

Lecture 4: Health & Safety Governance and Policy –

Student Notes

1.1 Health and Safety Governance

In previous discussions, we explored the theories and strategies surrounding health and safety management. We will now delve deeper into **corporate governance** in a broader sense, focusing on its role in shaping an organisation's strategic direction, including occupational health and safety (OHS) governance. Corporate governance is the system by which an organisation is directed and controlled, primarily by the board of directors. It ensures that the strategic objectives of the organisation are aligned with the expectations of its shareholders and stakeholders, while distinct from operational management, which focuses on day-to-day decisions. In summary, corporate governance encompasses:

- **Leading the organisation and establishing the overall strategic direction**
- **Setting values, standards, and objectives for management**, defining roles and responsibilities
- **Holding management accountable** for business performance, including health and safety performance
- **Upholding obligations to shareholders and stakeholders**, ensuring compliance with legal and ethical standards
- **Overseeing internal controls**, quality assurance, and risk management.

The effectiveness of governance frameworks, particularly in relation to **health and safety governance**, is critical for health and safety professionals. Effective safety governance goes beyond compliance—it involves embedding a culture of safety at every level of the organisation. The **safety governance maturity** of an organisation directly impacts its overall performance and sustainability.

The HSE commissioned research (Boardman & Lyons, 2006) to help understand how occupational health and safety (OHS) fits within traditional corporate governance. The report presented an outline seven-point framework for best practice in OHS governance (Boardman & Lyons, 2006, p.3) listed below. At the same time, Boardman and Lyons point out that there is no one size fits all (2006, p.2).

1.1.2 Governance in the Maltese Context

In **Malta**, the governance of health and safety is primarily regulated by the **Act 33 of 2024** which further enhanced these obligations by introducing new requirements, particularly in high-risk industries, where organisations may be required to appoint **Health and Safety Reporting Officers (HSROs)** to oversee OHS governance among others.

Corporate governance in Malta, while not as prescriptive as for example in the UK, emphasises the need for organisations to implement comprehensive health and safety frameworks, particularly as the country aligns its legislation more closely with **EU directives**. The **OHSA Malta** plays an active role in monitoring compliance and providing guidance on best practices for OHS governance.

1.2 Best practice principles for OHS governance

1. Director competence

All directors should have a clear understanding of the key OHS issues for their business and be continually developing their skills and knowledge.

2. Director roles and responsibilities

All directors should understand their legal responsibilities and their role in governing OHS matters for their business. This includes overseeing the development of OHS policies, setting safety standards, monitoring performance, and ensuring that internal controls are in place. In the UK, this responsibility is explicitly addressed under **Section 37 of the Health and Safety at Work Act 1974**, which holds directors and senior managers personally liable for OHS failures. Their roles should be supported by formal individual terms of reference, covering as a minimum setting OHS policy and strategy development, setting standards, performance monitoring and internal control. At least one nominated director (which could be the Chairman or preferably one of the independent non-executive directors, where they exist) should have the additional role of overseeing and challenging the OHS governance process.

In **Malta**, directors under the definition of employer are similarly held accountable under the provisions in **Act 33 of 2024**.

3. Culture, standards & values

The Board of Directors should take ownership for key OHS issues and be ambassadors for good OHS performance within the business, upholding core values and standards. They should set the right tone at the top and establish an open culture across the organisation with a high level of communication both internally and externally on OHS issues.

4. Strategic implications

The board should be responsible for driving the OHS agenda, understanding the risks and opportunities associated with OHS matters and any market pressures which might compromise the values and standards, and ultimately establishing a strategy to respond.

5. Performance management

The board should set out the key objectives and targets for OHS management and create an Incentive structure for senior executives which drives good OHS performance, balancing both leading and lagging indicators and capturing both tangible and intangible factors. Non-executives (through the Remuneration Committee, where one exists) should be involved in establishing the appropriate incentive schemes.

In **Malta**, performance management is expected to be a key area of focus under **Act 33 of 2024**, which will introduce more stringent reporting requirements although in a different context.

