



FOOD & DRINK

LIABILITY EXPOSURES

What can you do to protect your business?



MANAGING YOUR LIABILITY EXPOSURES – THE INSURER'S VIEW

In 2014 according to the Institution Of Occupational Health (IOSH), insurers paid out £6.8 million per day in liability claims, of which £2.3 million was employers' liability.

It is the responsibility of each business and every employer to be able to manage risk effectively. In our previous white paper we wrote about fire and property loss and how working with your insurer you can use their knowledge of losses and claims to prevent catastrophic property loss incidents.

In this white paper we review how you can work with your insurer to review liability exposures and take action to minimise exposures to your staff, customers and business, specifically by detailing what we look at as insurers when reviewing liability risks.

Liability Insurances in brief

Within the UK, in order to protect all employees, it's a legal requirement for most businesses with employees to have at least £5 million of cover in place. If you're self-employed, liability insurance will also, in most cases, be a legal requirement if you employ one or more people. There can sometimes be exceptions based on the number of employees or the type of business and further advice can be found at www.hse.gov.uk.

Employers' liability insurance will cover the cost of defending or settling an employee's claim if they have suffered bodily injury or disease as a result of the work they do for their employer. It also covers the cost of defending a related criminal prosecution arising from a breach of health and safety legislation.

Public Liability insurance is designed to protect a business against claims made by the public if they have suffered an injury or loss as a result of the business. Even if there are no visitors to an office or facility, you could still suffer a public liability claim, for example if you accidentally damage a client's property in their office. In this scenario, public liability insurance would pay out the cost of compensation to be paid to the individual, as well as the legal fees and expenses involved. Anyone working for you, such as a contractor or agency staff working on site, could also trigger a public liability claim against your business if their actions at work injure a client or member of the public.

Other liability insurances, such as Professional Indemnity can be purchased where necessary and it is always a good idea to review your liability needs and covers with your insurance broker.

As insurers, we work with businesses to review their health and safety management to ensure that they comply with any legal requirements. Using our knowledge of where incidents come from and the claims that arise, we work with you to review systems and procedures under the following ten broad headings.

MANAGEMENT SYSTEMS

We review health and safety management systems and controls to ensure that they reflect the considerations necessary to reduce the liability exposures. We would expect there to be a specialist health and safety advisor to direct the business in implementing the health and safety management system.

However, this person is not responsible for managing health and safety. We would therefore expect to see a structured management team in place, with appointed persons with specific health and safety responsibilities at all levels throughout the organisation.

We review health and safety management systems in accordance with the internationally recognised accreditation standard BS EN OHSAS 18001, and provide guidance in meeting the requirements of this standard. We also look for evidence to verify that the system is effectively implemented throughout the organisation.

We would also expect the system to be kept up to date, and where possible that regular provision is made for cross checking and sharing knowledge between various departments or locations. This can include, for example, a hazard spotting and behavioural safety programme.



WORKPLACE CONTROL


In this category we review the controls in place within the workplace including manual and automated production processes, machinery safety and safeguarding. It is also important to review the controls that are in place for managing public and contractor access, particularly contractors in factories.

These controls should include the selection and deployment of contractors on site, who should be pre-vetted and, preferably prior to entering site, should be required to complete a knowledge and induction test.

There should be a database to manage contractors and an induction (which is normally renewed annually) usually covers food hygiene as well as health and safety. Contractors should be provided with site rules.

Once on site, contractors should be required to follow safe working procedures and provided with close supervision. This should be enforced by a Permit to Work where necessary.

We would also review visitor controls and security systems as part of this area.



RISK ASSESSMENT

The concept of Risk Assessments (RA) is aimed at eliminating and reducing risks, based on the 'as low as reasonably practicable' (ALARP) risk reduction strategy.

A similar comprehensive approach can be adopted to ensuring food product safety. A full Hazard Analysis Critical Control Point (HACCP) food safety plan and food safety and management system should be in place to meet the requirements of the British Retail Consortium (BRC) Global Standard for Food Safety (Version 6). Good manufacturing practice (GMP) audits can also be completed, all of which provide a comprehensive framework.



ACCIDENT PERFORMANCE AND INVESTIGATION

All accidents and incidents such as 'near misses' should be recorded, and periodic reviews undertaken to assess performance.

In the UK, a benchmark for assessing accident performance is to review the number of major injuries or lost time injuries, as defined by the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013, recorded in the last year, as well as reviewing how many minor occurrences and near misses have been reported.

We would also encourage regular analysis of reported data to highlight commonly occurring problems, and a suitable follow-up investigation to identify causes and prevent recurrence.

It is also important to review if there have been any reported product recalls; or if there have been any other losses or allegations made of, for example, dental damage/injury and foreign object contamination.

