Health and Safety Essentials

Lecture 4 – Governance and Policy in Health and Safety

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Undergraduate Diploma in
Occupational Health and Safety

Recap last week's topic

Kahoot Quiz:

https://play.kahoot.it/v2/?quizId=8d984c9f-2cc0-41c2-81cb-f1fa1b5970bd&hostId=335c469d-d273-41ca-a0de-2c184d6efd91

Learning Objectives

- Understand corporate governance in health and safety.

- Explore the roles of directors and boards in health and safety governance.

- Learn the structure and implementation of health and safety policies.

- Understand best practices in health and safety governance.

- Develop an OHS governance and policy framework.

Defining Corporate Governance in Health & Safety

- Governance is the system by which an organisation is directed and controlled.

- Governance ensures that the organisation's objectives, including health and safety, are achieved.

- Governance is strategic, while management handles day-to-day operations.

Key Elements of Effective Governance

In summary, corporate governance encompasses:

1. **Leading the organisation and establishing the overall strategic direction**

2. **Setting values, standards, and objectives for management**, defining roles and responsibilities

3. **Holding management accountable** for business performance, including health and safety performance

4. **Upholding obligations to shareholders and stakeholders**, ensuring compliance with legal and ethical standards

5. **Overseeing internal controls**, quality assurance, and risk management.

1. Leading the Organisation and Establishing the Overall Strategic Direction

- Leadership sets the tone for the entire organisation. When top management prioritises health and safety as part of their strategic direction, it signals to everyone in the company that H&S is a core value, not an afterthought. This leadership commitment creates a culture of safety where every employee understands that their well-being is central to the organisation's success.

- From a governance perspective, this strategic direction can be reflected in clearly articulated health and safety policies that align with the company's overall business objectives. When H&S is incorporated into strategic goals, it ensures that resources are allocated appropriately and that safety considerations are embedded in decision-making processes, leading to long-term benefits such as fewer accidents and improved employee morale.

2. Setting Values, Standards, and Objectives for Management, Defining Roles and Responsibilities

- A successful health and safety program begins with clear expectations. By defining specific standards and objectives for health and safety, corporate governance ensures that everyone knows their role in maintaining a safe workplace. Standards could include compliance with legal requirements or industry best practices, while objectives could target zero accidents, reduced incident rates, or improved hazard reporting.

- By assigning clear roles and responsibilities, organisations ensure accountability at every level. For instance, management might be tasked with conducting regular safety audits, while employees are responsible for reporting hazards. This structured approach not only helps in meeting compliance requirements but also encourages ownership of safety initiatives across the organisation.
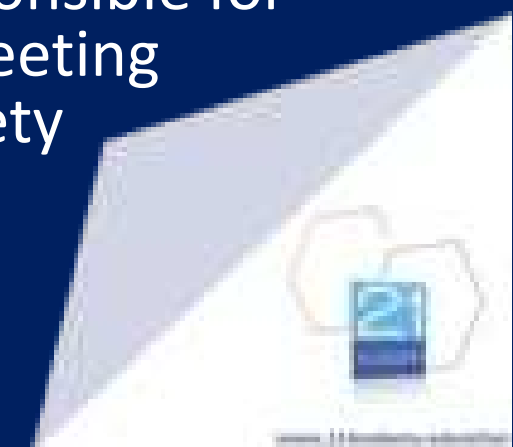
3. Holding Management Accountable for Business Performance, Including Health and Safety Performance

- Accountability is key to ensuring that health and safety measures are more than just "box-ticking" exercises. Corporate governance frameworks often require management to report on H&S performance alongside financial performance, which emphasises the importance of safety to the overall success of the business.

- Holding management accountable for health and safety can be accomplished by setting KPIs (Key Performance Indicators) related to safety, such as injury rates, near-miss reports, or training completion rates. By tracking and evaluating these indicators regularly, organisations can identify areas for improvement before they become major issues, moving towards a proactive, rather than reactive, approach to safety management.

