Strengthening claim defensibility through effective workplace risk assessment

Guidance on the function of workplace risk assessments in supporting claim defensibility and the pitfalls frequently encountered in practice.

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Introduction

Workplace risk assessments are an essential component of an effective health and safety management system. Their primary purpose is to prevent harm through providing a systematic methodology for identifying hazards, evaluating their potential impact, and determining whether existing controls are in place to protect employees and others, or whether more needs to be done.

They provide organisations with a structured approach to proactively assess risks which supports incident prevention, reduces operational disruptions, in addition to demonstrating compliance with legal duties.

Beyond the operational and regulatory value, well-executed risk assessments play a significant role in strengthening claim defensibility. However, despite the importance of workplace risk assessments, many organisations struggle with implementation gaps, inconsistent practices, and documentation weaknesses that undermine both safety outcomes and the ability to defend claims.

This document explores the role of both general workplace risk assessments in claim defensibility, outlines some of the common pitfalls that organisations encounter, and provides practical guidance on how to overcome these issues.

Risk assessment and claim defensibility

Genuine personal injury and loss or damage claims should receive appropriate financial compensation. However, when a claimant has failed to follow established procedures, has not carried out a task in accordance with their training or procedures, or has otherwise contributed to their own injury, a repudiation may be pursued. Any claims that appear spurious or potentially fraudulent must also be fully investigated and where necessary challenged. To do this effectively, companies need to maintain documentation to evidence their defence, commonly referred to as claim defensibility.

Insurers will look for specific evidence that helps demonstrate an organisation acted reasonably, foreseeably, and in line with legal duties. With risk assessments being the foundation of effective health and safety management from which many other health and safety-related systems and controls stem from, getting risk assessments correct is essential.

Five-step approach to risk assessment

The Health and Safety Executive (HSE) have published a five-step approach to risk assessment. The model supports organisations in effectively managing workplace risks and provides a structured framework for identifying hazards, assessing risks, and implementing effective control measures. It highlights the importance of recording significant findings and the requirement to keep risk assessments under regular review.

Implementing this structured approach, or something similar helps organisations to reduce accidents, comply with legal duties to protect people, and minimise costs linked to lost output, equipment damage, and insurance. It also strengthens safety culture by focusing attention on the risks that truly matter within the workplace.

Common pitfalls

Using the HSE's five_step risk assessment model as a framework, this section explores some of the common challenges faced by organisations and provides practical recommendations to strengthen risk management outcomes. This improves both the safety outcomes and claim defensibility.

Step 1 - Identify the hazards

Hazard identification is the foundation of an effective risk assessment and involves systematically recognising anything with the potential to cause harm. While some hazards are readily apparent, others may be less obvious and require a more structured and informed approach to identify. Robust risk assessments seek to capture all reasonably foreseeable hazards, including those arising from variations in activity, environment, and operating conditions.

Where hazard identification is incomplete, it is often not due to a lack of intent, but to limitations in process or approach. Challenges can be overcome through the following good practices:

- **Defining the scope of the assessment**
  Clearly defining the scope of a risk assessment is fundamental to effective hazard identification. This includes setting out the activities, locations, materials, equipment and processes covered, as well as clearly documenting any exclusions or limitations. Doing so helps avoid unintended gaps and clarifies the parameters of the assessment and helps to ensure hazards are identified in a proportionate and logical manner.
- **Ensuring assessor(s) competence**
  Risk assessments are most effective when carried out by individuals with appropriate knowledge, experience, and understanding of both the task and associated hazards. Providing suitable training, technical support, and access to subject-matter expertise helps ensure hazards are identified accurately and consistently.

