



Risk control

Personal Protective Equipment (PPE)



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The need for Personal Protective Equipment (PPE) or Respiratory Protective Equipment (RPE) has understandably been the subject of a huge amount of debate and media coverage over the past few years, but how much do we really understand about this issue in the wider workplace context?

PPE is a term used to broadly describe a whole array of wearable clothing and devices aimed at offering a level of protection to all parts of the human anatomy from an almost endless list of hazards. Consequently, a whole industry has evolved to manufacture and supply items of PPE from hard hats to wellington boots.

Health and safety practitioners have long advocated that the use of PPE should always be considered as the 'last line of defence' against workplace hazards, and where it is used, it should be supplementary to other more robust control strategies. This standpoint is taken for a number of reasons:

- When PPE fails, it fails to danger so the wearer is exposed to the hazard and likely to suffer harm.
- In most cases PPE does not prevent accidents, it merely limits the level of injury when a situation gets out of control, i.e. it does not address the hazard source.
- PPE can be uncomfortable and unfashionable and is subject to human fallibility.

Employers have often viewed PPE as a first option for protection of employees because it can be quick and convenient to deploy and can be considered an inexpensive control measure in comparison to addressing the hazard source.

When risk assessing the activities of employees (and others in the workplace such as visitors and contractors) it is expected that the employer will consider and apply the Principles of Prevention¹ in order to bring hazards and their associated risks under a reasonably practicable level of control. In practice this means employers need to conduct a 'risk versus cost' benefit analysis that justifies the time, effort and cost that can be afforded to implement the various control options when weighed against the level of risk presented. Unfortunately this is not always a straightforward calculation to make, however, the law does not require a disproportionate level of response to a risk and provides guidance² to try to clarify the standards that should be adopted.

If a risk assessment identifies that the use of PPE is required, then a further more specific assessment will have to be made to consider and determine the following:

- The nature and form of the hazard (e.g. airborne dust, vapour, fibre or biological agent etc.).

- The part(s) of the body it will effect.
- The level and type of harm the hazard presents (e.g. is a chemical highly toxic and likely to kill with minimal exposure or only mildly irritating after many hours of contact?)
- Persons exposed to the hazard, including numbers of people and the duration of exposure.
- The activities that are to be performed and environmental conditions.

It then becomes imperative that employers select the correct specification of PPE to withstand the hazard presented.

Different standards exist in each category of PPE e.g. High visibility clothing for working on live carriageways usually exceeds the standards required for working on a conventional construction site. Therefore, you may need to seek competent advice from PPE suppliers and manufacturers to ensure the capabilities of the equipment are sufficient and that any limitations are understood. It is a requirement under The Personal Protective Equipment Regulations 1992³ that employers also take account of issues of compatibility when selecting PPE and ensure one item of PPE does not adversely affect the performance of another when worn simultaneously.

All PPE should carry a CE or UKCA marking to show it has met minimum standards of conformance. The UKCA marking came into effect on 1 January 2021 within the United Kingdom, however, to allow businesses time to adjust to the new requirements, the CE marking will still be in use until 1 January 2022 in most cases⁴.

Once the right standard of PPE has been selected then employers need to consider and manage the following:

- Employee involvement in final selection trials where issues of restriction on movement, thermal comfort, compatibility and aesthetics etc. can be evaluated.
- The PPE needs to be readily available in a range of sizes to comfortably fit the relevant people – a 'one size fits all' approach rarely works.
- Procurement teams need to ensure specifications for PPE are not altered over time without the risk assessment being reviewed.
- Employees will need training (and periodic refreshers) on why the PPE is needed, when and how to wear it, what are its limitations, how and where to store it and clean it, how to get replacements, who to report any problems to etc. This training and any equipment allocation should be recorded.
- The strategy for monitoring / supervision to ensure employees are using the PPE correctly and what remedial or disciplinary actions will be adopted for non-compliance.

- Any failures in PPE should be investigated promptly along with a regular review of risk assessments to identify if any significant changes have occurred that could impact on the effectiveness of controls.

New Legislation

On 6 April 2022 the Personal Protective Equipment at Work (Amendment) Regulations 2022 (PPER 2022) came into force. They amend the 1992 Regulations (PPER 1992).

They extend employers' and employees' duties regarding personal protective equipment (PPE) to limb (b) workers.

What does this mean for employers?

PPER 1992 places a duty on every employer in Great Britain to ensure that suitable PPE is provided to 'employees' who may be exposed to a risk to their health or safety while at work.

PPER 2022 extends this duty to limb (b) workers and came into force on 6 April 2022. Employers need to carefully consider whether the changes to UK law apply to them and their workforce and make the necessary preparations to comply.

Definitions of limb (a) and limb (b) workers

In the UK, section 230(3) of the Employment Rights Act 1996's definition of a worker has 2 limbs:

Limb (a) describes those with a contract of employment. This group are employees under the Health and Safety at Work etc Act 1974 and are already in scope of PPER 1992

Limb (b) describes workers who generally have a more casual employment relationship and work under a contract for service – they did not previously come under the scope of PPER 1992

PPER 2022 draws on this definition of worker and captures both employees and limb (b) workers: "worker" means 'an individual who has entered into or works under:

(a) a contract of employment; or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

Any references to a worker's contract shall be construed accordingly.'

Generally, workers who come under limb (b):

General duties of limb (b) workers:

- carry out casual or irregular work for one or more organisations
- after 1 month of continuous service, receive holiday pay but not other employment rights such as the minimum period of statutory notice
- only carry out work if they choose to
- have a contract or other arrangement to do work or services personally for a reward (the contract doesn't have to be written) and only have a limited right to send someone else to do the work, for example swapping shifts with someone on a pre-approved list (subcontracting)
- are not in business for themselves (they do not advertise services directly to customers who can then also book their services directly)

As every employment relationship will be specific to the individual and employer, the precise status of any worker can ultimately only be determined by a court or tribunal.

Please note: These changes do not apply to those who have a 'self-employed' status.⁵

Summary

There is clearly a lot to consider before choosing the most appropriate PPE as a control method. Selecting inappropriate protective equipment may expose the wearer to a greater level of risk exposure than anticipated.

However, before considering the implementation of PPE, organisations should recognise that the best way to avoid risk is by applying the principles of protection. The first rule of the principles of prevention is to eliminate the risk. For those risks that cannot be eliminated then each of the other elements of the principles of prevention should be applied, including where necessary the utilisation of PPE.

References

- 1 <http://www.legislation.gov.uk/uksi/1999/3242/schedule/1/made>
- 2 <https://www.hse.gov.uk/pubns/books/l25.htm>
- 3 <http://www.legislation.gov.uk/uksi/1992/2966/contents/made>
- 4 <https://www.gov.uk/guidance/using-the-ukca-marking>
- 5 <https://www.hse.gov.uk/ppe/ppe-regulations-2022.htm>

Further information

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