4. Upholding Obligations to Shareholders and Stakeholders, Ensuring Compliance with Legal and Ethical Standards

- Health and safety governance is not just about protecting employees—it also protects the interests of shareholders and other stakeholders. Poor safety performance can lead to financial losses, legal liabilities, and reputational damage, all of which affect shareholders. Thus, strong governance ensures that the organisation complies with all relevant legal and ethical standards to minimise these risks.

- Ethical standards, beyond legal compliance, also play a role. Upholding ethical obligations means that the company goes beyond mere compliance and strives to create a safe and healthy work environment because it's the right thing to do. This proactive stance helps to build trust with both employees and external stakeholders, such as customers and the wider community.

5. Overseeing Internal Controls, Quality Assurance, and Risk Management

- Internal controls and risk management are fundamental components of effective health and safety governance. These mechanisms help organisations to anticipate and manage potential safety risks before they cause harm. Internal controls might include regular safety audits, safety training programs, and risk assessments that are designed to identify potential hazards and address them proactively.

- By implementing robust internal controls, organisations can continuously monitor and improve their health and safety performance. Quality assurance processes ensure that health and safety policies are effectively implemented and consistently followed. Moreover, when risk management is integrated into everyday operations, it empowers organisations to foresee potential safety issues and mitigate them before they escalate.

Moving Towards a Proactive Approach to Health and Safety

All these elements together shift an organisation from a reactive to a proactive approach to health and safety management. Instead of waiting for accidents to happen and then addressing them, proactive governance anticipates risks and takes action to prevent incidents.

- For example:
- **Setting strategic direction** ensures that health and safety are incorporated into the organisation's vision and long-term goals.
- **Defining standards** provides clear benchmarks for safety, ensuring that everyone understands the expected level of performance.
- **Establishing accountability** ensures that management is not only responsible for profit but also for maintaining a safe working environment, pushing safety to the forefront of business objectives.
- **Upholding legal and ethical standards** keeps the organisation compliant and builds a culture of integrity, where safety is seen as a moral imperative.
- **Internal controls** allow for continuous monitoring and improvement, ensuring that the organisation adapts and responds to emerging risks.

Importance of Governance in Health and Safety

- Moral, legal, and financial reasons for solid governance.

- Reduces accidents, enhances company image, and ensures legal compliance.

Example of consequences – Big Dig Case

Big Dig Project: One of the most ambitious infrastructure megaprojects in US history

Planned Cost €2.8bn and finish in 1998 – Actual Cost

- July 10, 2006, a 24T concrete ceiling panel debris collapsed, killing a passenger and injuring the driver

- Numerous problems with this same system of bolts and epoxy in the Ted Williams Tunnel had been previously revealed in a 1998

- Attorney General Tom Reilly described the tunnel as a crime scene

- Turnpike Authority chairman Matthew J. Amorello, who provided oversight of the project was made to step down. Others came under fire.

- Family of deceased and injured were paid $28m

- The Bechtel/Parsons Brinckerhoff joint venture paid $405 million, and smaller contractors paid a total of $51 million in fines over criminal charges

- https://www.ntsb.gov/investigations/AccidentReports/Reports/HAR0702.pdf
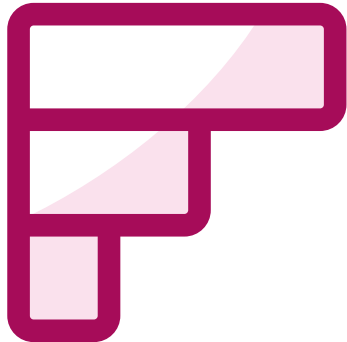
Director Responsibilities in Health and Safety Governance

Director competence

- All directors should have a clear understanding of the key OHS issues for their business and be continually developing their skills and knowledge.

- Legal responsibilities

- Directors set safety standards, monitor performance, and ensure compliance.

