

SAFELY MANAGING CHANGE AND THE COMMON SAFETY METHOD RISK ASSESSMENT

Introduction

The purpose of this Reps Bulletin is to brief TSSA health and safety reps on how they should be involved in organisational change and how they have a role to play in risk assessments both in general terms but also as part of a company applying the Common Safety Method Risk Evaluation and Assessment (CSM RA) requirements.

The Bulletin introduces some of the principal elements of CSM RA so that reps have a general understanding of how it should operate. At various points there is advice for reps of the sort of information that they should be asking for, as well as the rights that they have been given.

We have used Network Rail as an example but if you work for a railway company and CSM RA applies to your employer (see under the definition of “mainline railway” later in the Bulletin) then the same points are just as relevant.

Company reorganisations

When companies like Network Rail, TOCs or Infracos reorganise the structure of their firm, changing job roles and responsibilities and, usually, cutting jobs, they should go through a

process of consultation with trade union staff reps.

Reorganisations, sometimes called restructurings (and not to be confused with a restructuring of pay, terms and conditions for a group of workers – eg – Station Staff), can be of varying sizes.

Some may only affect a small group of staff at a single location whilst other reorganisations, like Network Rail's Putting Passengers First scheme involves thousands of employees and will entail a radical change to the company's organisational structure.

At reorganisation consultation meetings, TSSA union reps have the opportunity to ask questions to seek clarification about anything associated with the reorganisation. This could be about:

- Why the reorganisation is taking place?
- Why is it being proposed in the particular way it is?
- What are the detailed principles that dictate the future shape of the organisation – and how staff will be dealt with?

- How will the reorganisation consultation be carried out?
- Specific jobs, their roles and responsibilities as well as issues such as grading, location, etc;
- Application of agreed procedures that will be used for dealing with staff who may be displaced from their current jobs;
- Application of pay protection, additional travel cost assistance and, in the public sector, the effect of Government caps on exit payments.

One of the most significant roles of reps in this circumstance, once they have the information that they need, is to present counter arguments based on knowledge and experience, and which may confront management's core thinking in the proposal.

They may also want to present counter proposals based on the answers that they have received and the information that they already have from the members involved.

These counter arguments and proposals may change the proposed structure, someone's future job responsibilities, etc.

Organisational change can lead to hazards

Reorganisations, however, can also have hazardous health and safety implications and employers should be conscious of that affect.

For instance, the issue of mental health that features so much in our media and which has been identified by the ORR and RSSB as one of the three main health issues affecting railway workers can sometimes be attributed to reorganisations that have increased individual employee's responsibilities but failed to take account of the extra stress caused by:

- unmanageable workloads;
- pressure to meet deadlines;
- the effect of cutting the number of staff actually required to complete a job.

You may be aware of other instances where items have been missed or marginalised – but have health and safety implications.

Change Management, Safety Validation and CSM RA

Railway managers should engage in managing the change that they want to make and that requires that they consider the health and safety implications – hazards and risks - of their proposal, not just the bottom line in their accounts.

This is because health and safety case law and legislation places legal duties and responsibilities on employers, failure to comply with which is a criminal offence that, on conviction, could lead to an organisation having to pay substantial fines whilst individuals could also find themselves facing up to two years in prison.

Safety Validation for organisation change

Companies like Network Rail have a standard¹ in place that requires safety

¹ NR/L2/HSS/020 Safety Validation of organisational change

validation of organisational change and whose scope includes “processes and working arrangement changes that affect the organisation.” This could include the introduction of a new management system or changes to standards.

However, the company is required to use the Common Safety Method for Risk Evaluation and Assessment (CSM RA) (see below) for organisational changes as the Safety Validation standard does not cover how CSM RA should be applied.

This is because, in essence, Safety Validation only provides one half of the traditional Verification and Validation (V&V) model of safety management in that it only defines the checking or safety assurance activities required for a change, not the risk of the change or safety management of the change.

Network Rail’s Safety Validation Standard applies to requirements and processes for organisational change but does not work as well in terms of business process and working arrangements, leaving a process gap in the assurance as well as the assessment and management of the safety implications of change.

That process gap means it is possible to comply with the requirements of the safety validation standard but not follow a structured or systematic assessment of the safety implications, in turn leaving a legislative, compliance and risk gap.