- **Involving the right people**
  Engaging workers, supervisors, contractors, and specialists who are familiar with the work activity, including the location, equipment etc. will significantly enhance hazard identification. Those directly involved in the task, including maintenance and cleaning functions, are often best placed to highlight practical risks, foreseeable deviations, and identify historical issues.
- **Varied sources of data and methods to identify hazards**
  Where the appropriate tools, data and expertise is not utilised, hazards may be unintentionally overlooked, particularly those that are less obvious or have contributed to incidents in the past. Drawing on sources such as historical loss and incident data, actively visiting the workplace to observe tasks as they are actually carried out, and reviewing manufacturers' instructions and specifications provides valuable insight into foreseeable hazards. When used together, these tools help ensure hazard identification reflects real working conditions and known risks, supporting a more accurate and defensible risk assessment process.
- **Use of Artificial Intelligence (AI)**
  Linked to the point above, many organisations are using AI to help inform risk assessments which may help improve efficiency and highlight potential risks. However, AI outputs are often not tailored to the unique situation, may be theoretical rather than grounded in real_world context, and can lack nuance or organisational insight. Over_reliance on AI may also miss the opportunity to discuss risks as a team, reducing shared understanding and professional judgement challenge which is critical to effective risk assessment. If AI is used, it is critical that risk assessors take the time to review, challenge, and verify the outputs, ensuring they are aligned to the unique circumstances and context, rather than being accepted at face value.
- **Considering non-routine and abnormal situations**
  Effective hazard identification extends beyond normal operations to include non-routine activities such as maintenance, cleaning, breakdowns, emergency situations, and start-up or shutdown processes. Actively considering these scenarios helps ensure that less frequent, but potentially higher-risk hazards are not overlooked.
- **Accounting for variations in conditions**
  Hazards may change depending on factors such as time of day, weather, staffing levels, workload, or seasonal pressures. Incorporating these variables into the assessment process supports a more realistic evaluation of risk and ensures controls remain effective under differing circumstances.
- **Dynamic risk assessments (DRA)**
  Linked to the point above, when it is foreseeable that changeable conditions may arise, it is more likely than not, that dynamic risk assessment will be a risk mitigation tool. DRA enable organisations to adapt to changing conditions and prevent harm or loss, ensuring safety when unanticipated hazards arise. It is essential that the feedback from DRA is considered in the risk assessments to improve future planning and reduce the reliance on reactive measures.

Step 2 - Decide who might be harmed and how

Determining who may be harmed and the way harm could occur is a key stage of the risk assessment process. While this step can appear straightforward, in practice it often presents challenges if not approached with sufficient depth and consideration.

- **Risk variations across groups facing the same hazard**
  A common weakness is the tendency to produce a broad, generic list of potentially affected persons such as employees, contractors, and visitors without adequately considering how specific groups may be exposed to a particular hazard, or the nature of that exposure. This approach can result in significant differences in risk being overlooked and controls not being appropriately targeted. By identifying who may be harmed and how harm could realistically arise, assessors can take account of factors such as the activities being undertaken, levels of supervision, familiarity with the work area, and any potential vulnerabilities. Adopting this approach results in a clearer understanding of risk and supports the selection of more effective control measures.
- **Duty of care**
  Care is required when considering individuals to whom a greater duty of care is owed. This includes, but is not limited to, young persons, new and expectant mothers, and others who may be more vulnerable due to age, health, or inexperience. Risk assessments should explicitly identify these groups and consider how hazards may affect them differently, including increased susceptibility to harm or additional legal protections that apply. Adequate consideration may involve tailoring control measures, adjusting tasks or environments, and implementing additional safeguards or restrictions where necessary. By proactively recognising and addressing the specific needs of these individuals, organisations not only meet their legal obligations but also demonstrate a commitment to inclusive and responsible risk management.

Step 3 - Evaluate the risks and decide on precautions

Step 3 of the risk assessment process focuses on evaluating the level of risk arising from identified hazards and determining appropriate precautions. This stage is critical in translating hazard awareness into effective risk control, yet it is also where assessments can lose thoroughness.

- **Focusing on the real hazards**
  A common weakness in risk evaluation is allowing the assessment to drift away from the actual hazard and towards assumed risks. This can occur where assessments are overly generic or based on broad assumptions rather than current working practices. Effective risk evaluation must maintain a clear focus on the specific hazard, the credible harm that could arise, and the realistic conditions under which exposure may occur. Concentrating on real, task-based hazards ensures that risk ratings remain meaningful and that control measures are directed at what genuinely drives risk.

- **Consistency of risk ratings**
  Inconsistency in risk ratings within assessments, or across multi-sited organisations can undermine confidence in the process and make it difficult to prioritise controls effectively. Variations often arise where different assessors apply subjective judgement without a shared understanding of risk criteria. A consistent use of a defined risk matrix supported by unambiguous descriptors for both likelihood and severity, and peer review can help promote alignment across assessments. A consistent approach allows organisations to compare risks more reliably and allocate resources where they will have the greatest impact.
- **Aligning controls to the level of risk**
  Controls are most effective when they are clearly aligned to the risk identified. A frequent issue is the application of standard controls without sufficient consideration of whether they are proportionate or adequate for the risk presented. Risk evaluation should explicitly test whether existing controls reduce risk to a tolerable level and whether additional or alternative measures are required.
- **Vagueness of controls and use of a risk control hierarchy**
  Control measures that are vague or poorly defined can give a false sense of assurance. Statements such as 'ensure staff are trained' or 'follow procedures' lack clarity and are difficult to verify or enforce. Effective precautions are specific, measurable, and clearly assigned. Applying the hierarchy of control supports this process by encouraging assessors to prioritise elimination, substitution, and engineering controls before relying on administrative measures or personal protective equipment. Using the hierarchy in a structured way leads to more resilient and sustainable risk reduction.

