidents**

Reporting accidents and ill health at work is a legal requirement. The information

enables the enforcing authorities to identify where and how risks arise and to

investigate serious accidents.

**Keeping records**

Organisations must keep a record of any reportable injury, disease or dangerous

occurrence. This must include the date and method of reporting; the date, time and

place of the event, personal details of those involved and a brief description of the

nature of the event or disease. Organisations can keep the record in any form they

wish.

**Reportable major injuries**

 Fracture other than to fingers, thumbs or toes

 Amputation

 Dislocation of the shoulder, hip, knee or spine

 Loss of sight (temporary or permanent)

 Chemical or hot metal burn to the eye or any penetrating injury to the eye

 Injury resulting from an electric shock or electrical burn leading to

unconsciousness or requiring resuscitation or admittance to hospital for more

than 24 hours

 Any other injury leading to hypothermia, heat-induced illness or

unconsciousness, or requiring resuscitation, or requiring admittance to hospital

for more than 24 hours

 Unconsciousness caused by asphyxia or exposure to harmful substance or

biological agent

**Reportable dangerous occurrences**

 Collapse, overturning or failure of load-bearing parts of lifts and lifting equipment

 Explosion, collapse or bursting of any closed vessel or associated pipe work

 Failure of any freight container in any of its load-bearing parts

 Plant or equipment coming into contact with overhead power lines

 Electrical short circuit or overload causing fire or explosion

 Explosion or fire causing suspension of normal work for over 24 hours

 Accidental release of any substance, which may damage health

**Reportable diseases:**

 Certain poisonings

 Some skin diseases such as occupational dermatitis, skin cancer, chrome ulcer,

acne

 Lung diseases including: occupational asthma, farmer's lung, pneumoconiosis,

asbestosis

 Infections such as hepatitis, tuberculosis, anthrax, legionellosis and tetanus

 Other conditions such as occupational cancer, certain musculoskeletal disorders,

decompression illness and hand-arm vibration syndrome

A death or major injury needs to be reported forthwith to the relevant enforcing

authority by the quickest possible means e.g. telephone.

Over-three-day injury is when a member of staff is injured and does not come into

work for three days. This needs to be reported.

Disease – A doctor may notify that an employee may have contracted a disease

from their organisation e.g. Legionnaires disease. A report needs to be completed

as soon as possible.

A dangerous occurrence, is when an accident could have happened, but was

averted. A report still needs to be completed. This is to make sure that this near

miss does not turn into a major accident .

RIDDOR is primarily concerned with the reporting of accidents and incidents so that

they do not happen again. These incidents can take the form of injuries, diseases

and dangers.

**Injuries**

**Diseases Dangers**

Fractures

Infections

Collapse of structures

Amputation

Contagious skin

conditions

Explosion

Hypothermia

Lung disease

Power lines

Burns/shock

Muscle disorders

Demolition

Loss of sight

Poisoning

Chemicals

**Accident report form**

The following information should be included on an accident report form:

 Name and address of injured person

 Age

 Status – employee, customer

 Date and time of accident

 Place of accident

 Details of accident

 Nature of injury

 What action was taken after the accident (first aid, went to hospital)?

 When was the accident reported, to whom, by whom and how?

 Name and address of any witnesses to accident

 Was the injured person doing something that is permitted?

 Were they permitted to be in the area of the accident?

 Was the accident due to any defective equipment? If ‘yes’ give details

 Was supervision being exercised at the time? If ‘yes’, by whom?

 Name and address of relative notified

 Will the casualty be off work due to accident for more than three days?

 Signed:

**Personal Protective Equipment (PPE) 2002**

These guidelines set out the legal requirements for the provision and maintenance

of employee safety equipment such as boots, eye protection, hard hats and clothing.

In Health & Social Care the use of gloves for example during nappy changing.

**Control of Substances Hazardous to Health (COSHH) 2002**

Many sports organisations use hazardous substances for many different reasons.