Common Safety Method for Risk evaluation and Assessment (CSM RA)
This legislation ((EU) 402/2013)

originated from the European Union in 2013 and is designed as a framework that describes a common mandatory European risk management process for the rail industry. It does not prescribe specific tools or techniques but it is aimed at enabling a common risk assessment process across Europe.

The current legal principle is that where there is a dispute between British law (or that of any EU country) and EU law, the European legislation takes precedence. However, because of the existing UK legislation about risk assessment (see pages 5 and 6), the Office of Rail and Road (ORR) has taken the view that there is no conflict between the domestic and EU requirements.

The main points of CSM RA

Points to note about CSM RA:

- It is the starting point for anyone proposing any change in relation to the mainline railway system;
- The definition of “mainline railway system” can be found in the ORR guidance.² It is defined by what it doesn’t apply to (eg, metros, light railways, etc);
- CSM RA applies when any technical, operational or organisational change is being proposed;
- The person making the change (known as “the proposer”) must begin by considering if a change has an impact on safety:

² Page 13, ORR Guidance on Common Safety Method for Risk Evaluation and Assessment

- If it doesn't, CSM RA does not have to be considered;
- If it does (eg, does the organisational change impact on the operational or maintenance processes of the railway system), the proposer must decide on whether the change is *significant* or not by using a set of six criteria that would require expert guidance around issues such as failure consequence, complexity of change and reversibility. The reasons for the decision must be documented
- If the change is determined to be significant, the risk management process of CSM RA must be carried out;
- The framework of the risk management process is based on the analysis and evaluation of hazards using legitimate safety techniques. Hazards identified are recorded in a Hazard Record.

There are stages after this but, by way of an introduction, reps should note that:

- CSM RA applies to organisational change when it is a "significant" change.
- Organisational changes are described in the ORR's guidance as "changes to the organisation of an actor [usually

a railway company] which could impact on the safety of the railway system."

- Decisions have to be recorded about whether an organisational change is significant or not. Reps should ask for copies of those decisions and the reasons behind them;
- Reps can play a part in the process of hazard identification:
 - After consulting with members, making time at a staff side meeting to discuss hazards caused by the reorganisation (*eg, what are the safety implications of removing a particular job(s); what risk is caused or increased by making a change to a working practice; have all the responsibilities been accounted for or is a hazard caused because some have been missed or watered down?*) and ensuring they are brought up at a subsequent meeting with management;
 - Seeking agreement from management for reps to be involved with Hazard Identification Workshops. The ORR identifies³ reps' involvement as a method that should be used by employers to achieve both better understanding of the change and to have

³ Paragraph 21, Page 52 of Common Safety Method for Risk Evaluation and Assessment: ORR Guidance

proactive input into consideration of safety implications and any mitigating measures.

Attached as Appendix “A” are some details about Hazard Identification Workshops (what to look out for).

NOTE: Organisations such as Network Rail, however, have mandated the CSM RA risk management framework, regardless of whether the change is ‘significant’ or not. Otherwise the company would need to have two risk management frameworks. What is the situation in your company?

Union reps rights to involvement with risk assessment

Too often, in our experience, reps are excluded from involvement in risk assessments – or, sometimes, are only involved very late in the process after decisions have been made and are brought in simply to rubber stamp the process.

CSM RA gives you a right to play a part in risk assessing change, particular after a company has reorganised and may not have thought through the safety implications.

But in addition to CSM RA, safety reps have rights to be involved with risk assessments. This information may be useful if your employer tries to resist your efforts to be involved or if they try to reject your claim to be consulted over risk assessment.

Risk assessment - the legal position

Reps should be aware that there are three areas to consider when thinking about the legal position in the area of hazards and risks:

- The general legal position
- UK railway specific law
- Employer duty to consult in good time on risk assessments

The general legal position:

- Employers have a ‘common law’ (judge made law) duty of care towards their employees. This means that they are responsible for ensuring that employees are cared for at work and do not have to work in unsafe or unhealthy conditions. An implied duty of care exists in all contracts of employment;
- Health and Safety at Work etc Act 1974 (HASAWA) puts a duty on every employer to ensure that, so far as is reasonably practicable, the health, safety and welfare of employees are protected. HASAWA is the basis of all UK health and safety law;
- The Management of Health and Safety at Work Regulations 1999 (the “Management Regulations”). Regulation 3 requires employers to carry out an assessment of the risk to the health and safety of its workforce, and to act upon risks they identify so as to remove, control or reduce them.

