

**DEPARTMENT FOR EDUCATION AND SKILLS (DfES)**

**EDUCATION OUTSIDE THE CLASSROOM MANIFESTO**

**A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS  
(APIL02/06)**

**JANUARY 2006**

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has around 5,000 members in the UK and abroad. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise
- To provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

Colin Ettinger	Immediate Past-President, APIL
Stephen Lawson	Executive Committee member, APIL
Christopher Limb	Executive Committee member, APIL

Any enquiries in respect of this response should be addressed, in the first instance, to:

Miles Burger  
Policy Research Officer  
APIL  
11 Castle Quay  
Nottingham  
NG7 1FW

Tel: 0115 958 0585  
Fax: 0115 958 0885

E-mail: [miles.burger@apil.com](mailto:miles.burger@apil.com)

## EDUCATION OUTSIDE THE CLASSROOM MANIFESTO

### Executive Summary

- APIL believes that the classroom manifesto offers an ideal opportunity to develop a better understanding of the need for, and benefit of, risk assessment and the need for a 'safety culture' within schools.
- APIL feels that the wider promotion of a 'safety culture' is vital as there are suggestions that the number of school trips are declining due to the "*fear of accidents and the possibility of litigation*". Yet according to evidence from the DfES, "*the number of trips is increasing and so are other activities outside the classroom*".
- APIL believes that the principles of risk assessment need to be clearly stated within the main body of the manifesto. We therefore suggest the inclusion of the Health and Safety Executive's (HSE) '*5 Steps to Risk Assessment*' in the manifesto.
- The incorporation of these five steps into the manifesto will place effective and efficient risk assessment at the heart of the 'education outside the classroom' debate and should hopefully lead to less injuries and deaths of pupils on school trips.

## Introduction

1. APIL welcomes the opportunity to put forward its comments in relation to the Department for Education and Skills (DfES) consultation on the *'Education outside the Classroom Manifesto'*.
2. APIL supports the principles behind the DfES's 'Education Outside the Classroom Manifesto' and agrees that the *"world outside the classroom [is] an integral part of ... learning and development"*<sup>1</sup> and *"[h]igh quality education outside the classroom can stimulate and inspire"*<sup>2</sup>. We do, however, feel that it is important that these outside experiences are *"safely managed"*<sup>3</sup>.

## Safety Culture

3. APIL believes that the classroom manifesto offers an ideal opportunity to develop a better understanding of the need for, and benefit of, risk assessment and the need for a safety culture within schools. For example, staff at Hay Lane school in London were devastated by the death of a pupil on a school trip. The staff, who were exonerated in the coroner's enquiry, were, nevertheless, determined to prevent another tragedy. The school's unions called for the creation of a health and safety committee, with equal representation from management and the unions, NUT, UNISON and ATL. Improvements were made to safety procedures as a result of this collaboration and their efforts were rewarded when an OFSTED inspection highlighted the *'health and safety culture'* as a strength of the school<sup>4</sup>.

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<sup>1</sup> Consultation document – paragraph 3.1.1

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Reported in Hazards *'OFSTED praises school safety culture despite tragic death of pupil'* (30<sup>th</sup> May 2004) (see <http://www.hazards.org/news/tragicdeath.htm> for a copy of the article).

4. APIL feels that the wider promotion of a 'safety culture' is vital as there are suggestions that the number of school trips are declining due to the "*fear of accidents and the possibility of litigation*"<sup>5</sup>. We believe, however, that this fear of accidents is misplaced. Indeed, a recent select committee report stated that "*this fear is entirely out of proportion to the real risks*"<sup>6</sup>. In fact "[h]igh-profile reporting of isolated incidents and some tabloid journalism misrepresents the incidence of serious accidents on school trips, which is actually very low indeed ... In England in 2003, there were between seven and ten million pupil visits involving educational or recreational activity, but only one fatality"<sup>7</sup>. While, in terms of the possibility of litigation, or the so-called 'compensation culture', the Prime Minister stated that "[b]etween 2000 and 2005 ... accident claims against local authorities, schools, volunteering organisations and other public sector bodies fell by 7.5%"<sup>8</sup>. APIL would therefore question whether the possibility of an accident, or litigation following a school trip is actually leading to a decline in the amount of education outside the classroom.
5. Indeed, speaking at a recent compensation culture conference hosted by the DCA, Lord Adonis stated that "[t]here's something of a myth at the moment that school trips are on the decline"<sup>9</sup>. According to evidence from the DfES, "*the number of trips is increasing and so are other activities outside the classroom*"<sup>10</sup>. For example, he quoted a study conducted by the DfES in summer 2004 with 2,500 schools where it was found that "*over 20% of Primary's and nearly 70% of Secondary schools undertake field trips over and above what is*

