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Contractors

INTRODUCTION

A recent Crown Court ruling which fined a warehouse owner after a contractor's employee fell 30 feet through a skylight at their premises highlights the importance of due diligence checks on contractors.

From a health and safety point of view, contractors will usually be unfamiliar with host premises and any specific hazards there. Because of this, they may be more at risk of injury. They may also carry out work which could potentially damage premises or injure others.

HOW TO MANAGE CONTRACTORS

Contractors can perform a wide range of tasks in varying working environments and employing diverse working methods, equipment and substances. For example, contract work can include the construction, extension, repair or maintenance of premises; the installation, maintenance and repair of work equipment; the provision of specialist services (e.g. the transport of goods or waste); the provision of other services (e.g. catering, security etc.) and so on.

Essentially, contractors are third parties who undertake a contract to provide materials or labour to perform a service or complete a job. Their employees are not under the direct control of their host (i.e. those that procure their services). As such, they differ from agency staff who are usually under the direct control of the host and (for health and safety purposes) are treated similarly to their own employees.

Sometimes, an organisation may have more than one contractor doing the work at a time. This can potentially increase or add to the risk. In other cases, the contractor may further sub-contract the work to others. All of this, may affect the precautions taken to ensure the safety of others.

In this context and depending on the work to be done, proportionate steps must be taken to ensure adequate health and safety standards are maintained. This is a delicate balancing act between wanting to control every aspect of their work and letting them just get on with the job. In many cases the contractors will be specialists, and the host will not understand their work (or the risks associated with it) sufficiently to manage them closely. The key to getting this right is understanding the legal position; good communication and co-operation between the parties; and adopting suitable precautions.



WHAT ARE YOUR RESPONSIBILITIES? IF AN ORGANISATION IS AN EMPLOYER

If an organisation has employees, they have to comply with their duties under the Health and Safety at Work etc. Act. This requires employers to ensure the health and safety of their own employees and others who could be affected by their work. As such, both host employers and contractors are required to comply with these duties whilst any contract work is being completed.

Further duties relating to the management of contractors are contained in the Management of Health and Safety at Work Regulations. Of particular note, are the specific requirements relating to risk assessments; emergency procedures; co-operation between employers sharing workplaces; and persons working in host employers' premises.

Broadly, the responsibility for making sure that the contractor's employees are safe lies with the contractor. They need to ensure that their staff are properly trained, equipped, supervised, and work safely. They also have a duty to make sure that their employees will be safe when working on other employers' premises. Similarly, the host employer needs to ensure that their employees will not be harmed by the contractor's activities and that their operations will not injure the contractor's employees working on site.

It is generally not necessary or desirable for the host to become involved in the detailed management of the contractor's work. However, for some contract work the host may have a greater influence over how the work is to be completed. For example, this could occur in safety critical environments where they have a greater knowledge of specific hazards or are required to coordinate the activities of several contractors working in close proximity to each other.



Here, hosts may need to provide instruction on the way work is to be done and what precautions are to be taken. It is also important to remember that both the host and the contractor have a duty to ensure the health and safety of others who may be affected by the work (e.g. members of the public, visitors, customers etc.). This may require additional cooperation, and coordination to ensure that appropriate precautions are taken.

On this basis, best practice considerations include the following:

- Reviewing the circumstances where contractors are used and the type of work undertaken. This will assist in identifying what needs to be done to manage health and safety whilst such work is completed.
- Ensuring that any risk assessments completed to meet the requirements of the Management of Health and Safety at Work Regulations identify circumstances where contractors' employees might be affected and determine what (if anything) needs to be done to comply with statutory requirements. In some circumstances, it might be necessary to review these to ensure that the precautions implemented to protect employees, the contractor and others will remain effective whilst the work is undertaken.
- Determining if there are any specific health and safety conditions (including those relating to emergency procedures) that need to be met by the contractor and identify any specific health and safety information that might be relevant to them in pricing for and completing the work, providing this to them where necessary.
- Assessing the competency of any contractors to be engaged in the context of the work to be completed. Factors which may be considered include their experience and training; professional registrations; health and safety management arrangements; insurance cover, references etc. It may also be worth considering whether the contractor will subcontract and, if so, how they will ensure that appropriate health and safety standards will be maintained.
- Where necessary, obtaining and reviewing (in general terms) any specific method statement for the work to be carried out before the contractor comes onto site. The purpose of this is to establish that it is relevant to the particular circumstances of the work, accounting for any specific constraints or peculiarities of the premises or operations there. It is not necessary to complete a detailed review, or to 'approve' it before work starts.



- Implementing and maintaining any necessary precautions (e.g. segregation; isolation; provision of access; the use of permits to work; provision of site rules; site induction training; signing in and out etc.)
- Where the level of risk or the duration of the work requires it, monitoring compliance by the contractor with any restrictions or rules that have been set.
- Where the risks are likely to change as the work progresses, identifying ways to manage these changes and communicate with the contractor to ensure that precautions remain adequate.
- Implementing procedures to prevent further work by the contractor where there are concerns about the way the work is being carried out until such time as these are resolved.
- Once work has been completed, checking the work and the work area, signing off any permits in place before returning to normal operations.
- Providing any necessary information or training for those employees involved in the management of contractors. Training records in particular should contain such detail relating to the persons who were trained; when they were trained and by whom; an overview of the training that was provided; details relating to any certification provided or other test to verify understanding etc. The training record should contain detail of what has been provided, when this was done and by whom along with trainees signing to state that they have received and understood it.
- Recording the arrangements and responsibilities for managing contractors as part of the health and safety policy (or supporting documentation) where one is needed to comply with health and safety law and reviewing these where necessary.

WHAT ARE YOUR RESPONSIBILITIES? FOR ORGANISATIONS WHO ARE NOT EMPLOYERS

Organisations that don't have any employees will still need to meet duties under the Health and Safety at Work etc. Act 1974. This is where they control non-domestic premises made available to others as 'a place of work' or where they may use 'plant or substances provided for their use there' (Section 4).

In these circumstances, they must make sure that any work carried out by a contractor is done safely.

DUTIES WHERE CONSTRUCTION WORK IS CARRIED OUT

Under the Construction (Design and Management) Regulations, those organisations who have construction work carried out will have to meet specific duties where they are a 'client'.

More information is available at www.hse.gov.uk/construction/cdm/2015/index

FURTHER INFORMATION

General information is available at www.hse.gov.uk/toolbox/workers/contractors