One such reason is cleaning.

The COSHH regulations ensure that substances like cleaning materials are stored

safely. The Control of Substances Hazardous to Health Regulations (COSHH) 2002 is a set of regulations for managing risks to health from hazardous substances. The

two main components of COSHH are determining:

 What the situation is (with regard to exposure to hazardous substances)

 What to do about it (to reduce exposure to an acceptable level)

The COSHH regulations cover four main areas:

 The assessment of risk: this is conducted to reduce the risks associated with use,

handling and storage of substances at work

 Information making sure that all information about COSHH procedures are

passed onto staff

 Elimination or control of risks: stopping accidents with the correct use of

applications, procedures and personal protection

 Monitoring: making sure that COSHH procedures implemented by the

organisation are effective

The COSHH regulations make use of various symbols to warn people of potential

Hazards.

**Health and Safety (First Aid Regulations) 1981**

**First aid equipment**

All locations must have a first aid box, and some will require more than one to

ensure easy access. They should be of a suitable material to protect the contents

from damp and dust, preferably wall mounted and located near a basin for hand

washing. They should be labelled with a white cross on a green background in

accordance with the Safety Signs Regulations 1980.

They should contain first aid items only, and not tablets or medication.

**Materials in a first aid kit**

 20 individually wrapped sterile dressings

 2 sterile eye dressings

 4 triangular bandages

 6 safety pins

 6 medium sized un-medicated wound dressings

 2 large sterile un-medicated wound dressings

 1 pair of disposable gloves

First aid materials must be replaced as soon as possible after use, and boxes must

be checked regularly by the person in charge of the box to ensure that all items are in date.

**First aid personnel: appointed person**

This is a person who is appointed by an employer to take charge of an emergency

situation and call appropriate help, and to be responsible for the maintenance of the first aid box and its contents. Appointed persons should be trained in emergency first aid.

**Numbers of first aid personnel required**

 Fewer than 20 people - at least one appointed person

 20 - 50 people at least one first aider

 50-100 people - at least two first aiders

 More than 100 people - one additional first aider for every additional hundred

**Records**

After any treatment the following must be recorded in the local first aid book:

 Date, time and place of incident

 Name and status of the injured or ill person

 Details of the injury or illness and what first aid was given

 What happened to the person immediately afterwards (e.g. went back to work,

home, or to hospital)

 Name and signature of the first aider or person who dealt with the incident

First aid is vital, especially in the sports environment where injuries are common

place. Despite all the precautions we have such as rules, protective equipment and

training programmes, accidents still occur. To make sure that accidents are treated

quickly first aid representatives are organised by organisations to deal with

accidents.

**Manual Handling Operations Regulations (1992)**

The lifting, carrying and moving of loads by employees are considered. These

regulations are of particular importance to those sectors of the economy, which is

involved in handling loads of all kinds. The regulation is not limited to heavy

industries such as building and construction but is equally applicable to nursing,

parcel delivery and all jobs that involve an element of manual handling of loads.

**Management of Health and Safety at Work Regulations**

**(MHSWR 1999)**

These are specific guidelines on workplace maintenance, safe access, employee

comfort and sanitary conditions. They address the general safety issues in the

workplace.

**Part 1.2: Legal factors**

**Law**

**Statutory (criminal law)**

A crime is an offence against the state. Criminal cases are heard in a Magistrate’s

court or Crown Court. As in all criminal charges, the burden of proving rests with the prosecution; however a jury does not have to be satisfied beyond all reasonable

doubt only to be satisfied on the balance of probability.

The main sanctions of a criminal court are fines and/or imprisonment. The sanctions

are intended as a punishment, to deter and to reform. They are not intended as a

means of compensating an injured party. That said, a Magistrates Court might order compensation to an individual to cover personal injury and damage to property. The limit is currently £5,000.

