The role of commercial property owners in managing health & safety risk

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• Involved in health and safety information and service provision for 20 years
Housekeeping

- Online presentation
- Sound quality sometimes better on the phone rather than computer sound card and speakers
- Ask your questions at any time over the chat box
- For technical issues – report them in the chat box or call 01344 899 257 or email barbour-marketing@ubm.com
Agenda for today’s webinar

• **Introduction to Barbour** - Heather Beach

• **NEW! Barbour EFM Service** – Heather Beach

• **Presentation** - The role of commercial property owners in managing health & safety risk

• **Questions and Answers**

• **Next steps**
Barbour EHS has been providing compliance information and tools to health and safety, construction and facilities professionals since 1955…
Barbour EHS

- Part of UBM – SHP magazine, Building, Safety & Health Expo, Facilities Show, Total Workplace Management, Energy Solutions Show, Info4security)
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- Legislation Diary
- EFM Current Awareness Briefing
- Barbour Communication, Training, Management and Policy Resources

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• The Barbour document library contains documents from over 700 sources – 60% paid for
• Kept up to date at least weekly, giving you peace of mind that you have access to information from HSE, legislation and key trade bodies
• Bookmarking function acts as a legal register facility
Your search: managing contractors in document library

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Managing contractors
A guide for employers

This is a free-to-download, web-friendly version of HSG159 (Second edition, published 2011). This version has been adapted for online use from HSE’s current printed version.

You can buy the book at www.hsebooks.co.uk and most bookshops.

ISBN 978 0 7176 6436 8
Price Code CA

Managing contractors has been written as a guide for small to medium-sized companies in the chemical industry, but it will also be of use to other industries and larger companies.

Safe working with contractors presents a challenge, but being a smaller company has its advantages. You can be more flexible in your approach and decisions can be made more quickly. Lines of communication are shorter, usually there are not too many people involved and it is easier to know who is around.

In this guidance we aim to help you understand what you need to do and give you guidelines on how to do it.
My Folders

Create folders to store "my document bookmarks" and "my saved searches".

**Personal Folders**
- The use of contractors
- Health and safety arrangements for the control of
- Managing contractors: guide for employers
- Use of contractors in maintenance of mainline rail

**Shared Folders**

**Web Administrator Folder**
Current Awareness

- Barbour ensures the organisation is ahead of the game.
- Our editors review all consultations, legislation, guidance, case law, research reports, prosecutions and summarise providing access to:
  - **Alerts** where the subject matter is time sensitive
  - A **weekly briefing** covering all new material
The Briefing - 6 February 2012 - Health and Safety

View this week's current briefing: Environment | EFM | Food Safety | Environmental Health | Trading Standards

**Prosecutions**

A construction company and director have been fined following the death of a worker at a site in Hampstead.

Father-of-one, Craig Page, of Islington, was working on a building site in Denning Road, when a mini-crawler crane was in the process of lifting a skip onto the site.

The skip, containing liquid concrete, overturned and the boom of the crane struck Mr Page, 26, causing crush injuries to his upper body. He died at the scene.

Harris Calnan Construction Co. Ltd and its director, Neil Harris, were prosecuted by the Health and Safety Executive (HSE) for breaching health and safety legislation.

The HSE investigation showed the company failed to properly plan or supervise lifting operations on the site.

The Central Criminal Court heard the construction site was poorly managed by the company who failed to ensure the lifting operation was carried out safely.
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Barbour Resources

- Barbour provides a series of validated, updated and peer reviewed Resources
  - **Technical Guides** to 150 key facilities management, health, safety and environment topics which can be customised for your organisation.
  - **Summaries** of 6,000 key legislative and guidance documents
  - Model policies
  - Forms and checklists
  - Toolbox Talks
  - Permits to work
Definition

The term 'contractor' is often used to include both the contracted individual and his or her employer but should be more correctly used as the organisation's management providing the service as required by the host employer, the client.

