Health and Safety Responsibility Best Practice Guide

MRC will provide a safe environment and employ best practice to ensure health, safety and welfare within the workplace. This document sets the expected best practice guidance for health and safety responsibilities within the workplace.

Introduction

Each of us carries responsibility in the workplace to act in a way that ensures, so far as is reasonably practicable, our own health and safety and that of others that may be affected by our acts of commission or omission.

Directors, other line managers and supervisors have additional specific responsibilities for all those that work to their instruction or under their supervision.

This document outlines the principle health and safety responsibilities for all MRC personnel and in addition, sets out the principles with which all visiting workers (including students) should comply.

Scope

This document complements the MRC health and safety management best practice guide, in particular ‘Step 2 – Organising your staff’. Lists of duties and responsibilities for directors and line managers are included there and this document expands and explains the terms in the lists.

Within this document, to aid distribution, you will find separate guidance for

- Directors
- Line managers and supervisors
- Employees
- Non-MRC complement, including reimbursed staff, visiting workers and students.

An MRC statement on its position with respect to Employer’s and Public Liability Insurance and guidance on key related terminology is included as an Appendix.
Directors’ summary

Purpose

The purpose of this document is to provide guidance on the health and safety responsibilities of those employed by the MRC and non-MRC personnel that either manage or are managed by MRC employees.

Content

The document contains guidance on the accountability and responsibilities of directors, line managers, supervisors, employees and non-employees that work within MRC establishments. In addition, the Appendix includes the MRC statement on Employer’s and Public Liability Insurance and definitions of key related terms. This will be useful for managers that are required to produce insurance certificates by other funding bodies or other employers whose employees will work in our establishments.

Actions required

Attendance at briefings on health and safety management responsibilities is mandatory for MRC line managers and others that manage our employees in our establishments. The management guidance within this document complements the briefings. Directors are therefore required to

- Read and apply the guidance included in Guidance Note 1.
- Identify all senior managers and others with significant line management responsibility in their establishment and ensure that they attend a health and safety briefing at the earliest opportunity.
- Ensure that senior managers are identified in the local health and safety policy statement.
- Ensure that the guidance for managers, employees and non-employees is distributed to the appropriate personnel.
- Circulate the content of the Appendix to all those that may require a statement to third parties on Employer’s or Public Liability insurance.
Introduction

Background

The MRC places responsibility for health and safety matters upon its line managers. Line manager definition is "Anyone in charge of staff, who issues instructions which others are to obey, has responsibility for the health and safety of those staff." The MRC also places emphasis on individual responsibility, both to strive to ensure the individual’s own safety and the safety of those that may be affected by his or her work, so far as is reasonably practicable. Individuals working in MRC managed areas are also obliged to follow instructions, codes of practice and systems of work laid down by the MRC. Wilful non-compliance with corporate and/or local rules (including codes of practice) is a disciplinary offence and will be dealt with through the relevant employer’s disciplinary policy.

The MRC works in close collaboration with universities and other organisations, for example a number of our establishments are located within or associated with university departments. Situations occur within MRC establishments where non-MRC employees manage, or are managed by, MRC staff. For the purposes of this document, the MRC makes no distinction between what is expected of managers within our establishments, be they MRC or non-MRC employees, but does give brief separate guidance on the standards expected of visiting workers (see Guidance Note 4).

Definitions

In this document employees are categorised simply as directors, senior managers, other line managers, supervisors and the all-embracing ‘employees’. The senior managers of an establishment, for health and safety purposes, are those identified as such in the establishment’s local policy statement. Those named are often the scientific group heads, but senior managers also may include for example functional managers and senior administrators.

All line managers have responsibility for their own staff. Supervisors that instruct others also carry health and safety responsibilities and for the purposes of this document are included with line managers.

Target groups

All can benefit from an understanding of each other’s responsibilities. Each guidance note, however, is designed for specific groups. Guidance Notes 1, 2 and 4 are designed principally for those identified in the titles. Guidance Note 3 is for all employees and non-MRC employees whose permanent workplace is within a MRC establishment. The Appendix will be of value for anyone that has to respond to a request from a third party for information on the MRC’s Employer’s or Public Liability Insurance.

Expectations

We expect all establishments to apply this best practice. Its application will assist our employees, non-MRC employees and visiting workers to work safely and efficiently.