Insurers would expect to see evidence of food safety induction and food safety training, as a fundamental requirement of the BRC standard, and would expect the training to be accredited by an approved external body such as the Chartered Institute of Environmental Health (CIEH). New starters should be given an induction that covers hygiene and work wear, glass and hard plastic and allergens amongst others. This usually involves training being available for each department and evidence that a suitably qualified departmental trainer is appointed. Food safety training is normally repeated every three years. Systems of e-learning are popular as they can record employees training and give practical competency tests. It is normal to see subjects such as bacteria, food poisoning, prevention of food poisoning, contamination hazards, food spoilage, personal hygiene, equipment and pest recognition and control, cleaning and disinfection, HACCP and the law relating to food all covered.

HAZARDS: PHYSICAL/MATERIAL/ NOISE/IONISING-RADIATION

Our consultants review product foreign body contamination (FBC) and the control of allergens. They look for a documented Risk Assessment to be carried out to identify the use of equipment to detect and remove FBC and for this to be incorporated as part of a site HACCP system.

The use of allergens is also reviewed to ensure products are allergen free. Also reviewed are Allergen Risk Assessments including the number of approved raw materials and their management.

To ensure traceability, we look for evidence that raw material specifications are controlled and indicate their presence throughout the supply chain. A final positive feature is laboratory testing for samples of food.

We would also assess whether physical hazards such as noise, heat, humidity etc. pose a significant risk, and if so whether suitable and sufficient control measures are in place. Our consultants will advise on the adequacy of existing controls, and make recommendations for improvement where required.

We would also expect to see suitable occupational health monitoring programmes in place, to ensure that any adverse health effects to employees are identified and minimised in the early stages.

SPECIAL WORKING CONDITIONS/ PERSONAL PROTECTIVE EQUIPMENT (PPE)

Under this category, we look for signs of good provision of mechanical assistance to eliminate manual handling, lifting and carrying i.e. the use of automated systems such as conveyors, or mechanical methods e.g. forklift truck (FLT) and hand pallet trucks. It is important that we can see evidence of training and fleet management as well as driver access control and safety monitoring equipment.

We also look for specific controls to be in place for high risk working e.g. work at height, confined spaces i.e. silos. This should include Permit to Work controls, isolation and lock off procedures, checklists and requisite training.

All necessary items of PPE should be provided for use and we would expect to see documented issue records.

AGE OF EQUIPMENT/EQUIPMENT MAINTENANCE/HOUSEKEEPING

Under these criteria, we look at the age of equipment, its reliability, maintenance and management. We review Capital Expenditure and how projects are managed.

Equipment checks are reviewed, particularly those that look at operation and condition of equipment, with special focus on moving parts.

Standards of housekeeping are reviewed as well as the frequency and adequacy of statutory inspections of lifting, pressure equipment and in respect of other work equipment e.g. racking installations by specialist contractors.



SITE SAFETY AUDITS AND INSPECTIONS

Site safety audits and inspections can often extend to include independent external audits. Often these are delivered by a recognised, independent third party and they review high and medium risk suppliers, over fixed time periods with desktop review of low-risk suppliers.

Additionally, businesses usually have a comprehensive programme of internal food safety inspections and audits against a recognised set of standards looking at areas such as health and safety, Permit to Work, fire safety, transport safety, use of cleaning chemicals and electrical safety.

We would expect to see a documented inspection and audit structure in place, and written records to verify that the required inspections and audits have been suitably completed.

Asbestos registers and records of how asbestos-containing materials are monitored and managed are usually considered under this category as well as water hygiene and Legionella precautions and pest control.

HEALTH SURVEILLANCE & FIRST AID/ EXPOSURE TO CMR (CARCINOGENIC MUTAGENIC REPROTOXIC) PRODUCTS

It is normal to see a comprehensive in-house, health surveillance programme established for all employees at each site, focused on relevant exposures.

Environmental

Within the food and drink industry, we normally look for a site's environmental management systems to be accredited to ISO14001. This would include the requisite assessment of aspects and impacts. Interceptor divert systems are normally provided at each location which would contain any large spillage should this occur. Spill kits should also be strategically located, and relevant employees trained in spillage procedures. We also look beyond this to see what kind of working relationship has been established with both the local water authority and the Environment Agency.

REDUCING EXPOSURES IS GOOD FOR BUSINESS

Insurance should be part of your risk management strategy. However, prevention of exposures often goes hand in hand with increased profitability – businesses always prefer to concentrate on product development, manufacturing and distribution, rather than dealing with liability claims.

As insurers we have experience of processing a wide range of liability claims, and we can use this to work with businesses to help them prevent incidents before they occur and help reduce the frequency and severity of loss.

Effective risk management also ensures that an organisation fulfils its obligation to protect the health and safety of its employees, minimise financial losses that may not be covered by insurance, and increase profitability by improved quality and safety, and an enhanced reputation.

**Get our food and drink expertise working for you,
contact food.drink@uk.rsagroup.com**