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<sup>5</sup> House of Commons Education and Skills Committee 'Education Outside the Classroom' Second Report of Session 2004-05 (HC120) 31 January 2005, page 11, paragraph 19 (see <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmედუსki/120/120.pdf> for a copy of this report).

<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

<sup>8</sup> Tony Blair (Prime Minister) – Speech at University College London 'Common sense culture, not a compensation culture' (26 May 2005)

<sup>9</sup> Lord Andrew Adonis (Parliamentary Under-Secretary of State for Schools) – Speech at the Compensation Culture Conference (17 November 2006) (see <http://www.dfes.gov.uk/speeches/media/documents/compen.doc> for a copy of the speech).

<sup>10</sup> *Ibid*

*required by the curriculum*<sup>11</sup>. He also reiterated the fact that *“the law protects schools staff that have taken reasonable care and followed their employer’s guidelines”*<sup>12</sup> and that this principle was going to be made *“crystal clear in the education outside the classroom manifesto and its associated guidance to schools and to local authorities”*<sup>13</sup>. APIL believes, however, that the current proposed structure and wording of the manifesto does not reflect this point and will not necessarily achieve the aim of ensuring that *“school trips ... are properly planned and risk managed”*<sup>14</sup>.

## **Risk Assessment**

6. APIL believes that the principles of risk assessment need to be clearly stated within the main body of the manifesto. At the moment the manifesto aims to *“Support schools and local authorities so they are better able to manage visits safely and efficiently”*<sup>15</sup> via the following steps:
  - Working in partnership to produce user-friendly checklists on sensible risk assessment, to say who needs to do what.
  - Setting out top tips for keeping pupils and staff safe
  - Looking at new ways of reducing paperwork and keep safety practical and proportionate<sup>16</sup>.
7. Yet APIL is concerned that within these steps there is no explicit mention of risk assessment and/or risk management. APIL believes there is a definite need for a reaffirmation of the fact that if effective risk management is undertaken there is unlikely to be an injury, negligent

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<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*

<sup>13</sup> *Ibid*

<sup>14</sup> *Ibid*

<sup>15</sup> Consultation document

<sup>16</sup> *Ibid*

or otherwise, and, if a pupil is injured, it is highly unlikely that a teacher is going to be sued because of it. The need for such reaffirmation is particularly important at the moment due to the conflicting advice which surrounds the issue of school trips. On the one hand the Government states that you are unlikely to be sued for a pupil injury if you undertake a risk assessment, while the NASUWT – the second largest teachers union – has advised members to avoid taking school trips due to the “*increasingly litigious society*”<sup>17</sup>.

8. In order to tackle the issue of conflicting advice, and emphasise the principles of good risk assessment, APIL suggests that the Health and Safety Executive’s (HSE) ‘*5 Steps to Risk Assessment*’ should be included in the main body of the manifesto. This will make it explicitly clear exactly what a teacher needs to do before taking pupils on a school trip. In fact, these five steps, while generic, can be applied to any situation or circumstance and provide a baseline which all risk assessments should meet. The five steps are as follows:

- Step 1: Look for the hazards
- Step 2: Decide who might be harmed and how
- Step 3: Evaluate the risk and decide whether the existing precautions are adequate or whether more should be done
- Step 4: Record your findings
- Step 5: Review your assessment and revise it if necessary

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<sup>17</sup> NASUWT News ‘*NASUWT reaffirms advice to members to avoid taking school trips*’ (18 February 2004) (see <http://www.teachersunion.org.uk/Templates/Internal.asp?NodeID=70431> for a copy of the new story).