1 In this document, ‘staff’ is defined as MRC employees and non-MRC employees whose principal workplace is within MRC establishments as part of the intramural programme.
Specifically, the objective is for all employees, non-MRC employees and visiting workers to understand their health and safety responsibilities and thence to exercise them fully.

**Positive culture**

In health and safety law, employers must employ competent persons. This applies to all managers as well as to specialist health and safety appointments. Competence is not only a manifestation of knowledge, expertise and awareness, but also incorporates a positive attitude to health and safety. This attitude itself is a reflection of an understanding of the worth of safe systems of work and their application in the workplace.

The MRC expects its managers and all those working at MRC establishments to support positively good health and safety practice through good management and compliance with corporate and local requirements.

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**Appendix**

Statement on the MRC’s position on Employer’s and Public Liability

All those that may have to respond to requests for details on MRC’s insurance in these two areas.
Guidance note 1 – health and safety responsibilities of directors

Accountability

The employer’s responsibility for the health and safety of all those involved in, or who may be affected by, the work in our establishments is exercised by Directors on behalf of Council. This applies to both MRC-employed and honorary Directors. **Directors are accountable to the Chief Executive Officer (CEO) of the MRC for the health and safety of all those under their management control.** This includes MRC employees, non-MRC employees (for example reimbursed staff of a host institute) whose principle workplace is the MRC establishment and visiting workers (including students).

This accountability cannot be delegated. Even where health and safety services are provided by a third party, for example a host institute, the Director remains accountable to the CEO.

A Director can assist effective implementation through positive support of sensible and appropriate measures taken to improve and maintain high standards of health and safety.

Extent of responsibilities

Properly resourced health and safety management should be integral to the overall management and stewardship of the establishment and forms part of the overall risk management strategy. The principle objectives are

- Legal compliance
- Ensuring the health and safety of employees and other workers under our management
- Ensuring research continuity through the avoidance or minimisation of disruption through unplanned incidents.

Health and safety responsibilities of a director are listed in the **Health and Safety Management Guide.** In summary, these are to:

- Ensure a local health and safety policy statement is in place and ensure that those working at their establishment are aware of their roles and responsibilities
- Verify compliance, and effect any changes as may be required from time to time
- Appoint competent staff to effect the health and safety management objectives of the Unit/team
- Allocate the necessary resources – including both time and money - to the safety staff appointed and to all managers
- Set up a local health and safety committee or forum
- Secure all mandatory legal notifications and authorisations as required
- Develop a health and safety improvement plan with priority assigned objectives
- Provide appropriate training and instruction for staff to ensure they may work safely
- Ensure good lines of communication to all those working at their establishment
• Ensure that suitable and sufficient risk assessments are in place and control measures implemented

• Ensure that the recommendations of any inspection, audit or review of health and safety arrangements are implemented effectively

• Take action to suspend or stop any activity that may pose or give rise to imminent danger or for which a suitable and sufficient risk assessment has not been made.

In addition, the Director should ensure that the systems put in place include provision for regular monitoring and review of safety performance.

**Delegation of responsibilities and duties**

Although the director cannot delegate the accountability to the CEO, he or she can and should delegate responsibilities and authority for health and safety to other members of the establishment staff.

The [Health and Safety Management Guide](#) provides guidance on organising staff for health and safety and delegation of key duties and responsibilities. Key components are:

• The appointment of competent safety persons (in writing)

• The appointment of senior managers (for example scientific group leaders) for health and safety and the inclusion of their names in the local statement

• The provision of training for all those with delegated health and safety responsibilities

• The provision of a safety forum (usually and preferably a safety committee, but where this is not appropriate, a standing item in staff meetings)

Guidance Note 2 outlines and explains the responsibilities of line managers.

**Provision of advice and support**

The MRC Corporate Safety, Security and Resilience (MRC SSR) section will support directors in discharging their duties, both through direct contact and through the provision of guidance and advice to appointed safety staff, managers and employees, non-MRC employees and, where appropriate and with agreement, to other visiting workers.

