

Vulnerable Workers: Management Briefing

Where workers are more vulnerable to accidents or work related ill health, it has been shown that the duty of care owed to them by employers is higher than other workers.

The groups of workers who may be at increased risk include new and less experienced workers, young workers, older workers, new and expectant mothers, migrant workers or those for whom English is not their first language, the disabled, those returning after prolonged illness or medical condition, new starters, temporary workers, lone workers and home workers.

Key points

- General risk assessments for premises and work activities and fire risk assessments, must take into account the risks to all who may be affected, highlighting any more vulnerable groups of workers
- in the case of young workers (below the age of 18) and new and expectant mothers, specific risk assessments must be undertaken
- personal emergency evacuation plans (PEEPs) must be devised to ensure that disabled workers can safely escape in the event of fire or other emergencies
- safe systems of work need to take into account the special needs of vulnerable workers, eg additional training, enhanced supervision, altered working patterns, translation of written instructions, extra supervision
- health and safety takes priority. If reasonable adjustments cannot be made to accommodate a worker's particular needs then managers should seek HR advice. In the case of new and expectant mothers there is a legal requirement to suspend the worker on full pay if work cannot be made safe
- for workers below the age of 18, and in particular, for those who are still children, there are legal restrictions on the type of work permitted and more stringent working time legislation which must be complied with.

Legal duties

The general health and safety duties for the management of vulnerable workers are contained within:

- The Health and Safety at Work etc. Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Regulatory Reform (Fire Safety) Order 2005 (and equivalent legislation in Scotland and Northern Ireland)
- The Working Time Regulations 1998
- The Equality Act 2010.

Recommendations for employers

- Assess workers capabilities after recruitment, or after a prolonged period of ill health and before the worker begins work
- do not employ children or young people for work which is not permitted, or without a relevant permit, parental consent etc in the case of a child
- comply with specific requirements on working hours, breaks, night work and rest as apply to the particular age of the worker
- when undertaking risk assessments, ensure that groups of vulnerable workers are identified and that risk control measures take them into account

Recommendations for employers (cont.)

- carry out any additional specific risk assessments as required by legislation and good practice, eg young workers, new and expectant mothers, disabled workers
- involve workers in the risk assessment process, as a minimum by sharing the key findings. For child workers, share the findings with the parent or guardian
- make sure that first aid and fire and other emergency procedures, take into account any specific needs
- where work equipment is involved, consider any ergonomic changes needed
- make other reasonable adjustments to work activities and workplaces as needed
- take into account any special needs and language barriers within training programmes including the provision of a suitable induction programme
- consider any special needs when communicating health and safety messages
- provide additional support and supervision where needed
- liaise with employment agencies to ensure that they play their part in the safety of temporary workers they supply
- where it is not possible to make the work safe for a worker through reasonable efforts and costs, seek HR or health and safety advice, as applicable.

Case law

In the case *Paris v. Stepney Borough Council* (1950), Mr Paris, a garage hand sought damages against his employer because they had not supplied him with goggles. Mr Paris had sight in only one eye as his employer was aware. When a piece of metal flew into his good eye he was left permanently blind. The House of Lords ruled that although the type of work may not have warranted eye protection (in relation to common practice at the time) in general, Stepney Borough Council should have taken his special circumstances into account and provided it because of the risk of total blindness.

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Other relevant Barbour resources:

Technical Guides:

- Vulnerable Workers
- Migrant Workers
- Training for Health and Safety
- Homeworking
- Working Alone
- Working Time
- Risk Assessments
- Occupational Health Provision and Health Surveillance
- Access To and Within the Workplace.

There are also numerous Model Policies, Toolbox Talks, Employee Factsheets and Director's Briefings available on similar topics.