(See Appendix A for a copy of the Health and Safety Executive's (HSE) *'Five steps to Risk Assessment'*. This document can also be downloaded at: <http://www.hse.gov.uk/pubns/indg163.pdf>).

9. The incorporation of these five steps into the manifesto will place effective and efficient risk assessment at the heart of the 'education outside the classroom' debate and should hopefully lead to less injuries and deaths of pupils on school trips.



## **Appendix A**

HEALTH AND SAFETY EXECUTIVE (HSE)

FIVE STEPS TO RISK ASSESSMENT

# Five steps TO risk assessment



# 5 steps to

## RISK ASSESSMENT

This leaflet aims to help employers and self-employed people to assess risks in the workplace. It is aimed at firms in the commercial, service and light industrial sectors.



### What is risk assessment?

A risk assessment is nothing more than a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm. The aim is to make sure that no one gets hurt or becomes ill. Accidents and ill health can ruin lives, and affect your business too if output is lost, machinery is damaged, insurance costs increase, or you have to go to court. You are legally required to assess the risks in your workplace.

The important things you need to decide are whether a **hazard is significant**, and whether you have it covered by satisfactory precautions so that the **risk is small**. You need to check this when you assess the risks. For instance, electricity can kill but the risk of it doing so in an office environment is remote, provided that 'live' components are insulated and metal casings properly earthed.



## How to assess the risks in your workplace

Follow the five steps in this leaflet:

**STEP 1: Look for the hazards**

**STEP 2: Decide who might be harmed and how**

**STEP 3: Evaluate the risks and decide whether the existing precautions are adequate or whether more should be done**

**STEP 4: Record your findings**

**STEP 5: Review your assessment and revise it if necessary**

Don't be overcomplicated. In most firms in the commercial, service and light industrial sectors, the hazards are few and simple. Checking them is common sense, but necessary. You probably already know whether, for example, you have machinery that could cause harm, or if there is an awkward entrance or stair where someone could

be hurt. If so, check that you have taken what reasonable precautions you can to avoid injury.

If you are a small firm and you are confident you understand what's involved, you can do the assessment yourself (you don't have to be a health and safety expert!). If you are a larger firm, you could ask a responsible employee, safety representative or safety officer to help you. If you are not confident, get help from a competent source (see under 'Getting help' on page 8). But remember - you are responsible for seeing it is adequately done.

Hazard and Risk - don't let words in this guide put you off!

**hazard** means anything that can cause harm (eg chemicals, electricity, working from ladders, etc)

**risk** is the chance, high or low, that somebody will be harmed by the hazard.

## STEP 1

### Look for the hazards

If you are doing the assessment yourself, walk around your workplace and look afresh at what could reasonably be expected to cause harm. Ignore the trivial and concentrate on significant hazards which could result in serious harm or affect several people.

Ask your employees or their representatives what they think. They may have noticed things which are not immediately obvious. Manufacturers' instructions or data sheets can also help you spot hazards and put risks in their true perspective. So can accident and ill-health records.

## STEP 2

### Decide who might be harmed, and how

Don't forget:

- young workers, trainees, new and expectant mothers, etc who may be at particular risk
- cleaners, visitors, contractors, maintenance workers, etc who may not be in the workplace all the time
- members of the public, or people you share your workplace with, if there is a chance they could be hurt by your activities.



## STEP 3

# Evaluate the risks and decide whether existing precautions are adequate or more should be done

Consider how likely it is that each hazard could cause harm. This will determine whether or not you need to do more to reduce the risk. Even after all precautions have been taken, some risk usually remains. What you have to decide for each significant hazard is whether this **remaining risk is high, medium or low**.

First, ask yourself whether you have done all the things that the law says you have got to do. For example, there are legal requirements on prevention of access to dangerous parts of machinery. Then ask yourself whether generally accepted industry standards are in place. But don't stop there - think for yourself, because the law also says that you must do what is reasonably practicable to keep your workplace safe. Your real aim is to **make all risks small** by adding to your precautions as necessary.