Health and safety services may be provided for some of our establishments through third parties, most likely the host institute, and documented through a local formal agreement. The provision may include first line advice. In those circumstances, MRC SSR will continue to liaise on corporate MRC issues and monitor and audit the implementation of the agreed safety practices.
Guidance note 2 – health and safety responsibilities of line managers and supervisors

Definitions

All those that have responsibilities for managing staff should be familiar with the content of this Note. It is divided between senior managers and other line managers and supervisors. Of the former, the major group is that of the research team leaders and section heads, otherwise known as group heads or principal investigators. Other examples of senior managers are senior administrators and function managers of support groups such as workshop supervisors, heads of infrastructure and technical service and laboratory managers. In this Note all these groups are referred to collectively as senior managers.

The second group is other line managers and supervisors. These are people who are not included in the groups mentioned as senior managers, but still have responsibility for managing or supervising staff.

Introduction

All those that manage or supervise staff have a similar spectrum of responsibilities. In addition, the MRC places specific responsibilities on senior managers.

The Health and Safety Management Guide contains a list of duties and responsibilities for line managers. The following is a shortened and simplified list.

- Ensure that all work-related health and safety risks are assessed before work takes place
- Ensure exposure to identified risks is eliminated or adequately controlled
- Ensure that safe systems of work exist to cover all potentially hazardous operations
- Ensure that the working environment is monitored for hazardous agents, as appropriate, and that the information obtained is conveyed to those they manage and others that may be affected
- Ensure suitable personal protective equipment is provided where required together with training in its use and maintenance
- Ensure the provision of adequate training on health and safety issues for those they manage and ensure training records are kept
- Ensure that the performance of their staff in relation to health and safety issues is taken into account when assessing overall performance.
- If required, recommend through the appropriate channels that suitable disciplinary action be taken against any of those working under their management at their establishment for failing to comply with health and safety procedures
- Ensure that the activities of visitors and contractors to their area are controlled to the same standard as those of our own employees
- Investigate all Lost Time Accidents involving those they manage, establish the causes and implement an action plan to prevent recurrence
- Ensure that all injury accidents, near misses and dangerous occurrences in their area are investigated and that the agreed actions arising are routinely monitored and completed on time
Liaise with reporting officers where notification is required to the HSE of an injury to any person under their management or a specified dangerous occurrence in any workplace under their control.

Liaise with the host institution as appropriate.
Senior managers

Introduction

Senior managers are identified by the Director and named in the local policy statement. Directors are ultimately accountable for health and safety but where appropriate, directors delegate responsibilities to senior managers. The senior managers are then accountable to the Director for their performance.

The management of health and safety is an important contributor to overall risk management. Another key factor is that of research continuity. As a senior manager, you should contribute to local strategy and systems that strive to minimise potential for disruption of your research and be fully aware of the systems in place for post-incident recovery, together with your role in that process. For your own area of management, the main process is to identify what is critical to your research, identify the threats to these critical factors, evaluate the risk (impact x likelihood) and put in place appropriate controls and contingencies if the risk cannot be eliminated. You can visit the health and safety website for full guidance on Research continuity. Policy and guidance on risk management can be found at the Risk management community on the Portal.

You are expected to show a positive example in setting and maintaining the required high standards.

Key areas of responsibility

Council does not expect its senior managers to be experts on health and safety law. It does however expect you to be familiar with and have a basic understanding of its policies on health and safety that may affect the work of you and your team. Council also expects due diligence from you both in exercising responsibility on behalf of the employer and as individual employees.

A positive attitude and approach to health and safety is an important factor in the management of research or work activities. One objective is to maximise the efficiency of research through minimising disruptions due to unplanned incidents, including personal accidents. Good health and safety practice and management will assist in reaching that objective.

The employer’s responsibility for ensuring safety in the workplace has three major components:

a) The establishment of safe working practices

b) The safety and competence of those they manage

c) The provision of a safe working environment.

For those with the responsibility of managing people, the principal roles will be exercised within a) and b), but regular monitoring of c) will be required.

The employer has a duty to inform its employees of all the significant hazards and risks in the workplace. Major and generic hazards, for example fire or unsealed sources of radiation, will be included in the local policy statement, but the duty to inform members of research, support and administration teams is delegated to you as the senior managers.
The duty to inform extends to others that may be affected by the work.

**a) Safe working**

**Health and safety risk management**

The key to safe working lies in health and safety risk management. **You must ensure that all work done by your staff is assessed for risks.** The assessments must be

1. Adequate and appropriate,
2. Properly recorded where necessary
3. Reviewed regularly or when there is reason to believe they are no longer valid.