'Principal Contractor' is a role created under the Construction (Design and Management) Regulations 2007, usually the main managing contractor. An organisation or individual that carries out or manages construction work and is responsible for health and safety and environmental performance on site. The Principal Contractor must be competent and be adequately resourced.

Reviewed: 2010
Introduction

In property and facilities management, the use of contractors, providing a range of services is likely to be a fundamental part of the overall management process. As very few organisations either have, or wish to have all the technical resources available in-house on a full time basis. As facilities management itself is seen to be the integration of a range of disciplines to ensure an efficient and safe working environment, the use and management of contractors is undoubtedly a vital part of the process.

Whether those contractors are providing a highly specialized service, or merely providing one of the many necessary day to day services for the effective management, maintenance and upkeep of the working environment, it must always be remembered that from a health and safety management perspective their activities are seen to be part of the undertaking, and therefore something which we as property and facilities managers ignore at our peril.

There is sufficient case law which clearly establishes the responsibility placed on organisations for the actions of contractors appointed by them to undertake specialist services at or on their premises.

“Many contractors provide an invaluable service to property and facilities managers.”

For many organisations whose core business activities are considered to be low risk in general terms, where maybe the majority of staff are involved in office based clerical and administrative function is likely that higher risk activities are contracted out to specialist service providers. Simply by letting into your workplace with their tool bag the potential risks are likely to intensify, where building work is going to be undertaken there are very specific requirements placed on the client organisation by virtue of the Construction Design and Management Regulations 2007, which are addressed in other Barbour Guides, such as the Barbour Guide on CDM and Construction Site Safety.

As a property and facilities manager the whole process of selecting, appointing and managing contractors can appear to be quite daunting, particularly where the service being provided is of a specialist or highly technical nature. However, if certain steps are taken and good management principles adopted throughout the engagement of contractors, the risks can be reduced and effectively managed.

Many contractors provide an invaluable service to property and facilities managers and a strong working relationship will help in ensuring that risks are reduced to the lowest levels reasonably practicable.

Whilst the need for contractors for the day to day management of the property will clearly cover activities such as cleaning, catering, heating, lift maintenance, repograpihcs, water treatment, plant and equipment maintenance, building alterations and repairs, it is also worth considering the potential need for contractors to support your organisation response to a range of foreseeable, but unplanned events. Time spent in planning proactively will be seen as time well spent when the need arises. Following an emergency, take for example the need to have a glazier if windows have been broken either accidentally through direct impact, or intentionally. Would it not be better to have an approved glazier on your central list of contractors available to be called upon than to try and find one at the moment the need arises?

The same could be true of a range of contractors, who on a day to day basis you may not need, but when a particular type of incident occurs may well be crucial to your effective management of the situation, enabling you to get back to business as normal as quickly and safely as possible.

This could include plumbers, electricians, plasterers, general builders, specialist painters, access specialists, waste contractors, asbestos removal contractors, parking and disabled and security contractors. The best way to determine the likely range of contractors...
The Use of Contractors: Director’s Briefing

Legal responsibilities
- The health and safety of contractors and those affected by their activities on premises is clearly set out in the Health and Safety at Work Act 1974.
- There is a civil law ‘duty of care’ to contractors coming onto premises.
- Companies also have duties to their employees to take account of the safety precautions of contractors working on premises.

Case Study - Associated Octel
Associated Octel Co Ltd engaged an independent specialist contractor to repair the lining of a tank within their chemical plant. An employee of the contractor was badly burned when a broken light bulb ignited acetone vapour. The contractor was convicted under the HSW Act s.2, and Octel were convicted at the Crown Court for breach of the HSW Act s.3(1). Octel appealed, the Court of Appeal dismissed the case, stating that undertaking meant enterprise or business and that the cleaning, repair and maintenance of plant, machinery and buildings, necessary for carrying on business was part of the conduct of the undertaking whether or not such work was carried out by employees or by independent contractors. The House of Lords affirmed the lower court’s decision and dismissed the appeal.
The Use of Contractors

Remember, we are responsible for the safety of contractors and those affected by what they do and how they do it.