Employers are required to do what is 'reasonably practicable'. 'Reasonably

practicable' is the balance between the risk and the time, money and inconvenience

involved to reduce that risk. For example, the provision of safety protection for a

hockey goal keeper would be deemed reasonably practicable. When you weigh the

risks to the player against the time money and inconvenience of providing the

protection, it is clear that it is reasonably practicable to provide them.

Under criminal law, as a defence, a sports facility facing prosecution for injury to a

customer who had fallen on a treadmill would present the fact that they had taken

all steps (risk assessed and managed) reasonably practicable to eliminate the

chance of an accident happening on their premises.

**Civil law**

Civil action is brought by individuals and is heard in County Courts. The purpose of

Civil action is used to seek remedies beneficial to the individual (damages) often in

the form of financial compensation.

Civil cases are settled out of court (90%) of accident claims are settled in this

manner). The reason for this is that the details of the claim are often more costeffectively addressed without the additional cost of court time.

**Case law**

Case law is formed from the decisions (rules and principles of law) of cases

previously judged in court over the years.

The ratio dedidendi (reason for the decision) is binding on courts of equal rank

considering the same case of law.

**Loco parentis**

The term in loco parentis, "in the place of a parent", refers to the legal responsibility of a person or organisation to take on some of the functions and responsibilities of a parent.

**Duty of care**

Under the Health and Safety at Work Act (HSWA) 1974, it is the duty of every

employer and employee to, so far as is reasonably practicable, ensure the health

safety and welfare at work of all persons (staff, visitors, themselves) in their care in the workplace.

**Higher order duty of care**

Where risk, injury or disease is inevitable if safety requirements are not followed, a statutory duty may be strict or absolute.

Most of the duties under the Management of Health and Safety at Work Regulations (MHSWR 1999), Workplace Health Safety and Welfare Regulations (WHSWR) 1992 and Provision and Use of Work Equipment Regulations (PUWER) 1998 are absolute or strict requirements. There is little or no defence available when charged with an offence (a plea of reasonably practicable will not be considered).

**Negligence**

Careless conduct injuring another, breach of duty of care and injury, damage or loss resulting from or caused by that breach. The court system within the UK has a definitive structure that all legal cases have to

go through.

**Who is negligent?**

The problem facing lawyers when someone is injured is deciding which injuries are ‘occupational hazards’ and which should be the subject of a claim for financial compensation from the person responsible, because there has been some element of recklessness or carelessness resulting in a breach of the duty of care exercised.

A person who has been injured may seek financial compensation if they can show

that someone has been negligent and that it was that negligence that caused them

the injury. To establish that there has been negligence the following 3 elements

**must** be proved:

 A duty of care must be owed

 There must be a breach of that duty

 Actual damage must have resulted from that breach

**Part 1.3: Regulatory bodies**

Clear and safe systems of work include ensuring that appropriate health and safety

regulations and codes of practice are fully implemented. Regulatory bodies set out

codes of practice and provide information, offer advice and provide forms for your

use (e.g. HSE provides a risk assessment proforma).

**Health and Safety Executive (HSE)**

[www.hse.gov.uk](http://www.hse.gov.uk)

The Health and Safety Commission is responsible for health and safety regulation in Great Britain. Their mission is to protect people's health and safety by ensuring risks in the changing workplace are properly controlled.

They look after health and safety in nuclear installations and mines, factories, farms, hospitals, sports stadia and schools, offshore gas and oil installations, the safety of the gas grid and the movement of dangerous goods and substances, and many other aspects of the protection both of workers and the public. Local authorities are responsible to HSC for enforcement in sports facilities, offices, shops and other parts of the services sector.

They provide a range of leaflets and forms to help organisations implement health and safety.

**Part 2.1: Procedures**

**Standard operating procedures**

All facilities should have a set of standard operating Procedures, known

as standard, normal and/or safe operating procedures. They set out the dayto-

day safe operation of all procedures and processes in the operation. This

helps explain how the facility will run on a standard basis. Part of the

standard operating procedure outlines safe working practices that will enable

staff to conduct safety checks to help reduce risks and hazards and to make

sure everything is safe for the public to use.