- Directors are held accountable for negligence (Malta examples).

Malta cases

Directors fined €35,000 over builder's fatal fall

Union calls for action after fifth building site death this year

- **Devlands Limited Construction Fatality**: In 2011, Devlands Limited directors were held criminally responsible for involuntary homicide when a construction worker, James Aquilina, tragically died after falling down an improperly covered lift shaft. The court found that directors neglected essential safety measures, such as conducting thorough site evaluations and securing hazardous areas, which led to this fatal accident. The case underscored the directors' duty to implement safety standards that align with legal obligations, particularly in high-risk construction settings.

Malta Cases

The mother of a 27-year-old Italian man who died when he was hit on the head by a dislodged roller from a machine used to release a mooring rope at Palumbo Shipyards in 2016 has been awarded more than €200,000 in compensation A civil court found that the shipyard company was responsible for the fatality as it did not take the necessary precautions that would have prevented the death. Mr Justice Toni Abela was ruling in a case brought by Maria Matruscelli, mother of Aniello Fariello whose life was lost on January 18, 2016, while he was working on a ship docked at the Palumbo Shipyards. He was certified dead on the spot.

Malta cases

- **Malta Freeport Terminals Incident (Malta)**

In a 2015 incident at the Malta Freeport Terminals, a tally clerk sustained serious injuries when a trailer, operated by a tug master, struck a hydraulic box that then collided with the clerk's cabin. The court held the employer responsible under Maltese health and safety laws, stating the company failed to ensure a safe working environment and did not adequately control vehicle routes to avoid such hazards. This case reinforced the legal obligation for directors and employers to ensure risk assessments and traffic safety measures are in place

The Seven Principles of OHS Governance

1. Director competence.

2. Clear roles and responsibilities.

3. Defining culture, standards, and values.

4. Aligning health and safety with strategic objectives.

5. Performance management and monitoring.

6. Internal controls and audits.

7. Integration of health and safety into the governance structure

1. Director Competence

- **Implementation:** Ensure that directors and senior leaders are provided with training in health and safety leadership. This may include structured workshops, certification courses, or seminars on emerging OHS legislation and trends.

- **Example:** An organisation could establish an annual OHS training program for its directors, covering legislative updates and safety risk management. Such training could be led by the internal OHS team or external consultants and would enable directors to make well-informed decisions that prioritise safety.

- **Reinforcement:** When directors are knowledgeable about OHS, they can demonstrate a commitment to safety that resonates throughout the organisation, establishing a strong tone at the top and enhancing employee trust in the safety culture.

2. Clear Roles and Responsibilities

- **Implementation:** Outline and document specific OHS roles for all management levels, ensuring each leader knows their responsibilities for promoting a safe workplace.

- **Example:** Develop an OHS governance manual that includes an organisational chart, detailing the safety responsibilities at every level, from executive directors to line managers. Clear accountability ensures safety responsibilities are not overlooked.

- **Reinforcement:** When roles are well-defined, employees can be held accountable, reducing ambiguity. This clarity enhances proactive reporting, encourages compliance, and builds a culture where everyone understands their contribution to workplace safety.

3. Defining Culture, Standards, and Values

- **Implementation:** Embed safety into the organisation's core values and communicate these values consistently across all levels.

- **Example:** An organization could define a set of "Safety Standards and Values" that are incorporated into performance reviews, onboarding programs, and regular safety meetings. Leaders might exemplify these values through visible actions, such as participating in safety inspections.

- **Reinforcement:** By defining and upholding safety standards, organizations signal that safety is a non-negotiable value. This commitment fosters a positive safety culture and motivates employees to act responsibly and support the organization's safety objectives.

4. Aligning Health and Safety with Strategic Objectives

- **Implementation:** Integrate OHS into the overall strategic plan, ensuring that safety initiatives support long-term organisational goals.

- **Example:** Set OHS objectives that align with business goals, such as reducing incidents to minimise downtime and improve productivity. For example, a manufacturing company could aim to reduce workplace injuries by 20% to improve operational efficiency.