If you find that something needs to be done, draw up an 'action list' and give priority to any remaining risks which are high and/or those which could affect most people. In taking action ask yourself:

- a) can I **get rid of the hazard** altogether?
- b) if not, how can I **control the risks** so that harm is unlikely?

In controlling risks apply the principles below, if possible in the following order:

- try a less risky option
- prevent access to the hazard (eg by guarding)
- organise work to reduce exposure to the hazard
- issue personal protective equipment
- provide welfare facilities (eg washing facilities for removal of contamination and first aid)

Improving health and safety need not cost a lot. For instance, placing a mirror on a dangerous blind corner to help prevent vehicle accidents, or putting some non-slip material on slippery steps, are inexpensive precautions considering the risks. And failure to take simple precautions can cost you a lot more if an accident does happen.

## STEP 4

But what if the work you do tends to vary a lot, or you or your employees move from one site to another? Identify the hazards you can reasonably expect and assess the risks from them. After that, if you spot any additional hazards when you get to a site, get information from others on site, and take what action seems necessary.

**But what if you share a workplace?** Tell the other employers and self-employed people there about any risks your work could cause them, and what precautions you are taking. Also, think about the risks to your own workforce from those who share your workplace.

**But what if you have already assessed some of the risks?**

If, for example, you use hazardous chemicals and you have already assessed the risks to health and the precautions you need to take under the Control of Substances Hazardous to Health Regulations (COSHH), you can consider them 'checked' and move on.

More information about legal requirements and standards can be found in the HSE publications *An Introduction to Health and Safety*, *Essentials of Health and Safety* and *Management of Health and Safety at Work: Approved Code of Practice*. Details of these are given on page 8.

## Record your findings

If you have fewer than five employees you do not need to write anything down, though it is useful to keep a written record of what you have done. But if you employ five or more people you must record the significant findings of your assessment. This means writing down the significant hazards and conclusions. Examples might be 'Electrical installations: insulation and earthing checked and found sound' or 'Fume from welding: local exhaust ventilation provided and regularly checked'.

You must also tell your employees about your findings.

**Suitable and sufficient - not perfect!**

Risk assessments must be suitable and sufficient. You need to be able to show that:

- a proper check was made
- you asked who might be affected
- you dealt with all the obvious significant hazards, taking into account the number of people who could be involved
- the precautions are reasonable, and the remaining risk is low.

## STEP 5

Keep the written record for future reference or use; it can help you if an inspector asks what precautions you have taken, or if you become involved in any action for civil liability. It can also remind you to keep an eye on particular hazards and precautions. And it helps to show that you have done what the law requires. There is an example at the end of this guide which you may find helpful to refer to, but you can make up your own form if you prefer.

To make things simpler, you can refer to other documents, such as manuals, the arrangements in your health and safety policy statement, company rules, manufacturers' instructions, your health and safety procedures and your arrangements for general fire safety. These may already list hazards and precautions. You don't need to repeat all that, and it is up to you whether you combine all the documents, or keep them separately.

## Review your assessment and revise it if necessary

Sooner or later you will bring in new machines, substances and procedures which could lead to new hazards. If there is any significant change, add to the assessment to take account of the new hazard. Don't amend your assessment for every trivial change, or still more, for each new job, but if a new job introduces significant new hazards of its own, you will want to consider them in their own right and do whatever you need to keep the risks down. In any case, it is good practice to review your assessment from time to time to make sure that the precautions are still working effectively.







# Getting help

Here's a selection of practical guidance to help you. If you are still stuck on the assessment, your local health and safety inspector can advise you on what to do.