Step 4 - Record the findings and implement controls

Recording the findings and implementing controls is essential for ensuring that risk assessments result in effective, demonstrable risk management rather than remaining a purely analytical exercise. The secure retention and ready accessibility of risk assessments is essential to demonstrate effective risk management. In practice, liability exposure often arises not because assessments were not undertaken, but because relevant documentation cannot be located promptly when required to evidence decision_making and control implementation.

- **Suitable and sufficient detail**
  A frequent issue at this stage is recording findings at too high a level, resulting in assessments that lack the detail needed to demonstrate that risks have been properly evaluated and controlled. Records should be proportionate to the level of risk and clearly document significant hazards, foreseeable harm scenarios, control measures, and residual risk.
- **Clear signposting of information**
  Well-structured risk assessment records enable users to quickly locate key information. Common weaknesses arise where vital details are buried within narrative text or poorly organised layouts. Effective documentation uses clear headings, logical sequencing, and where appropriate signposts to other resources e.g., procedures, meaning key information is readily accessible to all.

- **Recording key metadata (time, date, assessor, review date)**
  Accurate recording of information such as the date of assessment, the assessors' names and roles, and the scheduled review date is essential but is sometimes overlooked. This information provides assurance that the assessment is current, and subject to ongoing review. Clear version control also helps ensure that obsolete assessments are not relied upon in error.
- **Sharing findings effectively**
  Recording risk assessments is insufficient if the control measures defined are not communicated to those who need to apply them. A common failure is assuming that the existence of a documented assessment equates to effective implementation. Sharing findings with relevant staff, contractors, and other stakeholders helps ensure that control measures are understood, followed, and embedded into everyday working practices.
- **Making details accessible**
  Accessibility of risk assessments is fundamental. Assessments that are difficult to locate, overly complex, or stored in inaccessible systems are less likely to be used. Making information readily available, through simple formats, central storage, or converted to procedures that are easy to read helps to support awareness and adherence with standards.

Step 5 - Review the assessment and update if necessary

Reviewing risk assessments is essential to ensuring that they remain accurate, effective, and reflective of actual working practices over time. This step provides assurance that control measures continue to manage risk as intended and that learning from incidents, change, or experience is properly embedded.

- **Tracking remedial actions**
  A common 'review' weakness is the failure to effectively track remedial actions identified through the assessment process. Where actions are not clearly assigned, prioritised, and monitored, there is a risk that identified issues remain unresolved. Robust review processes include clear ownership, realistic timescales, and mechanisms to confirm completion and the effectiveness of control measures. Once control measures are implemented, they should be monitored to ensure the desired outcome has been achieved.
- **Periodic review**

  A periodic review, undertaken at defined intervals, provides an opportunity to systematically reassess hazards, risk evaluations, and control measures. One common failure is treating periodic review as a date driven exercise rather than a structured re-evaluation of risk. Effective periodic review provides the opportunity to challenge existing assumptions, confirm that controls remain suitable, and ensure that outstanding actions have been closed and verified. Questions are often raised regarding the appropriate frequency of periodic reviews. Good risk management practice indicates that reviews should be conducted on a 12_monthly cycle. However, in certain circumstances, such as the introduction of completely new processes or equipment, the interval between routine reviews may need to be shortened.

- **Dynamic review**
  Dynamic reviews are triggered by change or experience. These should occur following incidents, near misses, significant changes in work activities, staffing, equipment, or working conditions. There may be other catalysts such as emerging technology or changes to legislation. A frequent weakness is failing to recognise when such changes invalidate existing assessments, leading to controls that no longer reflect operational reality, or the most robust risk control measures available.
- **Risk assessments informing safe systems of work**
  Risk assessments should directly inform the development of safe systems of work. Where this linkage is weak, assessments can become detached from operational reality. Effective review ensures that changes to risks, controls, or working conditions are reflected in procedures, training, and supervision, keeping systems of work aligned with current risk.