- **Reinforcement:** Aligning safety with strategic objectives helps employees see safety as a contributor to business success, not a barrier. This alignment encourages proactive participation in safety programs, leading to sustained improvements and buy-in at all levels

5. Performance Management and Monitoring

- **Implementation:** Establish measurable OHS performance metrics, regularly review them, and incorporate these metrics into performance appraisals.

- **Example:** Implement a dashboard of key safety indicators (such as incident rates, near-misses, and safety audits completed) that senior leadership reviews quarterly. Managers could be evaluated on meeting safety targets, emphasising safety as part of their responsibilities.

- **Reinforcement:** Tracking safety performance and making it part of appraisal systems reinforces accountability. When safety metrics are consistently monitored, areas needing improvement are highlighted, encouraging continuous improvement and a proactive approach to addressing safety risks.
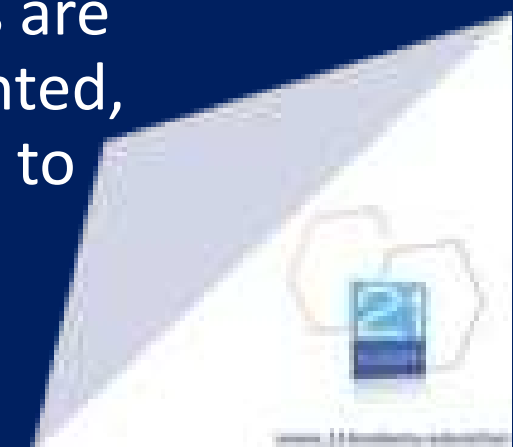
6. Internal Controls and Audits

- **Implementation:** Conduct regular internal safety audits and establish processes to address audit findings.

- **Example:** A retail chain might carry out bi-annual internal audits of each store's compliance with OHS protocols, creating a feedback loop for corrective actions. Findings would then be addressed in a structured follow-up, ensuring issues are resolved.

- **Reinforcement:** Regular audits demonstrate a commitment to identifying and mitigating risks. By continuously improving based on audit results, organisations reinforce a culture of vigilance, resilience, and openness to feedback.

7. Integration of Health and Safety into Governance Structures

- **Implementation:** Position OHS governance within the broader corporate governance structure, giving it the same importance as financial or strategic governance.

- **Example:** An organisation could establish a dedicated OHS committee within the board, chaired by a senior leader, to oversee all safety-related initiatives. This committee would report to the board quarterly, placing safety alongside other key governance concerns.

- **Reinforcement:** When safety is embedded in governance structures, it emphasises safety as a priority and responsibility of leadership. This integration reinforces a proactive culture where safety considerations are fundamental to decision-making, operational planning, and overall governance.

Break

Best Practices in OHS Governance

- Examples from BP, Shell, and leading companies.

- Strong governance can turn around poor safety performance.

Best Practice Case Study - BP

- Following significant incidents (e.g., Texas City refinery explosion in 2005 and the Deepwater Horizon spill in 2010), BP restructured its OHS governance.

- Established the Operating Management System (OMS) to standardise safety practices across global operations.

- Implemented new safety metrics and continuous oversight, integrating safety accountability at all management levels.

- Results: Improved safety performance, greater accountability, and enhanced stakeholder confidence.

Case Study – BP – Suggested Links

- https://committee.iso.org/files/live/users/fe/dg/bi/tc67contributor%40iso.org/files/TC67WG2/04%20BP%20management%20system%20(Heath).pdf

- https://www.bp.com/en/global/corporate/sustainability/safety.html

Earlier OMS (2008)

- https://www.mdl2179trialdocs.com/releases/release201302281700004/TREX-02352.pdf

- https://www.mdl2179trialdocs.com/releases/release201303071500008/TREX-45002.pdf

Best Practice Case Study - Shell

- Shell has developed one of the industry's most rigorous OHS governance frameworks through its Shell Control Framework.