You will find most of what you need to know about standards and legal requirements in:

*An introduction to health and safety: Health and safety in small businesses* Leaflet INDG259(rev1) HSE Books 2003 (single copy free)

*Essentials of health and safety at work* HSE Books 1994 ISBN 0 7176 0716 X

but you might also find the following useful:

*Management of health and safety at work. Management of Health and Safety at Work Regulations 1999. Approved Code of Practice and guidance* L21 (Second edition) HSE Books 2000 ISBN 0 7176 2488 9

*Successful health and safety management* HSG65 (Second edition) HSE Books 1997 ISBN 0 7176 1276 7

*Stating your business: Guidance on preparing a health and safety policy document for small firms* Leaflet INDG324 HSE Books 2000 (single copy free or priced packs of 5 ISBN 0 7176 1799 8)

*Need help on health and safety? Guidance for employers on when and how to get advice on health and safety* Leaflet INDG322 HSE Books 2000 (single copy free or priced packs of 10 ISBN 0 7176 1790 4)

*COSHH: a brief guide to the regulations: What you need to know about the Control of Substances Hazardous to Health Regulations 2002 (COSHH)* Leaflet INDG136(rev2) HSE Books 2003 (single copy free or priced packs of 10 ISBN 0 7176 2677 6)

*Personal protective equipment at work. Personal Protective Equipment at Work Regulations 1992. Guidance on Regulations* L25 HSE Books 1992 ISBN 0 7176 0415 2

*Getting to grips with manual handling: A short guide for employers* Leaflet INDG143(rev1) HSE Books 2000 (single copy free or priced packs of 15 ISBN 0 7176 1754 8)

*Electrical safety and you* Leaflet INDG231 HSE Books 1996 (single copy free or priced packs of 15 ISBN 0 7176 1207 4)

*Managing vehicle safety at the workplace: A short guide for employers* Leaflet INDG199 HSE Books 1995 (single copy free or priced packs of 10 ISBN 0 7176 0982 0)

*Workplace transport safety: Guidance for employers* HSG136 HSE Books 1995 ISBN 0 7176 0935 9

*Working with VDUs* Leaflet INDG36(rev1) HSE Books 1998 (single copy free or priced packs of 10 ISBN 0 7176 1504 9)

*Work with display screen equipment. Health and Safety (Display Screen Equipment) Regulations 1992 as amended by the Health and Safety (Miscellaneous Amendments) Regulations 2002. Guidance on Regulations* L26 (Second edition) HSE Books 2003 ISBN 0 7176 2582 6

*Whose risk is it anyway? Hazard and risk assessment in a small firm* Video HSE Books 1992 ISBN 0 7176 1942 7

*Five steps to risk assessment: Case studies* HSG183 HSE Books 1998 ISBN 0 7176 1580 4

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# HSE offices

Government Buildings,  
Phase 1,  
Ty Glas,  
Llanishen,  
CARDIFF CF14 5SH  
Tel: 029 2026 3000  
Fax: 029 2026 3120

Inter City House,  
Mitchell Lane,  
Victoria Street,  
BRISTOL BS1 6AN  
Tel: 01179 886000  
Fax: 01179 262998

The Marches House,  
Midway,  
NEWCASTLE-UNDER-LYME  
ST5 1DT  
Tel: 01782 602300  
Fax: 01782 602400

14 Cardiff Road,  
LUTON  
LU1 1PP  
Tel: 01582 444200  
Fax: 01582 444320

Priestley House,  
Priestley Road,  
BASINGSTOKE  
RG24 9NW  
Tel: 01256 404000  
Fax: 01256 404100

Wren House,  
Hedgerows Business Park,  
Colchester Road,  
Springfield,  
CHELMSFORD  
CM2 5PF  
Tel: 01245 706200  
Fax: 01245 706222

3 East Grinstead House,  
London Road,  
EAST GRINSTEAD  
RH19 1RR  
Tel: 01342 334200  
Fax: 01342 334222

1 Hagley Road,  
BIRMINGHAM  
B16 8TG  
Tel: 0121 607 6200  
Fax: 0121 607 6349

5th Floor Belgrave House,  
1 Greyfriars,  
NORTHAMPTON  
NN1 2BS  
Tel: 01604 738300  
Fax: 01604 738333

1st Floor,  
The Pearson Building,  
55 Upper Parliament Street,  
NOTTINGHAM  
NG1 6AU  
Tel: 01159 712800  
Fax: 01159 712802

Marshall's Mill,  
Marshall Street,  
LEEDS  
LS11 9YJ  
Tel: 0113 283 4200  
Fax: 0113 283 4296