Failure to effectively manage contractors can lead to prosecution and civil claims for damages.

What can be done to control the risks?

- establish a selection and approval process
- select contractors based on competence for the specific task
- ensure you have requested and had sight of the contractor’s health and safety documentation including:
  - health and safety policy
  - risk assessments
  - method statements
  - accident records
  - training records
  - arrangements for health surveillance
- check the contractor’s own website to see what references are made to health and safety
- examine the contractor’s accident incident history
- review the HSE’s register of convictions; available at www.hse.gov.uk/prosecutions/
- ensure you understand the contractor’s own procedure for the selection, appointment and management of sub-contractors
- establish that the contractor has sufficient insurance cover for the work undertaken, including public liability cover
- implement site induction training
- provide site-specific safety rules
- provide details of any hazardous substances/materials on site
- use permits to work for high risk/high hazard work such as:
  - hot work
  - work at height
  - access to confined spaces
  - work with asbestos containing materials
  - work on or near water
  - work involving live electricity
- monitor, audit and review the contractor’s safety performance
- establish regular communication with contractors
- include contractors in your own safety training
- work with contractors to develop safety initiatives.

Please read the handout carefully. Answer the following questions and give this page back to the person providing the toolbox talk.

Q: Identify 3 types of contractor used at your premises.

A: .................................................................
   .................................................................
   .................................................................

Q: Name 2 activities where you may need a permit to work to control contractors’ activities.

A: .................................................................
   .................................................................

Q: Name 3 documents that you would request from a new contractor prior to them starting work at your site.

A: .................................................................
   .................................................................
   .................................................................

I have read and understood the information set out above:

Name: .........................................................
Signature: .....................................................
Date: .........................................................

Disclaimer:
Toolbox Talks are provided by Barbour for general guidance on matters of interest. In using these documents, readers should exercise caution. Barbour does not accept any liability whatsoever for injury, damage or otherwise which may arise from reliance on this information and use of these documents.

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The Use of Contractors

What can be done to control the risks?

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  - risk assessments
  - method statements
  - accident records
  - training records
  - arrangements for health surveillance.
The Use of Contractors: Employee Factsheet

Who are contractors?
Contractors are any third party brought into the company to undertake work on our behalf. Whether they are specialists undertaking highly skilled work or those providing cleaning services, all those not directly employed, but undertaking work relating to the business are contractors. We have specific legal obligations in respect of their work, their safety and that of others affected by what they do and how they do it.

Good practice
- Establish a selection and approval process
- Select contractors based on competence for the specific task
- Check the contractor has a suitable health and safety policy
- Establish that the contractor has sufficient insurance cover for the work undertaken, including public liability cover
- Implement site induction training
- Provide details of any hazardous substances/materials on site
- Use of permits to work for high risk/high hazard work
- Establish regular communication with contractors
- Include contractors in your own safety training
- Work with contractors to develop safety initiatives.

Did you know?
The company:
- Is responsible for the safety of contractors on site
- Has a duty to ensure contractors undertake their work in a safe manner
- Can be prosecuted if a contractor has an accident, or fails to meet suitable safety standards in the course of their work on our behalf.
A Barbour Checklist: Contractors

- Establish a selection and approval process
- Select contractors based on competence for the specific task
- Ensure you have requested and had sight of the contractor’s health and safety documentation including:
  - Health and safety policy
  - Risk assessments
  - Method statements
  - Accident records
  - Training records
  - Arrangements for health surveillance
- Check the contractor’s own website to see what references are made to health and safety
- Review contractor’s accident/incident history
- Review HSE notices/prosecution database
- Ensure you understand the contractor’s own procedure for the selection, appointment and management of sub contractors
- Establish that the contractor has sufficient insurance cover for the work undertaken, including public liability cover
- Implement site induction training
- Provide site specific safety rules
- Provide details of any hazardous substances/materials on site
The Barbour / BIFM partnership – benefits for members