- Emphasis on Goal Zero (no harm to people and no leaks) guides Shell's safety strategy, aiming for zero incidents.

- Shell employs Line of Defense protocols, where each level of management has distinct responsibilities for risk management.

- Results: Shell's OHS metrics show significant reductions in injuries and incidents, contributing to Shell's positive corporate reputation.

Case Study – Shell – Suggested Links

- https://reports.shell.com/annual-report/2023/strategic-report/living-by-our-values/hsse-sp-control-framework.html

- https://www.scribd.com/document/493132621/1-1-CF-Manuals-Summary-Matrix-2-1

Governance Failures

- Examples: King's Cross Fire, Bhopal Disaster and many more.

- Governance failures: Lack of oversight and accountability.

Failures Case Study - King's Cross Fire (1987)

Incident Overview:

- The King's Cross Fire in the London Underground resulted in 31 fatalities. A discarded match ignited accumulated debris under a wooden escalator, and a phenomenon known as the "trench effect" caused flames to shoot up, exacerbating the disaster.

- https://www.railwaysarchive.co.uk/docsummary.php?docID=75

- https://www.youtube.com/watch?v=qgzC4wYn_3g

Failures Case Study - King's Cross Fire (1987)

Governance Failures:

- **Lack of Accountability and Oversight**: Despite prior incidents, there was a lack of systematic inspection and no formal accountability for ensuring debris was routinely cleaned. A culture of complacency had formed, with little priority given to fire safety due to the assumption that underground environments had low fire risks.

- **Inadequate Communication**: The lack of clear communication channels for reporting hazards and insufficient communication between the London Underground, the Fire Brigade, and other relevant authorities delayed responses.

Failures Case Study - King's Cross Fire (1987)

Prevention through Stronger Governance:

- **Leadership and Accountability**: Clear accountability structures and routine inspections with a mandate for escalator cleanliness and maintenance would have greatly reduced fire risk.

- **Risk Management**: A risk assessment should have identified wooden escalators and debris as potential hazards, prompting mitigation measures like fire-retardant materials, consistent cleaning schedules, and regular drills with first responders.

Case Scenario – Overlap of Responsibilities in Public Safety within a Project

- **Context:** A busy city centre is undergoing roadworks and new sidewalks as part of a project managed by Infrastructure Malta. The construction site, however, is not properly segregated, leaving pedestrians exposed to dangerous conditions such as improperly covered manholes, exposed reinforcement, unsecured debris, and unmarked hazards. While the Occupational Health and Safety Authority (OHSA) focuses on the safety of workers on site, the Building and Construction Authority (BCA) and OHSA's **138 hotline** have deferred the responsibility for public safety to **Infrastructure Malta**, as they are responsible for the project.
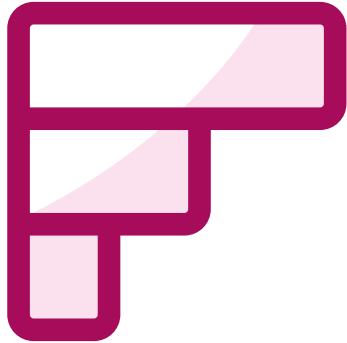
Case Scenario - Actual Images

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In your opinion, are the hazards from work activity on roads or sidewalks that impact the public considered OHS related hazards?

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Case being made

- Article 6(1) specifically states that employers are responsible for the health and safety of all persons affected by the work being carried out, not just workers.

- Legal Notice 88 of 2018, specifically Article 5(4)(h), places clear responsibilities on project supervisors to ensure that only authorised persons enter the construction site, and to prevent unauthorised access.