UK Railway specific UK law:

- The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as

amended)⁴ place a general duty on transport operators to carry out risk assessments and to put in place any measures identified by the risk assessment, and make arrangements for planning, organising, controlling, monitoring and reviewing these measures.

Employer duty to consult in good time on risk assessments

Regulations 4A and 7 of the Safety Reps and Safety Committee Regulations 1977 require employers to consult with safety reps in “good time” about risk assessments.

- Good time is not defined, but the HSE’s guidance, included in the TUC’s Brown Book,⁵ says: “it means that before making decisions involving work equipment, processes or organisation which could have health and safety consequences for employees, you should allow time to:
(a) provide health and safety representatives with information about what you propose to do;
(b) give the health and safety representatives an opportunity to express their views about the matter in the light of that information; and then

(c) take account of any response.”

More information about this aspect was published in our Reps Bulletin H&S113 October 2015 Consultation on Risk Assessment⁶

Acknowledgements and further information

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The following publications were also used in the production of this briefing note and are recommended as further reading:

TUC Brown Book (2015) - <https://www.tuc.org.uk/sites/default/files/BrownBook2015.pdf>

Common Safety Method for Risk Evaluation and Assessment: ORR Guidance on the application of Commission Regulation (EU) 402/2013 at: https://orr.gov.uk/_data/assets/pdf_file/0006/3867/common-safety-method-guidance.pdf

ORR: The Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended): A Guide to ROGS (April 2018) at: https://orr.gov.uk/_data/assets/pdf_file/0020/2567/rogs-guidance.pdf

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https://orr.gov.uk/_data/assets/pdf_file/0020/2567/rogs-guidance.pdf

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<https://www.tuc.org.uk/sites/default/files/BrownBook2015.pdf>

⁶ Downloadable from:

<https://www.tssa.org.uk/en/rep-area/rep-bulletins/health--safety/index.cfm>

Appendix A

Hazard Identification: What to watch out for!

- Hazard Identification can use any legitimate safety techniques.
- Here are some common ones.
- More than one technique might need to be used, depending on the nature and complexity of the change.
- Not all risk assessment techniques are suitable for Hazard Identification!

Tools and Technique	Hazard Identification
Cause Consequence Analysis	PS
Data Analysis	PS
Event Tree Analysis	PS
Fault Tree Analysis	PS
Failure Modes and Effects Analysis (FMEA)	S
Hazard Identification Prompt Lists	S
Hazid Workshops	S
Hazard and Operability Studies (HAZOP)	S
Interviews	S
Monte Carlo Simulation	NS
Risk Control Prompt Lists	NS
Risk Logs / Hazard Logs	S
Risk Ranking and Risk Matrices	NS
Sensitivity Analysis	NS
Stakeholder Analysis	NS
Structured What-If Technique (SWIFT)	S
Task Based Risk Assessment	S
Visual Mapping	PS
Delphi	S
Literature Review	S
Functional Integration Hazard Identification	S
Functional FMEA	S
Failure modes, Effects, and Criticality Analysis (FMECA)	S
Sneak Analysis	S
Reliability Block Diagram	S
Human Reliability Analysis	S

Key	S	Suitable
	PS	Partially Suitable
	NS	Not Suitable

Hazard Identification Workshops

What to watch out for!

- It is appropriate for staff and trade union representatives to attend Hazard Identification Workshop.
- This is a fundamental principle of safety; those that do the work know more about it than those remote from it.
- However, not all HazID workshops are legitimate.

Advice:

Only attend (or accept the output from) a Hazard Identification Workshop if:

1. A briefing note is issued at least 5 days prior to the workshop.
2. The briefing note describes clearly:
 - a) The scope of the thing being assessed and the boundaries.
 - b) The competency (technical) required for

the workshop to assess
the defined scope.

c) Which technique is going
to be used:

i. What-if / SWIFT /
HAZOP / ...

3. Only hazards are being
identified:

a) Not the risk

b) Not the likelihood

c) Not the consequences

d) Not the control or
mitigations

e) It is not a camouflaged
FMEA workshop

4. A workshop output report is
produced after the workshop,
which includes a list of the
hazards; which are broadly
acceptable and why, and what
risk analysis is required for
those that are not.