• Preferential pricing on Barbour EFM Service:
  – -20% in year one (or over 3 years)
  – -5% in year two and three
• A resource pack provided quarterly online to BIFM members
• Ability to form part of our expert editorial panel
• Participate in regular CPD webinars
• The knowledge that their professional organisation has approved the service
Today’s Webinar: The role of commercial property owners in managing health & safety risk

- What are the key safety risk areas associated with commercial property ownership?
- How should the risks associated with commercial property ownership be managed effectively?
- What are the key pieces of legislation that applies to commercial property owners from a health and safety perspective?
In 2001, Neale became Director of Health and Safety at Land Securities Trillium, setting strategic direction for the Health and Safety function. He took up his current position in 2009, when Trillium was acquired by Telereal forming Telereal Trillium.

Neale is a chartered member of the Institute of Occupational Safety & Health having completed a NEBOSH diploma in 2000. He also holds an ONC and HNC in Engineering.
Paul Kelly joined Trillium (now Telereal Trillium) in April 1998 and is Assistant Director of Health and Safety. He is responsible for providing strategic, operational and day to day health and safety advice and support to the business.

Paul holds a NEBOSH diploma from the Institute of Occupational Safety and Health and holds Chartered Membership status.
Health and Safety Management in Commercial Property

WILL BE OF PARTICULAR INTEREST TO:

• Commercial property landlords
• Occupiers of buildings
  – Sole tenancy arrangements
  – Multi tenanted arrangements
• Managing agents
• FM organisations
• Contractors involved in FM
• Management and building surveyors
• Asset managers
• General practitioners
Health and Safety Management in Commercial Property

GETTING IT RIGHT FROM THE START

• Health and Safety critical prior to purchase of a property
• H&S professionals – get in there right from the start
  – Seldom a show stopper but.....
• Work with the asset teams to understand lease arrangements
• Who is responsible for what
• Are there any contracts in place which might affect the standard lease arrangements?
• Is there clarity around the ‘person in control’
Health and Safety Management in Commercial Property

GETTING IT RIGHT FROM THE START

- Useful to formalise from an organisational perspective the roles of
  - ‘Duty holder’
  - ‘Responsible person’

Duty holder

- Is deemed the senior person who will hold overall responsibility
- Should ensure
  - the appointment of a ‘responsible person’
  - that adequate resources are allocated
  - that there is an adequate organisational structure in place
- Does not need technical expertise but should have access to it
- Must be able to authorise spend
Health and Safety Management in Commercial Property

GETTING IT RIGHT FROM THE START – THE RESPONSIBLE PERSON

**Responsible person**

- The person with direct operational responsibility for the building
- Facilities or building manager often best placed to fulfil the role, as they have sufficient control and managerial responsibility
- Must be in a position and have the knowledge to implement and manage compliance in its widest sense
- Must have a greater degree of ‘operational competence’
Health and Safety Management in Commercial Property

GETTING IT RIGHT FROM THE START

• Understand the size of the task
• What needs to be done from a compliance perspective....and how do you get there? – in-house / outsource
• How do you push out the boundaries & does the budget allow?
• Be careful about budgets
  – tenants
  – bottom line
  – clients
• It may be scrutinised
• Be aware of challenges

Compliance document available as a PDF download
Health and Safety Management in Commercial Property

MANAGEMENT SYSTEMS

- Policies, procedures and checks of to comply ensure these are created and robust
- Documentation control
  - health and safety files
  - building manuals
- Risk assessment - cornerstone of compliance
- A building risk assessment
Health and Safety Management in Commercial Property

MANAGING BUILDINGS DAY TO DAY

In general this will require:

- Planned maintenance work etc
- Reactive / emergency maintenance work
- Contractors to do this work (selection, control and competence of)
- Controlling allowing access (Site rules & signing in)
- Managing buildings of different types and uses – office, retail, industrial and mixed and in different areas may require differing needs?
Health and Safety Management in Commercial Property

A NEED FOR LEGAL/ STATUTORY COMPLIANCE WORK – WHAT DOES IT MEAN?

Includes...