- Construction sites in public areas, such as those depicted in the case above involving exposed reinforcement and inadequate segregation, demonstrate a significant overlap between public safety and occupational safety. In such cases, public safety hazards arise directly from the workplace itself.
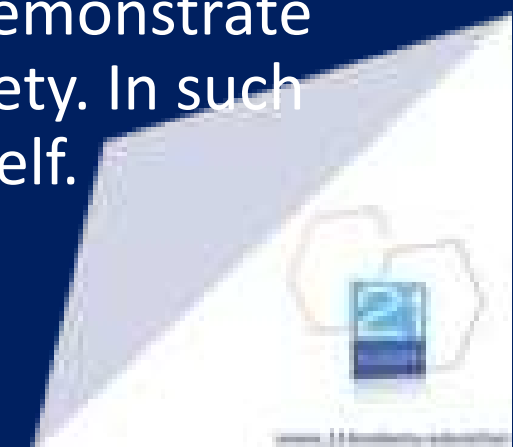
Case Scenario - Key Stakeholders:

- **The Local Council**: The Client for whom the work is being carried out by Infrastructure Malta (outsourced contractor)

- **Infrastructure Malta**: The national organisation allegedly responsible for the project, overseeing public safety during the roadworks as part of their remit.

- **OHSA (138)**: Primarily responsible for worker health and safety, claiming that its jurisdiction lies with the protection of employees working on site.

- **BCA (138):** Focuses on building standards and construction compliance but defers responsibility for public safety within this project to Infrastructure Malta.

- **The Contractor**: Performing the work

- **Public**: Pedestrians and members of the public who are at risk due to unsafe conditions directly related to the ongoing project.

Case Scenario -

Governance & Policy Implications:

- **Project-Based Public Safety**: Since the construction site forms part of a project, should public safety risks during the project's execution fall under workplace safety regulations, which are typically managed by OHSA and BCA?

- **Responsibility within a Project**: While the Client (LC), **Infrastructure Malta** is responsible for managing the project, how should the collaboration between OHSA, BCA, the LC and Infrastructure Malta be structured to ensure public safety in relation to the work being undertaken?

- **Workplace and Public Safety Overlap**: The construction site is both a workplace and a public space during the project. How can current policies, such as Act 27 of 2000 and LN 88 of 2018, ensure that safety for both workers and the public is addressed during such projects?

Discussion Questions:

1. How should governance policies differentiate between public safety during a project (a workplace) and general public safety concerns (e.g., deteriorating pavements)?

2. What gaps exist in the current coordination between OHSA, BCA, and other stakeholders such as LCs and Infrastructure Malta in ensuring that both worker and public safety are properly managed during projects?

3. What changes to policy or procedure could ensure clearer accountability for public safety within the scope of national infrastructure projects?

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Which of the following principles of OHS Governance likely failed, contributing to the situation in the above scenario? (Select two best answers)

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Health & Safety Policy

- The development of a robust health and safety management system rests on the ratification of a good policy. This means there has to be managerial consent and commitment from company directors and Chief Executive Officers at the very top. Departmental line managers and supervisors alike must also be involved in the development of a policy and should have an active role in developing any supporting documentation (taking care not to develop documents just for the sake of doing so). This involvement assists with ensuring ownership of the policy at all levels and helps supervisory management engage with the workforce.

Legal Requirement?

- In the UK it is a legal requirement under Section 2(3) of the 1974 HSWA for employers employing five or more people to have a written health and safety policy and this is very explicit as:

- "...it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any **revision** of it to the notice of all his employees."

Legal Requirement?

- Maltese Requirements: While Act 27 of 2000 does not explicitly mandate a written policy for all companies, it emphasises the duty of employers to uphold and ensure safe working conditions through preventive measures (Article 6).

- The new Act 33 of 2024 will strengthen this by requiring more sectors to adopt formal policies and appoint HSROs to oversee health and safety in the workplace.

- Do you think that it will be possible to do the above without having formal policies and management systems in place?

Structure of Health and Safety Policies

- Statement of Intent.

- Organisation of roles and responsibilities.

- Arrangements for managing health and safety (risk assessments, incident reporting).