6. Internal controls

The board should ensure that OHS risks are managed and controlled adequately and that a framework to ensure compliance with the core standards is established. It is important that the governance structures enable management systems, actions and levels of performance to be challenged. This process should utilise, where possible, existing internal control and audit structures and be reviewed by the audit committee.

Act 33 of 2024 introduced administrative penalties for organisations that fail to maintain to adhere to the regulations and Special Compromise fines for failing to ensure adequate safety controls and some other regulations which are considered more critical.

7. Organisational structures

The board should integrate the OHS governance process into the main corporate governance structures within the business, including the activities of the main board and its sub-committees, including risk, remuneration and audit. In some cases, the creation of an additional board subcommittee to consider OHS (and/or Risk/Corporate Responsibility) may be relevant.

In recommending these seven principles, Boardman and Lyons took best-practice in OHS governance from across UK industry.

In terms of legal liabilities, the Health and Safety at Work Act 1974, Section 37(1) creates a specific offence of in respect of company directors and senior managers, as follows - Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of any director, manager,

secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

The benefits of good health and safety governance are:

- Enhanced reputation and brand image
- Demonstrating business good practice
- Financial advantages – avoiding the costs of accidents, reduced insurance premiums, enforcement penalties, lost time through sickness and staff attrition
- Meeting stakeholder expectations - fundamental to winning contracts, obtaining loans and investment
- Positive response to pressure from trade unions, employees and customers

Boardman and Lyons (2006, p.20) list factors leading to governance failures within large organisations as:

- Failure of board to take control
- Abdication to one nominated H&S director (as a scapegoat) or worse still senior management with no support
- Isolation of parts of the company – no adequate lines of communication to and from the board
- Lack of resource assigned to OHS by the board
- Failure to seek competent advice at all levels (both internally and externally) Not enough challenge in the system from the board downwards
- Rubber stamping of management decisions by the board
- Failure of communication between levels and parts of the business – particularly between senior managers/directors of sub-units
- Lack of integration with partners in the business – often many players all managing safety separately.

And for smaller organisations:

- They might overreach themselves
- They might suffer from a lack of time

- Directors are often not qualified to take on OHS issues and can't afford to seek advice
- There are lots of issues to deal with for small business
- Directors are often most senior managers and hence can have conflicting priorities.

In addition, for all organisations, short term demands such as a pressure to deliver market return (or even paying employee wages) might be in conflict with long-term investment requirements such as the purchase of adequate safety equipment, staff training etc.

1.3 Safety governance maturity

In order to effect change, the board must be in a position to gauge its relative level of maturity in a five-point scale, from transactional through to integrated – as depicted in figure 1 below.

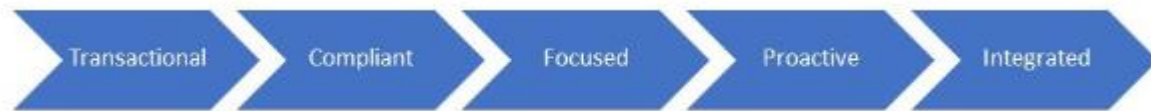


Figure 1 The continuum of safety governance maturity.

To assess the level of maturity and in order to be an effective agent of change at board level, Ferguson (2016) propose a set of questions applicable to each stage – as follows:

- **Transactional** – Does your board and senior executive team generally see health and safety as the responsibility of the health and safety team? Do they tend to become engaged in health and safety only after an incident has occurred? Do you have a culture of ‘production over safety’? If so, it is likely your organisation is at the transactional stage.
- **Compliance** – Is compliance with health and safety legislation the main driver of reporting to the senior executive team or board? Are they primarily focused on ensuring the minimum legislation standards are met? If so, it is likely your organisation is at the compliance stage.
- **Focused** – Have you noticed the senior executive team and board asking more detailed questions lately, often wanting to drill down into the causes of incidents with much greater understanding? Does your senior executive team and board consider site visits an important part of their safety leadership role? If so, it is likely your organisation is at the focused stage.
- **Pro-active** – Do you feel that most of your senior executive team and board ‘get’ safety? That is, they understand that a strong safety culture involves much more than simply compliance, and requires safety leadership both inside and outside the boardroom? If so, it is likely your organisation is at the pro-active stage.
- **Integrated** – Do your senior executive team and board seek to understand the safety impacts of every decision being made across the organisation? Does the concept of ‘safe production’ set the tone for all health and safety discussions? If so, it is likely your organisation is at the integrated stage.