- HASAWA compliance (Especially Section 4: Duty on those in control of premises to ensure they do not endanger those who work within them)
- ‘Management’ of H&S at Work Regulations
- Electricity at Work Regulations (and PAT)
- Workplace (HS&W) Regs (provision of facilities (toilets washing etc));
- Fire management including evacuation, fire fighting and FRA
- Asbestos
- Water management / Legionella
- LOLER and PUWER
- Equality Act (DDA etc- disabled access and evacuation)
Health and Safety Management in Commercial Property

OCCUPIERS LIABILITY ACT 1957 AND 1984

- **The common law of negligence** imposes a duty of care on the occupier of any premises towards those coming onto those premises – including trespassers!

- This covers not only the occupier's negligent actions, but the state of the premises themselves

- The issue / concern is often in determining who has responsibility for what and when and is best agreed in advance

- The message then is that such **must be controlled and all must be aware who is in control**
Health and Safety Management in Commercial Property

PROCESSES FOR REPORTING SITE MATTERS

Matters to consider and how:

- Accident, incident and near miss reporting
- Dangerous occurrences
- Property and plant damage and
- General matters
Health and Safety Management in Commercial Property

MANAGING TENANT’S REQUIREMENTS

- Authorisation to proceed for works (landlords consent etc)
- Contractors demise and requirements
- Landlord controlling tenant’s contractors
- Accessing and management of ‘common areas’
- Cooperation and coordination (house committees - all tenants)
- Cleaning
- Storage and car parking etc.
Health and Safety Management in Commercial Property

THE TELEREAL TRILLIUM APPROACH

Identification, recording, control & coordination

- High risk areas and restricted access areas
- Statutory compliance management
- Contractor (and visitor) control
- Hazard registers and control (including permit systems)
- Roof access / WAH
- Asbestos management and
- Fire
Health and Safety Management in Commercial Property

VACANT PROPERTIES

- Caretaker maintenance (how much?)
- Financial considerations
- Access including
  - lone work
  - out of hours
  - controlling access
- Break ins, theft and vandalism
- Unauthorised entry - squatters etc.
Health and Safety Management in Commercial Property

SUMMARY OF RECOMMENDATIONS

1. Know what you are responsible for
2. Ensure there is clarity over who is in control of the property
3. Formalise arrangements for duty holder, responsible person
4. Ensure you as responsible person is / are competent
5. Apply a similar duty holder and responsible person across other areas
6. Establish a compliance / responsibilities matrix
7. Give careful consideration to budgets and who controls them
8. Make sure records and documentation are robust
9. Conduct a one off exercise – building risk assessment
10. Ensure you select competent contractors/monitor their performance
11. Implement site reporting and communications on site
12. Have arrangements for the management of vacant properties.
Health and Safety Management in Commercial Property

RECOMMENDATIONS

• These are the key areas you need to consider:
  – Planning
  – Advising of key H&S Hazards and any controls
  – Controls and safe system
  – Communication, control & coordination (Tenants contractors and your staff)

Plan...Do...Check...
Any questions?

Thank you for listening

Contact Barbour EHS Experts at: barbour-marketing@ubm.com

For a free on-line demonstration

Call 0845 300 0241
or visit www.barbour-ehs.com
Webinars

Working in conjunction with a range of experts in their field, Barbour are now offering a programme of interactive presentations on key health and safety topics. These are available via invitation, live, where you can ask questions of the speaker, or after the event, available to view via the service.

- Carbon Management and BS EN 16001 Energy Management 12/05/2011
- International Trends in EHS Regulation and how Companies Manage Compliance in Different Ways 3/09/2011
- Behavioural Safety: an Overview of Key Theory and Practice
- Improving the Energy Efficiency of your Building Air Conditioning Inspections
- Lord Young Report: Ramifications for Regulatory Framework
- Construction, Design and Management - Health and Safety Perspective
- Training Needs Analysis
- Fire Safety Strategy
- Local Exhaust Ventilation: the steps to adequate control
- Maximising Resources: getting best value from your health and safety spend
- Persuading Directors: creating business cases for health and safety

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