Edgar Allen House,  
241 Glossop Road,  
SHEFFIELD  
S10 2GW  
Tel: 0114 291 2300  
Fax: 0114 291 2379

Arden House,  
Regent Centre,  
Regent Farm Road,  
Gosforth,  
NEWCASTLE-UPON-TYNE  
NE3 3JN  
Tel: 0191 202 6200  
Fax: 0191 202 6300

Grove House,  
Skerton Road,  
MANCHESTER  
M16 0RB  
Tel: 0161 952 8200  
Fax: 0161 952 8222

Marshall House,  
Ringway,  
PRESTON  
PR1 2HS  
Tel: See Manchester  
Fax: 01772 836222

Belford House,  
59 Belford Road,  
EDINBURGH  
EH4 3UE  
Tel: 0131 247 2000  
Fax: 0131 247 2121

375 West George Street,  
GLASGOW  
G2 4LW  
Tel: 0141 275 3000  
Fax: 0141 275 3100

Offshore Division,  
Lord Cullen House,  
Fraser Place,  
ABERDEEN AB25 3UB  
Tel: 01224 252500  
Fax: 01224 252662

## STEP 1

### Hazard

Look only for hazards which you could reasonably expect to result in significant harm under the conditions in your workplace. Use the following examples as a guide

- slipping/tripping hazards (eg poorly maintained floors or stairs)
- fire (eg from flammable materials)
- chemicals (eg battery acid)
- moving parts of machinery (eg blades)
- work at height (eg from mezzanine floors)
- ejection of material (eg from plastic moulding)
- pressure systems (eg steam boilers)
- vehicles (eg fork-lift trucks)
- electricity (eg poor wiring)
- dust (eg from grinding)
- fumes (eg welding)
- manual handling
- noise
- poor lighting
- low temperature

## STEP 2

### Who might be harmed?

There is no need to list individuals by name - just think about groups of people doing similar work or who may be affected, eg

- office staff
- maintenance personnel
- contractors
- people sharing your workplace
- operators
- cleaners
- members of the public

Pay particular attention to:

- staff with disabilities
- visitors
- inexperienced staff
- lone workers

They may be more vulnerable

## STEP 3

### Is more needed to control the risk?

For the hazards listed, do the precautions already taken:

- meet the standards set by a legal requirement?
- comply with a recognised industry standard?
- represent good practice?
- reduce risk as far as reasonably practicable?

Have you provided:

- adequate information, instruction or training?
- adequate systems or procedures?

If so, then the risks are adequately controlled, but you need to indicate the precautions you have in place. (You may refer to procedures, company rules, etc.)

Where the risk is not adequately controlled, indicate what more you need to do (the 'action list')

## STEP 5

### Review and revision

Set a date for review of the assessment (see opposite).

On review check that the precautions for each hazard still adequately control the risk. If not indicate the action needed. Note the outcome. If necessary complete a new page for your risk assessment.

Making changes in your workplace, eg when bringing in new

- machines
- substances
- procedures

may introduce significant new hazards. Look for them and follow the 5 steps.

## RISK ASSESSMENT FOR

Company Name \_\_\_\_\_

Company Address \_\_\_\_\_  
\_\_\_\_\_

Postcode \_\_\_\_\_

## ASSESSMENT UNDERTAKEN

(date) \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

## ASSESSMENT REVIEW

Date \_\_\_\_\_

### STEP 1

List significant hazards here:

### STEP 2

List groups of people who are at risk from the significant hazards you have identified:

### STEP 3

List existing controls or note where the information may be found. List risks which are not adequately controlled and the action needed:

# 5 steps to

## **RISK ASSESSMENT**

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Fax: 02920 859260 e-mail: [hseinformationservices@natbrit.com](mailto:hseinformationservices@natbrit.com) or write to HSE Information Services, Caerphilly Business Park, Caerphilly CF83 3GG. You can also visit HSE's website: [www.hse.gov.uk](http://www.hse.gov.uk)

This leaflet is available in priced packs of 10 from HSE Books, ISBN 0 7176 1565 0. Single free copies are also available from HSE Books.

**This leaflet contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.**

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