Example from HSE (UK)

https://www.hse.gov.uk/simple-health-safety/assets/docs/example-policy-statement.pdf

Benefits of a Well-Structured Health and Safety Policy

A comprehensive and well-implemented health and safety policy offers numerous benefits, including:

- **Legal compliance**: Ensuring compliance with **UK** and **Maltese health and safety laws**, reducing the risk of penalties and legal action.

- **Enhanced safety culture**: Promoting a culture where safety is a priority, leading to reduced accident rates and increased employee morale.

- **Financial benefits**: Lower insurance premiums, fewer accidents, and reduced downtime all contribute to improved profitability.

- **Stakeholder confidence**: A strong health and safety policy enhances the organisation's reputation among employees, clients, regulators, and investors.

Example health and safety policy

Setting the scene

Daly Response Alarm Systems supply and install intruder alarms to residential and business premises. Manager John Daly employs 22 people – a mixture of office-based staff and engineers who work remotely. Cleaning is shared by the office-based staff on a rota basis.

John prepared his own health and safety policy statement using **HSE's template**.

He then thought about what he should include in his policy, such as remote working, personal protective equipment, staff consultation, training etc. He decided that he and his assistant manager were the most competent (experienced and capable) people to take responsibility for health and safety issues.

John presented the policy statement at a staff meeting and decided to review and update the policy every year or straightaway if there is a significant change in the workplace.

Part 1: Statement of Intent

- **Purpose**: This statement defines the company's health and safety commitments to employees, clients, and contractors.

- **Content Requirements**:
  - A clear commitment to prevent accidents, maintain a safe working environment, and adhere to legal standards.
  - Examples of specific goals like "providing clear instructions and adequate training" or "ensuring safe handling and use of substances."

- **Signature and Review Date**:
  - Importance of top management's signature for accountability.
  - Setting a review date demonstrates an ongoing commitment to health and safety.

Part 2: Responsibilities for Health and Safety
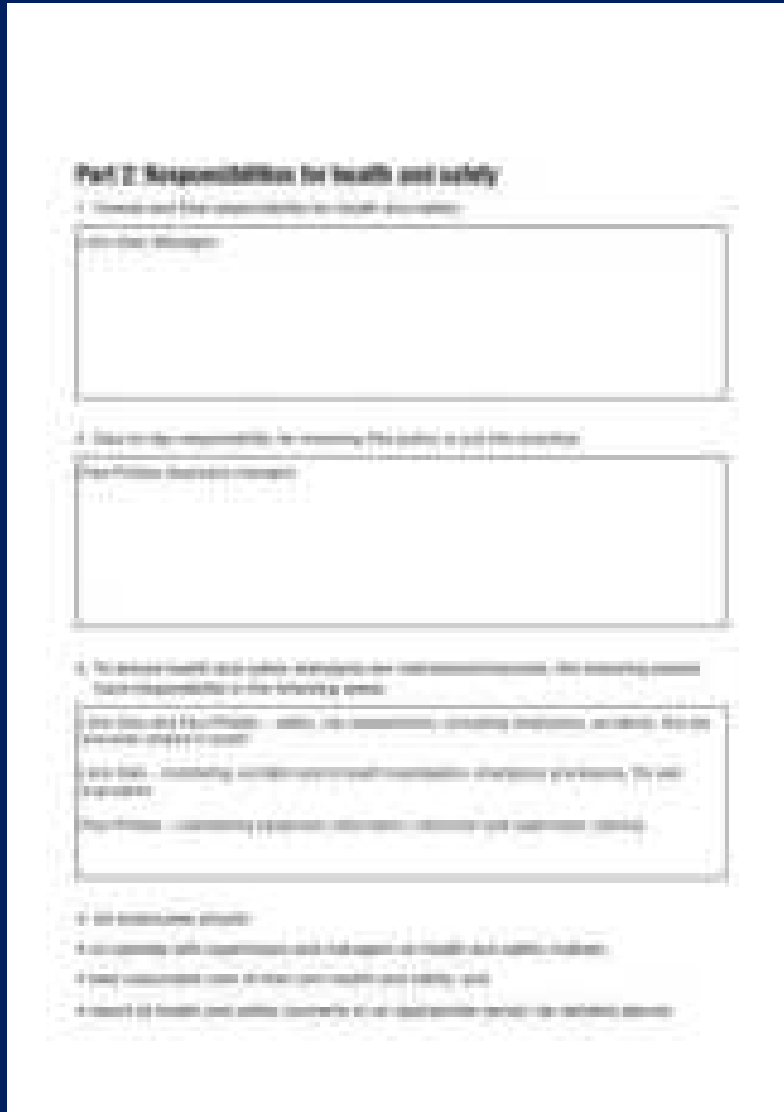
Purpose: Clarifies who is responsible for implementing each aspect of the policy, creating a structured approach to accountability.