Further reading

- Boardman, J., Lyons, A. (2006). Defining best practice in corporate occupational health and safety governance. Health and Safety Executive Research Report 506. <https://www.hse.gov.uk/research/rrpdf/rr506.pdf>
- Ferguson, K. (2016, April 1). Safety governance: What is it and why does it matter? SHP Online. <https://www.shponline.co.uk/safety-management/safety-governance-what-is-it-and-why-does-it-matter/>
- HSE. (2013). Leading health and safety at work Actions for directors, board members, business owners and organisations of all sizes. INDG41. HSE Books. <https://www.hse.gov.uk/pubns/indg417.pdf>
- Wright, M., Marsden, S., & Dimopoulos, E. (2006). Health and safety responsibilities of company directors and management board members: 2001, 2003 and 2005 surveys. Final report. Health and Safety Executive Research Report. <https://www.hse.gov.uk/research/rrpdf/rr414.pdf>

2.1 Health and safety policy

The development of a robust health and safety management system rests on the ratification of a good policy. This means there has to be managerial consent and commitment from company directors and Chief Executive Officers at the very top. Departmental line managers and supervisors alike must also be involved in the development of a policy and should have an active role in developing any supporting documentation (taking care not to develop documents just for the sake of doing so). This involvement assists with ensuring ownership of the policy at all levels and helps supervisory management engage with the workforce.

There is a legal requirement under Section 2(3) of the 1974 HSWA for employers employing five or more people to have a written health and safety policy and this is very explicit as:

“...it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all his employees.”

Thus employers are obliged to prepare and regularly revise policy that clearly states how they are organising for health and safety, and the arrangements that they have made to address all relevant issues. They must then communicate this to the workforce and actually implement the policy as agreed. However, it is important to create a series of practical policies, which inform and instruct employees in ways that allows them to be translated into realistic goals that can be measured and assessed.

Having a clear and straightforward policy that is understood and followed by all to which it applies, is a crucial initial activity if the way health and safety is managed is to both effective, protect workers and be a positive asset to the business. There are many examples of policies that have been written and subsequently implemented that do not reflect the specific needs of a business and only appear to try and cover the organisation from any legal actions by those who may be harmed.

The regulator is just as likely to take action against an organisation that has a poor and ineffective policy as one which crosses all the 't's' and dots all the 'i's' and, as a result, is incomprehensible due to the intensity of bureaucracy embedded within it, making it unworkable as a result.

Maltese Requirements: While the older **Act 27 of 2000** did not explicitly mandate a written policy for all companies, it emphasized the duty of care employers must uphold in ensuring safe working conditions through preventive measures (Article 6). The new **Act 33 of 2024** strengthened this by requiring the adoption formal policies and appoint **HSROs** to oversee health and safety management in the workplace if requested to do so by the OHSA.

Have a look at your organisations policy (or one for an organisation with which you are familiar) and get an overall sense of its structure and content.

- What are the main elements of its structure?
- What documents are included or links made to their being part of the overall policy?
- At first sight, does it appear logical and likely to be an effective way of making a statement of intent?
- Make notes of your findings in answering the questions. You will probably need to refer to them again.

2.2 Policy structure

A health and safety policy comprises of three main components:

- statement of intent;
- organisation section; and
- arrangements section.

These three components are based on Health and Safety Executive (HSE) guidance INDG259, that augments the specific legal requirement contained in Section 2(3) of HASWA (HSE, 2008b).