**Quality checks: internal and external**

To manage and maintain safe working practices, management should carry

out quality checks (quality assurance) and audits against these standard

operating procedures. Checks or audits may be carried out:

 Internally: management check lists and company audits

 Externally: some facilities subscribe to quality standards e.g. Quest,

Investors In People (IIP), that are monitored by people from the

awarding body. Quality standards are sought by organisations that can use the achievement of high standards to promote the safety of their facility

**Carrying out health and safety inspections**

There is a legal requirement to provide and maintain safe workplaces and

safe equipment. Health and safety inspections are a means of monitoring to

ensure that all legal requirements are being met such as the Fire Safety. All organisations will carry out inspections. It is the responsibility of the Health and Safety Manager of the organisation to ensure that this is done. Usually, the Manager will carry out or be involved in the inspections but it is also useful to involve other members of line management.

**Safety checks**

Safety checks should be carried out to eliminate the risk of putting the safety

of people using the nursery at risk.

A pro forma checklist should be provided and should link directly to standard operating procedures/safe systems of work. Safety checks carried out include ensuring that:

 Fire escapes are clear

 First aid boxes are full

 staffing ratios to children are correct

 Toilets are clean

 Food and beverage stocks are adequate

  Checking that evacuation and security procedures specific to the venue are in place

**Safety programmes**

A safety programme is a document produced by an organisation in

accordance with relevant legislation and approved guidelines (from regulatory

bodies). It sets out methods of raising awareness of the importance of health

and safety. Clear methods of communication for the safety of participants and

staff are documented.

**Emergency procedure protocols**

The Management of Health and Safety at Work Regulations 1999, state that

organisations must have clear systems, policies and procedures in place for

managing health and safety in the workplace.

By law employers must display copies of the following:

 Action to be taken in the case of fire, how to raise the alarm, what to do

when the alarm is sounded, how to call the fire brigade, fire escape

route, muster points, emergency exits, fire extinguisher points, fire doors

(as designated on the fire certificate)

 Location of first aid point/box, name and location of trained first aid

persons or the appointed person

**Emergency plan**

All large facilities will have an emergency plan. This is designed to make sure

that if an emergency happens, staff and customers can get out of the building

safely. Plans will be made for the following emergencies:

 Fire

 Power failure

 Gas leak

 Bomb threat

 Missing person

 Serious injury

**An example of fire evacuation procedures**

 Ensure all staff are clear about evacuation procedures as covered within

their Emergency Action Plan

 Ensure as a minimum that all staff have taken part in an evacuation drill

in the last six months

 The facility should be constantly monitored, particularly areas, which may

be un-staffed or solo staffed

 When staff are alone within a facility, support should be made available

should there be an emergency

 Look at ways of supporting less experienced staff with more experienced

colleagues. This could be achieved through a buddy system

 If evacuation would involve evacuating the nursery consider ways of keeping the children warm

 Make certain all staff know the assembly points

 If the fire is not controlled quickly, have an alternative assembly point if

needed

**Staff training**

Regulations require that employers consult with employees on health and

safety matters. The Health and Safety (Consultation with Employees)

Regulations 1996 apply to all employees, and the Safety Representatives and

Safety Committees Regulations 1977 are applicable to employees who are

members of recognised trade unions.

There is evidence from the TUC that where information is made readily

available to people and they are party to the decision making process

regarding the way activities are developed and carried out, the number of

accidents occurring is reduced.

It’s recommended that:

 Larger groups should adopt the procedure of establishing a Safety

Committee to oversee health and safety within their organisation to deal

with training

 Discussions on matters of health and safety information should be a

regular agenda item for management committee meetings

Generally speaking, the more information on matters of health and safety that

are made available to people, the better informed and equipped they are to

avoid accidents and make decisions regarding their health and safety.