- **Key Roles:**
  - Overall Responsibility: Typically a senior manager or owner (e.g., John Daly in the example) who assumes final accountability.
  - Day-to-Day Responsibility: Delegated to a qualified manager (e.g., Assistant Manager in the template) for daily safety checks and training oversight.

- Employee Responsibilities:
  - Highlight that all employees should:
  - Cooperate with supervisors on health and safety matters.
  - Take reasonable care of their own safety.
  - Report any health and safety concerns promptly.

- Emphasise fostering a workplace culture where safety concerns can be raised without hesitation.
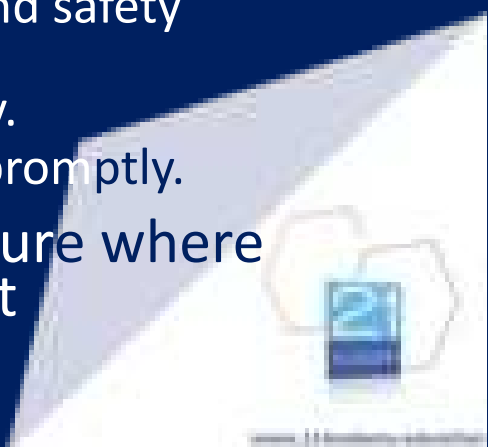
Part 3: Arrangements for Health and Safety

- **Risk Assessment**:
  - Explain the need for regular and situation-specific risk assessments and the systems in place.
  - Point out that changes in workplace conditions, such as introducing new equipment, require a reassessment.

- **Training**:
  - Specify how to include training topics relevant to the work environment (e.g., working at height, asbestos awareness).
  - Include induction processes and specialised training for employees in unique roles (e.g., remote work arrangements).

Part 3: Arrangements for Health and Safety

- **Consultation**:
  - Outline ways that involve staff in health and safety discussions and decision-making.
  - Include formal and informal consultation methods to keep employees informed and engaged.

- **Evacuation Procedures**:
  - Emphasise ensuring clear escape routes, regular testing, and updated evacuation plans.
  - Refer to the importance of signage and keeping routes clear for accessibility and safety.

Recap of Key Points

Recap of Core Topics: Governance and Health & Safety Policy

1.Corporate Governance in Health & Safety

1. Governance ensures health and safety is central to the organisation's strategic goals, with directors setting clear safety standards and holding management accountable.

2.Roles and Responsibilities in H&S Governance & Policy

1. Defined roles are crucial for accountability, from directors overseeing policy to employees engaging in safe practices and reporting issues.

3.Key Sections of the HSE Policy Template

1. **Statement of Intent**: A signed commitment from leadership to prevent accidents and maintain safe working conditions.
2. **Responsibilities**: Assigns health and safety duties across roles, ensuring clear ownership at all levels.
3. **Arrangements**: Outlines processes for risk assessment, staff training, consultation, and evacuation procedures to safeguard all employees.

Undergraduate Diploma in Occupational Health and Safety