2.2.1 Statement of intent

The characteristics of a statement of intent should:

- be a clear, unequivocal management commitment to health and safety, which should be dated and signed by a person at least at director level – preferably the most senior person for the overall business or department, site or area to which the health and safety policy applies. It should also be made clear that the policy has been ratified by the board of directors as a whole;
- be brief (not more than one side of A4 paper) but include the legal basis for its existence and draw attention to key relevant legal health and safety provisions affecting the organisation;
- contain outline details of the organisation (roles and responsibilities) and arrangements for putting the policy into action;
- state that the policy will be reviewed periodically at given intervals; and
- state its effectiveness will be monitored and by who.

2.2.2 Organisation section

This is a fundamental part of the health and safety policy and follows immediately after the policy statement as it identifies the:

- ultimate responsibility for health and safety (usually the managing director);
- delegation of duties across the management hierarchy including an organisation chart;
- responsibilities of senior managers that may also be included in their job descriptions;
- line managers' and supervisors' duties;
- key functional managers such as the health and safety manager, maintenance engineer, training and development, human resources as appropriate;
- system for liaison with contractors and other third parties who come on-site;
- arrangements for workforce consultation and general responsibilities of all workers.

Relevant health and safety qualifications of supervisory management should be considered when appointments are made.

2.2.3 Arrangements section

Because of the considerable differences between workplaces, this section of the policy will reflect each organisation's particular requirements. The policy statement and organisation sections will look similar for many private and public sector organisations whereas the arrangements section will exhibit considerable differences depending upon the particular mix of hazards existing in each workplace.

Preparing this section can take the greatest amount of time and it is likely that it will be the longest section of the policy. Organisations follow a variety of different practices in preparing detailed arrangements for their work areas. Some incorporate arrangements in separate health and safety guides for the workforce, while others simply prepare a list as part of the health and safety policy. An important point is that the

arrangements match the best practice within each organisation and reflect its ways of working.

A hazard-based approach is frequently used as a basis for what needs to be included by considering the range of work activities undertaken which determines the arrangements required for each of them. However, there are a number of topics that remain common to most arrangements sections, such as stating the policy for the implementation of regulations covering work equipment, workplace, display screen equipment, personal protective equipment, manual handling operations and so on.

Other details of the arrangements include procedures for:

- accident reporting and investigation, emergency and contingencies;
- site, plant and equipment maintenance, location of specialist drawings and design plans, equipment maintenance schedules and specialist operating manuals;
- checking equipment and its authorised users;
- use of failsafe controls and controlled shutdown operations during equipment malfunction;
- the safe storage and use of hazardous substances;
- informing the workforce and where information should to be posted;
- conducting health and safety risk assessments, devising systems of work and where associated information can be found;
- obtaining feedback from workers and maintaining their involvement; and
- internal and public signage, posters, leaflets and information notices.

Download and carefully read the HSE suggested Health and Safety Policy Statement pro forma <https://www.hse.gov.uk/simple-health-safety/policy/how-to-write-your-policy.htm>

HSE Example:

<https://www.hse.gov.uk/simple-health-safety/assets/docs/example-policy-statement.pdf>

HSE Template:

<https://www.hse.gov.uk/simple-health-safety/assets/docs/policy-statement-template.pdf>

This will give you a better idea of what a very simple and straightforward policy document might contain thereby allowing you to consider what support structures would be necessary to implement it. In the light of reading the HSE Health and Safety Policy Statement pro forma and compare your organisations' policy with that outline and compare and contrast what you have found.

Although this example relates to relatively small organisations, it contains all the basic content that would be expected of any business with 5 or more employees. This provides you with a better idea of what a policy statement document should contain and as a consequence, what support structures would be necessary to be included.

Remember, the only thing that is laid down as regards policy from a legal perspective is three things namely: there must be a statement of intent, how health and safety is to be organised and the arrangements to achieve that. How organisations actually achieve these elements is left up to them and the policy content will reflect the size and nature of each business and the extent of risk associated with that business. The larger and more diverse an organisation, the more complex will parts of their policy be, to such an extent, that most of the processes and procedures may even form part of a management system.