Summary

Risk assessments are more than a regulatory requirement; they form a critical component of defensible risk management and claims resilience. By applying the HSE's five-step approach, or similar model, with appropriate depth and consistency, organisations can move beyond generic documentation and develop assessments that accurately reflect how work is carried out in practice.

From a claim perspective, well-constructed and actively managed risk assessments provide essential evidence that foreseeable risks have been identified, controls have been considered and implemented, and duties of care have been met. Conversely, weaknesses such as generic assessments, poorly defined controls, lack of review, or inaccessible documentation can significantly undermine an organisation's ability to demonstrate a defence following an incident.

When risk assessments are treated as living documents, informing safe systems of work, reviewed in response to change, and supported by clear records they not only help prevent harm but also strengthen an organisation's position in the event of investigation, enforcement, or civil claim. In this way, effective risk assessment supports both safer outcomes and improved defensibility.

Checklist

A generic 'Claim defensibility through effective workplace risk assessment' Checklist is presented in Appendix 1 which can be tailored to your own organisation.

Specialist Partner Solutions

Aviva Risk Management Solutions can offer access to a wide range of risk management products and services at preferential rates via our network of Specialist Partners.

For more information please visit: Aviva Risk Management Solutions - Specialist Partners

Sources and Useful Links

- Managing risks and risk assessment at work – Health and Safety Executive(HSE)*

*Contains public sector information published by the Health and Safety Executive and licensed under the Open Government Licence.

Additional Information

Relevant Loss Prevention Standards include:

- Claims Defensibility
- Dynamic Risk Assessments
- Managing Change - Liability

To find out more, please visit Aviva Risk Management Solutions **or speak to one of our advisors.**

Email us at riskadvice@aviva.com or call 0345 366 6666.*

*The cost of calls to 03 prefixed numbers are charged at national call rates (charges may vary dependent on your network provider) and are usually included in inclusive minute plans from landlines and mobiles. For our joint protection telephone calls may be recorded and/or monitored.

Appendix 1 - Claim defensibility through effective workplace risk assessment Checklist

Location	
Date	
Completed by (name and signature)	

	Claim defensibility through effective workplace risk assessment	Y/N	Comments
1.	Has the scope of the risk assessment, and any limitations, been clearly defined?		
2.	Have those involved in the risk assessment got the appropriate knowledge, experience, and understanding of both the task and associated hazards?		
3.	Does the risk assessment team include all relevant stakeholders, including those who are involved in non-routine tasks e.g., maintenance?		
4.	Have varied sources of information and methods of hazard identification been determined? If AI is being used, are assessors aware of its limitations?		
5.	Have non-routine scenarios been fully considered?		
6.	Have variable conditions, that may not be prevalent on the day of the assessment, been fully considered?		
7.	If the organisation is reliant on dynamic risk assessment, is there an established method for identified hazards to be captured within the workplace risk assessment i.e., formal feedback loop?		
8.	Does the assessment clearly define both who may be exposed to the hazard and how harm may occur? If distinct and significant differences exist, has each risk group been considered individually?		
9.	Does the assessment provide sufficient consideration to individuals to whom a greater duty of care is owed?		
10.	Does the risk assessment focus on real hazards and current working practices as opposed to assumed risks?		
11.	If used, has a consistent approach in risk ratings been applied throughout the risk assessment?		

	Claim defensibility through effective workplace risk assessment	Y/N	Comments
12.	Are the controls identified clearly aligned to the risks documented?		
13.	Are the control measures concise and clearly defined?		
14.	Has the hierarchy of control measures been used to help select the most robust control measures available?		
15.	Is the risk assessment content proportionate to the level of risk, with suitable and sufficient detail?		
16.	Is the risk assessment well-structured, with key information easily identifiable?		
17.	Has key metadata been accurately recorded?		
18.	Have the findings of the risk assessment been shared with relevant stakeholders?		
19.	Are risk assessments readily accessible?		
20.	Is there a regime in place to ensure any remedial actions are fully implemented?		
21.	Are there processes in place to ensure remedial actions achieve the desired outcome?		
22.	Has a periodic review date been established, and is this proportionate to the risk?		
23.	Is there a regime in place that will trigger a dynamic review in the event of significant change or adverse experience?		
24.	Does the risk assessment directly inform the safe systems of work?		

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