Risk assessments should be signed by you as the senior manager to confirm their validity and accuracy

a) When first recorded
b) At the time of review
c) If the assessment was originally made for another group and has been ‘adopted’ for use by your group.

The signing of a risk assessment is an indication that the senior manager has recognised the hazards and risks associated with the work, ensured those risks are evaluated and is assured that staff under his or her management control are sufficiently well-informed and trained to work safely and responsibly. Failure to sign an assessment does not relieve you of any responsibility.

The responsibility for safe working extends beyond the assessment itself: first, by ensuring that protocols and work practices developed from or quoted by the assessments incorporate all the risk control measures specified in the assessments; secondly, by ensuring that the determined protective control measures are used properly and the protocols are adhered to. For some laboratory work, for example with animals, radioactive sources, unscreened human material and work at containment level 3, or non-laboratory work such as before travelling overseas, the risk assessment may identify a requirement for health surveillance, monitoring, prophylaxis or immunisation. In these situations, you should ensure the correct measures are taken at the appropriate times, principally through referral to the occupational health service provider and, where appropriate, an occupational hygienist.

**b) Safety and competence of staff**

**Safety training and competence**

Senior managers are responsible for ensuring that those they manage are competent to carry out their work safely. This entails the identification of training needs for each individual in the team together with monitoring the implementation of the training programme designed for that individual. This does not necessarily mean you have to be directly involved in the training or supervision of staff; delegation to competent trainers and other supervisors may be preferable, for example where others have particular expertise in a technique or wider area of work. Full use should be made of all available resources and expertise.
Incident reporting and investigation

The senior manager should be familiar with the arrangements for the reporting of accidents and incidents. In the event of an incident resulting in an injury to a member of the team, or a near miss that could have resulted in an injury or damage to property or the environment, there will be a subsequent investigation. The arrangements will vary according to local organisation but you must be informed of all such incidents and assist with any investigation. Where a written report is made following an investigation, you should receive a copy. You should be involved in any discussions that may result in changes to work practices. Lessons learned which lead to improvements will assist research continuity.

Diversity

Disability

MRC is an equal opportunity employer. In the research sector, the number of people with disabilities in a variety of posts has increased. Health and safety remains paramount and may at times take precedence over employment law, but the MRC supports the employment of people over as wide a range of abilities as is safe and reasonably practicable.

This places additional responsibility upon managers, supported by competent advisers from Human Resources and Health and Safety. In practice, management actions on health and safety are determined through risk assessments, which should always take into account personal abilities and vulnerabilities2.

Where English is not the first language

Personal assessment does not always relate to disability. For example, does a visiting worker whose first language is not English understand the risk assessments, signage and emergency procedures?

c) Safe working environment

Safe equipment and its use

The MRC is committed to provide a properly equipped and safe workplace for its staff and visitors. It is the senior manager’s responsibility to ensure that members of the team work in a safe manner with safe equipment3. Local management is responsible for ensuring that the equipment is maintained and serviced, but can delegate the practical duties to competent persons. You, however, should ensure that the facilities provided are adequate and fit for purpose. Training programmes should ensure that staff and visitors to the team use all equipment correctly. The training should also include the carrying out of any necessary pre-use checks and emergency procedures in the event of an accident or incident.

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2 One example may relate to hearing ability and whether or not the person can hear fire and bomb alarms. It may also relate to ensuring safe evacuation in an emergency.

3 Examples of equipment with specific safety considerations are fume cupboards, microbiological safety cabinets, high-speed centrifuges, large-volume printers and copiers and portable electrical equipment, all of which require regular servicing and maintenance as well as competent users.
Inspection of the workplace

Senior managers should, wherever possible, be present when the working areas for which they are responsible are inspected. Where this is impracticable, you must nominate a representative. You should always receive copies of relevant inspection reports.

Maintenance of the workplace

Senior managers should ensure that systems are in place to keep the areas for which they are responsible clean and tidy and to address promptly any deficiencies or damage to fabric and fittings.

Support

Practical support

Although the responsibility for managing your team lies with you, health and safety support is available both locally and corporately. Your first contact point for any questions you may have is your Unit Safety Coordinator (USC). All full-time USCs are professionally qualified and all others will have received appropriate training. Your USC will be also able to direct you to additional appropriate guidance and information, often on the local intranet.

The USCs in turn are supported by personnel in the Corporate Section, one of whom will have specific responsibility for your unit.

