



# Managers’/Supervisors’ responsibility and accountability for health and safety

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This document is supplementary to the University Health and Safety Policy, and is specifically concerned with the health and safety responsibilities of colleagues who exercise managerial or supervisory duties of others (including staff, students, visitors and contractors) and/or defined activities.

Please note however, that this document is no substitute for formal training.

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## Executive Summary

Health and safety is the responsibility of all; however, people in managerial and supervisory roles carry additional responsibilities which must be properly carried out in order that the University and individual officers can demonstrate their duty of care. Salient points to note include:

- Specific legal duties are defined under legislation;
- Tasks and activities can be delegated through the management chain, but accountability cannot;
- Care should be taken when delegating tasks that the person one is delegating to is equipped with the level of competency to discharge those tasks appropriately. Similarly, the same care should be taken during the selection and recruitment of managers and supervisors;
- The enforcing authority (Health and Safety Executive) can and do prosecute individuals in certain circumstances;
- Demonstrating 'Due Diligence' is an important responsibility of management;
- Training and development to ensure health and safety knowledge is maintained at an appropriate level is critical.

The objective of this document is to inform managers and supervisors of their responsibility and accountability for health and safety, and of their legal duties towards those either directly or indirectly under their charge, and towards those who may be affected by their acts or omissions. It also sets out the good principles of relevant legislation, and provides information on where more specific guidance can be found.

It is recommended that the document is read in its entirety and that readers take the time to review supplementary items referenced within the footnotes.

## 1. General Principles

1.1 The Health and Safety at Work etc Act 1974 (HASAWA), and the Management of Health and Safety at Work Regulations 1999 (MHSWR) lay down some of the main responsibilities and duties of people at work. Among the duties the HASAWA places on employers are:

- the requirements to ensure the health and safety at work of their employees and that of any other person who may be affected by their activities; and
- to have a written health and safety policy.

It also places duties on employees to:

- (a) take reasonable care of their own health and safety and that of others who may be affected by their acts or omissions;
- (b) to co-operate with their employer so the latter can comply with all necessary legal duties;
- (c) not to interfere or misuse anything provided in the interests of health, safety or welfare.

The main requirements of the MHSWR are that employers must:

- assess the risks to the health and safety of anyone who may be affected by their activities; and
- ensure adequate arrangements are in place for the “planning, organisation, control, monitoring and review” of the safety measures that follow from those assessments.

1.2 Whereas the Vice-Chancellor and Council of the University recognise that they have primary responsibility, as the employer, for the health and safety of staff, students, contractors and visitors, and that they cannot delegate their general duties under law<sup>1</sup>, each individual staff member bears some responsibility for health and safety.

This may be as simple as the legal duty to co-operate with the University. However, any employee acting in a managerial or supervisory capacity bears additional responsibilities – the more senior the appointment, the higher the responsibility. The level of that responsibility is directly linked to the level of control exercised. In health and safety terms, each manager/supervisor is responsible for those people and activities they are expected to control and are accountable in law for their actions.

1.3 The Health and Safety Executive (HSE) is the national body responsible for the enforcement of health and safety law and will consider taking action against individuals following an inspection or an accident investigation. The HSE’s enforcement policy<sup>2</sup> states that a prosecution should normally take place in any one of a number of circumstances, including:

- (a) when a workplace death is caused by a breach of the law;
- (b) if there has been reckless disregard of health and safety requirements;

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<sup>1</sup> See R v British Steel plc [1995] IRLR 310 and R v Gateway Foodmarkets Ltd [1997] IRLR 189.

<sup>2</sup> See the HSE’s enforcement policy statement issued February 2009.

- (c) if the offender's standard of health and safety management is far below what is required.

When considering whether to prosecute individuals, the HSE considers the management chain and the role played by individual managers. The policy states that action should be taken where an offence was committed with the consent or complicity, or to have been attributable to neglect on the part of the individual.

- 1.4 On the other hand, if a manager/supervisor has done everything possible to comply with the law, and has taken all reasonable and normal steps to ensure the health and safety of staff, and any other persons who might be affected by that School/Department's activities, then it is very unlikely that the manager/supervisor would be considered for prosecution.

Reasonable and normal steps would include:

- carrying out risk assessments;
- addressing high risk matters revealed by that assessment;
- ensuring equipment is regularly checked and maintained; and
- ensuring that staff understand their own responsibilities in relation to health and safety are properly trained, and competent to fulfil their functions.

- 1.6 Any manager/supervisor who is uncertain about health and safety issues should contact the Safety Office for advice. If managers/supervisors follow procedures and reasonable recommendations they will be seen to have properly carried out their health and safety responsibilities.

There are also a number of members of staff who are Trade Union Health and Safety Representatives<sup>3</sup> whose knowledge and experience is available to Managers/Supervisors.

Minutes of the University's Health and Safety Committee are available on the Safety Office Intranet site at <http://www1.aston.ac.uk/staff/safety/staff-area/health-and-safety-structure/hsc-minutes/>

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<sup>3</sup> Consultation with staff is carried out through arrangements agreed with the Joint Unions Consultative Committee involving elected Health and Safety Representatives and the University's Health and Safety Committee, which acts as a statutory Safety Committee under the terms of the Safety Representatives and Safety Committee Regulations 1977 (as modified by the MHSWR 1999) and the Health & Safety (Consultation with Employees) Regulations 1996.

## 2. SPECIFIC GUIDANCE FOR MANAGERS/SUPERVISORS

- 2.1 Detailed information on health and safety matters and copies of legislation may be obtained from the HSE website<sup>4</sup> or via the University's subscription to the IHS service<sup>5</sup> and managers/supervisors are encouraged to use these resources to support their management/supervisory tasks.
- 2.2 There are also a number of specific areas of health and safety where it is necessary for a manager/supervisor to have a basic working knowledge of the legal duties and responsibilities. The level of knowledge required will depend on the circumstances of the work and area concerned but will certainly include:
- Principles of risk assessment;
  - Emergency and evacuation procedures;
  - Accident and incident reporting;
  - Use of work equipment;
  - Manual Handling.
- 2.3 Further information can be obtained from:
- The Safety Office – <mailto:safety@aston.ac.uk> or dial 4976.
  - Trade Union Health and Safety Representatives
  - The University Health and Safety Policy: <http://www1.aston.ac.uk/staff/safety/>
  - The Health and Safety Training Policy: <http://www1.aston.ac.uk/staff/safety/staff-area/policies-and-procedures/>

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<sup>4</sup> <http://www.hse.gov.uk>

<sup>5</sup> Login instructions are available from the Safety Office