Review the example of a health and safety policy that the HSE give for an alarm installation company. Compare the HSE's suggested structure to that of your organisations' policy and with those from two other organisations researched on-line. Make notes of similarities in layout and the actual content they each contain. Are they all essentially a variation on a theme as suggested by the HSE? If not, what are the differences and are covered in a different way or is that policy just incorrectly structured?

2.3 Benefits of a Well-Structured Health and Safety Policy

A comprehensive and well-implemented health and safety policy offers numerous benefits, including:

- **Legal compliance:** Ensuring compliance with **UK** and **Maltese health and safety laws**, reducing the risk of penalties and legal action.
- **Enhanced safety culture:** Promoting a culture where safety is a priority, leading to reduced accident rates and increased employee morale.
- **Financial benefits:** Lower insurance premiums, fewer accidents, and reduced downtime all contribute to improved profitability.
- **Stakeholder confidence:** A strong health and safety policy enhances the organisation's reputation among employees, clients, regulators, and investors.

2.4 Key Sections in the HSE Template

- **Part 1: Statement of Intent**
 - **Purpose:** This statement defines the company's health and safety commitments to employees, clients, and contractors.
 - **Content Requirements:**
 - A clear commitment to prevent accidents, maintain a safe working environment, and adhere to legal standards.
 - Examples of specific goals like “providing clear instructions and adequate training” or “ensuring safe handling and use of substances.”
 - **Signature and Review Date:**
 - Importance of top management's signature for accountability.
 - Setting a review date demonstrates an ongoing commitment to health and safety.
- **Part 2: Responsibilities for Health and Safety**
 - **Purpose:** Clarifies who is responsible for implementing each aspect of the policy, creating a structured approach to accountability.
 - **Key Roles:**

- **Overall Responsibility:** Typically a senior manager or owner (e.g., John Daly in the example) who assumes final accountability.
 - **Day-to-Day Responsibility:** Delegated to a qualified manager (e.g., Assistant Manager in the template) for daily safety checks and training oversight.
- **Employee Responsibilities:**
 - Highlight that all employees should:
 - Cooperate with supervisors on health and safety matters.
 - Take reasonable care of their own safety.
 - Report any health and safety concerns promptly.
 - Emphasise fostering a workplace culture where safety concerns can be raised without hesitation.
- **Part 3: Arrangements for Health and Safety**
 - **Risk Assessment:**
 - Explain the need for regular and situation-specific risk assessments.
 - Point out that changes in workplace conditions, such as introducing new equipment, require a reassessment.
 - **Training:**
 - Specify how to include training topics relevant to the work environment (e.g., working at height, asbestos awareness).
 - Include induction processes and specialised training for employees in unique roles (e.g., remote work arrangements).
 - **Consultation:**
 - Outline ways to involve staff in health and safety discussions and decision-making.
 - Include formal and informal consultation methods to keep employees informed and engaged.
 - **Evacuation Procedures:**
 - Emphasise ensuring clear escape routes, regular testing, and updated evacuation plans.

- The importance of signage and keeping routes clear for accessibility and safety.

2.5 Summary

In this topic we have considered how a policy statement formalises the ultimate responsibility of health and safety as being with a single senior person whose signature confirms acceptance.

From this short succinct statement of intent, the way in which the organisation is to be organised to achieve the stated policy and then the arrangements by way of procedures to be put in place to make it actually work on a day-to-day basis.

The supporting documents show what is actually being done and help to move the 'what and the why' towards the 'how, where and when'. The transition from the overall vision in the statement to a working document, is determined by the extent to which the policy is realistic, a requirement that puts pressure on the systems and resources made available. Successful management is consequently pivotal on the intent embedded within these documents and the way they are implemented.

2.6 Conclusion

A **Health and Safety Policy** is not just a legal requirement; it is a critical tool for managing risks, improving performance, and demonstrating the organisation's commitment to safeguarding the well-being of its employees. As **Maltese law evolves** with the introduction of **Act 33 of 2024**, organisations must ensure that their policies meet the new standards while remaining aligned with **EU directives** and best practices in the **UK** and **Malta**.