Responsibility and liability as a manager

The MRC takes its responsibility to train and support you in discharging your management responsibilities seriously and expects a similar attitude from its managers. Your responsibilities were included in your job description prior to interview and are also found within your performance criteria. Acceptance of your contract includes acceptance of health and safety policy, which places these important responsibilities with senior managers. Attendance at the management health and safety briefing is mandatory for all senior managers and all others with significant management responsibility. Each establishment can determine if attendance can be extended to all line managers. This briefing is supported by other courses organised through the Learning and Development Group via the Shared Service Centre. The MRC will take all reasonable steps to provide you with the resources required and the expectation is that you will use the resources to the full. If an event resulting in personal injury or property damage, or a reportable dangerous occurrence were to occur under your management, you will be expected to assist your USC and others in investigating the incident with the prime purpose of identifying what went wrong and how to prevent its reoccurrence.

In the very unlikely event of the incident resulting from your own negligence, disciplinary action may result.
Other line managers and supervisors

Introduction
Line managers are accountable to their senior managers for their performance. All of you that manage others at work carry responsibility for their health and safety. Although the level of responsibility for more junior managers is not as high as for senior managers, the principles are the same.

Managers are expected to show a good example in setting and maintaining the required high standards.

Key areas of responsibility
Line managers should be familiar with and have a basic understanding of local policies on health and safety that may affect their work. The MRC also expects due diligence from its managers both in managing other staff and as individual employees.

A positive attitude and approach to health and safety is an important factor in the management of research or work activities. One objective is to maximise the efficiency of research through research continuity and minimising disruptions due to unplanned incidents, including personal accidents. Good health and safety practice and management will aid reaching that objective.

The employer's responsibilities for ensuring safety in the workplace have three components:

a) The establishment of safe working practices
b) The safety and competence of staff
c) The provision of a safe working environment.

Your role will be exercised principally within a) and b).

a) Safe working

Risk management
The key to safe working lies in health and safety risk management. Senior managers must ensure that all work done by their staff is assessed for risks and may delegate that task to other line managers or individual members of staff. The assessments must 1) be adequate and appropriate, 2) be properly recorded where necessary and 3) be reviewed at least annually or when there is reason to believe they are no longer valid. You must be familiar with and understand the risk assessments made for the work you manage or supervise, and be able to explain those assessments to those doing the work. You should ensure that no work is done until and unless the control measures identified as necessary in the risk assessment are in place.

If you have been delegated the task of making a risk assessment, you must submit the assessment to the senior manager for signature. This also offers the opportunity to discuss with the senior manager any other issues that relate to the work, such as additional training requirements and the need for referral to occupational health.
b) Safety and competence of staff

Safety training

Senior managers are responsible for ensuring that their staff are competent to carry out their work safely, but can delegate this task to competent trainers and other supervisors, for example where the others have particular expertise in a technique or wider area of work.

For all new staff, line managers and supervisors should assess their training needs and determine training programmes where required.

Incident reporting and investigation

You should be familiar with the arrangements for the reporting of accidents and incidents. You should ensure the senior manager is informed of all incidents that relate to their areas of responsibility. Where a written report is made following an investigation, the senior manager should receive a copy. It is expected that the senior manager would be involved in any discussions that may result in changes, for example to work practices. Lessons learned which lead to improvements will assist research continuity.

c) Safe working environment

Safe equipment and its use

Examples of equipment with specific safety considerations are fume cupboards, microbiological safety cabinets, high-speed centrifuges and portable electrical equipment, all of which require regular servicing and maintenance as well as competent users. Local management is responsible for ensuring that the equipment is maintained and serviced, but can delegate the practical duties to competent persons. Specific training may be required and should include the carrying out of any necessary pre-use checks and emergency procedures in the event of an accident or incident.

Student supervision

The MRC treats postgraduate students as employees for health and safety purposes. The line manager should appreciate that students arrive at the establishment with little if any experience of the workplace and therefore should be considered as a vulnerable group, requiring support and supervision.

The MRC does not directly register PhD students and this is done through a collaborating or sponsoring university. In addition to exercising line management responsibilities, the MRC expects supervisors to meet the standards set down by the university.
Guidance note 3 – health and safety responsibilities of employees

Main duties of employees

Responsibility to yourself and others

Each of us has a duty under law to take care of our own health and safety. This is dependent on a positive attitude of mind and an awareness of hazard and risk. The information given to you by managers, coupled with your own knowledge and experience, will enable judgements to be made on relative and actual risk.

Very few of us work in isolation and so others could be affected by our work. Consideration for others should be an integral part of our thinking about what we do and this is included in our code of Good Health and Safety Practice.

Co-operation with employer

The employer puts in place policies, procedures and physical measures to assist safe working. Each of us has a contractual and legal duty to follow procedures, comply with safety requirements and use equipment in a safe manner. In turn, the employer must provide you with appropriate training for the task. Where you have special expertise, your establishment should involve you in developing the safe system of work.

Managers are expected to set the standard by example.

No interference

It is a disciplinary offence to misuse equipment in a way that places you or others at risk. In particular, it is forbidden to interfere with any safety device or measure that is part of the risk control system. Examples could include bypassing the lid lock mechanism of a centrifuge, removing a guard from machinery or turning off a microbiological safety cabinet when its use has been determined by the need for operator protection.

Hazard awareness

Each employee has a duty to report to management any circumstance where we believe there is a risk of harm to ourselves or others. We should be aware that even if an accident has not occurred, if the potential remains we should report it. Examples could include a faulty door closure unit, a loose hand rail, a wet floor, a faulty floor tile or a faulty piece of equipment.

Reporting incidents

Each employee must contribute where appropriate to ensuring that personal accidents, near misses and all other incidents that have the potential to cause significant harm are reported promptly and brought to the attention of the line manager.

Please remember that the principle aim is not to apportion blame but to ensure that the incident will not happen again.

Examples of non-compliance could include the non-wearing of personal protective equipment (for example, a laboratory coat) when required by the risk assessment or code of practice.
Expectations

The MRC expects all of its employees to work safely and responsibly. The MRC will provide you with the resources to do your job safely and efficiently and you are expected to use those resources properly and in the intended manner.

Sanctions

For all MRC employees, failure to comply with safety rules, codes or procedures is a disciplinary offence and is open to sanction. It is not in the interests of the MRC or the individual to be engaged in lengthy disciplinary processes and every effort will be made by management to avoid it through early action. Even so, expectations are high and the provision for further action is there, so all employees should be aware of the possibilities of loss of resources and even the loss of employment resulting with non-compliance.

Vicarious liability

If both employer and employee follow MRC policies and guidance and act in a conscientious and proper manner, major incidents including those involving serious personal injury should not occur.

Unfortunately personal injuries do occur. The MRC, however, not the individual employee is responsible for meeting civil claims for personal injury if any employee, in the course of their normal duties, wholly or in part contributes to the harm sustained by another. This is termed ‘Vicarious liability’.

Subsequent disciplinary action by the MRC will only take place if either party acted in the course of their normal duties in a negligent manner.

An individual is only at risk of civil action for negligence by a claimant if an injury is sustained from an activity that is not in any way part of normal working activities.
Guidance note 4 – health and safety responsibilities of non-MRC employees and visiting workers

Status of this guidance

Policy and guidance for non-MRC employees working within a MRC establishment can be found within related Corporate HR documents found at (Non-MRC Employee Policy; Guidance for Managers). This document focuses on the health and safety responsibilities of those staff.

Non-MRC employees

Definition

Non-MRC employees are those whose contract of employment is not with the MRC, but whose main or exclusive place of employment is within an MRC establishment, usually as part of the establishment’s core funded programme. Main groups include honorary directors, and some support staff, but may extend to temporary agency workers and consultants.

Each category is expected by the MRC to follow the appropriate guidance in Guidance Notes 1, 2 or 3.

The major group is ‘reimbursed members of staff’. Although the MRC is not the legal employer, where the staff member is part of the intramurally funded programme and occupies an identified MRC post, MRC reimburses the host institute employer the total cost of employment.

Responsibilities

Determination of health and safety responsibilities placed upon non-MRC employees does not affect, and can be independent of, the contractual employer/employee relationship which, for example, determines pay and conditions.

All non-MRC employees are regarded by the MRC as employees with respect to health and safety when working in an MRC establishment on MRC sponsored research. Therefore, those non-MRC employees in management positions in a MRC establishment (for example, an honorary Director or a research group leader) should implement and follow the guidance contained in notes 2 and 3 and 1 where appropriate. Those without management responsibility should follow guidance note 3.

By agreement, health and safety services may be provided by the host institution. This does not affect your responsibility to follow these guidelines.

The following paragraphs offer additional guidance for non-MRC employees.

Responsibility to yourself and others

Although not an MRC employee, you have a duty under law to take care of your own safety in the workplace and to not put others at risk through acts or omissions. The information given to you by management, coupled with your own knowledge and experience, will enable you to make judgements on relative and actual risk.

Your own employer will be familiar with the health and safety arrangements in your establishment. Of course, you have the right to contact them directly for assistance, but
your establishment will expect you to subscribe to local rules and seek assistance from the host establishment’s safety team.

Expectations

The MRC expects all those working in their establishments to work safely and responsibly. The MRC will provide you with the resources to do your job safely and efficiently and you are expected to use those resources properly and in the intended manner.

Sanctions

Failure to comply with safety rules, codes or procedures is a disciplinary offence and is open to sanction. MRC management will seek to resolve issues informally, but if necessary will involve your employer to resolve issues.

Visiting workers

Definition

A visiting worker is one whose main workplace is outside the establishment, for example in a university. The worker will be placed within the establishment and usually associated with a specific research group. Other examples range from retired academics on sabbatical in an establishment to young persons on work experience and students. MRC establishments are reminded that for health and safety purposes our best practice guide is to regard all students as employees, with the full provision of suitable Personal Protective Equipment as required and access to Occupational Health where their own employer or university cannot meet the work-related requirements.

This guidance does not relate to other visitors, such as contractors. Further guidance on ‘hosting’ visitors can be found in Visitors to MRC Premises.

Signed agreement

In order to work in an MRC establishment, visiting workers are required to sign an agreement to comply with all local requirements, including those for health and safety (Form HR 1.25 on HR Portal). It is therefore the expectation of the MRC that you will abide by the conditions set out in Guidance note 3.

The following paragraphs reinforce key points and provide you with additional guidance.

Responsibility to yourself and others

Each of us, management and non-management, has a duty under law to take care of our own safety. Very few of us work in isolation and so others will be affected by what we do. Consideration for others should be an integral part of our thinking about what we do and how we do it.

Co-operation with MRC

Prior to starting your work in an MRC establishment, you will have agreed to follow procedures, comply with safety requirements and use equipment in a safe manner\(^5\). In

\(^5\) Examples of non-compliance could include the non-wearing of personal protective equipment (for example, a laboratory coat) when required by the risk assessment or code of practice.
Hazard awareness

Although you are a visiting worker, you are expected to report to management any circumstance where you believe there is a risk of harm to yourself or others. You should be aware that even if an accident has not occurred, if the potential for personal injury or property damage remains you should report it.

Expectations

**MRC expects all visiting workers to work safely and responsibly.** The MRC will provide you with the resources to do your job safely and efficiently and you are expected to use those resources properly and in the intended manner.

Sanctions

**Failure to comply with safety rules, codes or procedures is a disciplinary offence and is open to sanction.** The MRC expects high standards from all visiting workers. Although you are not subject to the MRC disciplinary procedure, your Director will seek to address and resolve issues informally, but if necessary more formal action is required, it may be necessary to involve your employer. Regrettably, the final sanction may be to terminate your visit and request that you leave. Your host establishment will strive very hard to avoid taking that step.
Appendix

Statement on the MRC’s position on Employer’s and Public Liability

If approached by a third party for details of our employer’s or public liability insurance, MRC establishments can provide the following response.

“As an employer, the MRC recognises that it is liable for the payment of civil damages should there be a successful claim against the MRC.

The MRC however, as a public body accountable to the Department for Business, Innovation and Skills (BIS), does not carry Employer’s Liability or Public Liability Insurance. It is specifically exempt from Employer’s Liability insurance and an exemption certificate has been issued to Council to that effect. The MRC acts as its own insurer, responsible for the payment of compensation from its own budget. If an award exceeded the capacity of the MRC to settle, MRC is indemnified by HM Treasury.”

Note:

In practice, MRC would have to approach BIS to see if the balance of the award could be met from the Science budget contingency fund.

As a general point the Council shall not take out any insurance without the prior approval from BIS, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation, such as travel, except Employer’s Liability from which Council is exempt.
The MRC and Civil Claims: Liability, Insurance and Indemnity

This states the position of the MRC under law with respect to civil damages. The MRC is subject to normal employment law, so this document clarifies some generic terms. An appreciation of the content of this document may assist MRC establishments to respond to requests for the name and details of our ‘Employer’s Liability’ or ‘Public Liability’ insurance cover, and supports the short statement that can be given in response to such an enquiry.

Statement

The MRC carries no Employer’s Liability insurance, acting as its own insurer but indemnified by HM Treasury. This document clarifies and defines the meaning of key terms.

1. Liability

This describes the relationship between two parties and the duty of care one party has for the other. Where there is a duty of care, there is also liability. Thus the employer becomes liable for civil damages both as a result of damage sustained by an employee or third party as a result of negligence by an employer (direct liability) and of damage sustained by an employee or third party as a result of negligence by an employee (vicarious liability). Usually these are claims for negligence, where the claimant will try to establish duty of care, breach of the duty and consequential damage, all linked causally and inclusively. Under the principle of vicarious liability, the claimant will sue the employer. If the employee has committed a negligent act, he or she may face disciplinary action later.

In practice this means that the employer, and not the employee, will be liable to pay compensation to the injured party. Liability bears no relationship to Insurance.

2. Insurance

This term describes only the contract that is entered into with an insurance company. The policy will cover the employer against civil claims as defined. A premium is paid for the policy. Usually these policies have an excess clause (just like a car or home insurance policy) and specific exclusions, both designed to reduce premiums. It is a matter of judgement as to how much risk the policy holder retains and will form part of their business risk assessment. Insurance in no way affects liability. The insurance company would only pay up where and to the extent that the policy covered the exact circumstances of the claim. Just with other forms of insurance, there are no-claims benefits - so it is in the financial interest of employers to keep accident rates down. Also, again as with car insurance, the insurance company will be the final arbiter if they want to pay out without prejudice (i.e. settle out of court) or fight the case. The MRC carries normal employer liabilities but has no employer's liability insurance. The MRC is however indemnified by the Treasury (see next paragraph).

3. Indemnity

In practice, the MRC must meet unforeseen contingencies from its operating budget. In principle, the Treasury role is insurer of last resort but this cannot be relied on as a source of compensation. The Department for Business, Innovation and Skills (BIS) will consider the circumstances, including demonstration of adequate risk management and, where appropriate, consider making available to the Council an addition to their allocation from the Science Budget contingency to meet the part or the whole of the...
balance of the loss or claim. In deciding what level of compensation to make available, BIS will have regard to the other calls on its budgets, and specifically on its budgetary reserve.

4. Civil claim for statutory breach

This is a term that has achieved more prominence recently when it has been shown in court that the duty to 'adequately control' exposure to a hazardous substance (including biological agent) is absolute. Thus, even if the employer has completed a risk assessment under the Control of Substances Hazardous to Health (COSHH) Regulations with due diligence to the extent that there were no grounds for prosecution, if a party then suffers harm from exposure to a hazardous substance covered by the assessment they have an absolute right to compensation. Since COSHH also applies to the healthcare sector this could have repercussions if accidental exposure occurs in a clinical setting. An employer, whether insured or not, cannot indemnify itself or an employee against criminal charges (e.g. breach of statutory law leading to prosecution and fine). In the circumstances of a successful civil claim for a statutory breach, however, the employer and not the employee would be liable for paying compensation to the injured party.

Individual circumstances

The MRC cannot state its position in advance for every situation that may give rise to a claim for compensation, because each case can have unique circumstances, open to interpretation. Access to expert legal advice is therefore essential.

Indemnification by the Treasury is a statement of financial guarantee of payment if there is a successful claim against the MRC. The key issue however is whether or not MRC is liable for the compensation; if it did or did not have a duty of care.

In complex situations where the MRC works closely with other employers (e.g. in clinical trials) it is important that written agreements are in place that clarify issues of liability. In addition, units that are involved in clinical trials or any work directly with human subjects or tissues should be aware of the published guidance on Indemnity, Insurance and Compensation. This can be found in Question Specific Guidance, Questions A76-77 in Part A – Core Study Information of IRAS (Integrated Research Application System) at https://www.myresearchproject.org.uk/Help/Information.aspx.

The information contained here is correct at the time of writing. If however events occur that require legal opinion, or if a claim for compensation is received by your establishment, you should contact Human Resources at Head Office at the earliest opportunity for referral to our solicitors.