



## Corporate Health, Safety & Wellbeing Service

### Health Record Requirements

#### Introduction

During the Place Directorate health and safety (H&S) meeting (23/11/2015) a query was raised over the length of time an employee / individual's health record has to be kept and what specific H&S legislation and Policy's contain obligations for health record accessibility.

Hopefully the following management brief and explanation will help clarify:

- the duty owed in law;
- the risk management implications from retrieval of supporting records in the event of civil claims;
- some of the risks and issues for consideration under H&S in Service Business Plans.

#### Record keeping

A health record must be kept for **all** employees under health surveillance. The Authority's Occupational Health Service will have the details of all employees currently on the health surveillance lists and will record and keep appropriate individual health records.

Health Records are important because they allow links to be made between exposure (to health hazards such as – fume / vapour / dust / liquid / noise / vibration / radiation / etc.) and any health effects. Health records, or a copy, should be kept in a suitable form for **at least 40 years from the date of last entry** because often there is a long period between exposure and onset of ill health (e.g. asbestos related diseases can take up to 60 years to develop from the original exposure).

There are many H&S regulations (too many to list), which have some obligation for health surveillance and subsequent health record keeping. I have made a short list of legislation where 'medicals' are required in law and this list is at the end of the report.

The main requirement for health surveillance is contained in the Management of Health and Safety at Work Regulations 1999 (Regulation 6)

*'Every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment'.*

The Corporate Health and Safety Policy and the Health Surveillance Policy support the duty contained in Regulation 6.

### **Information included in health records**

Each individual health record should include details about the employee and the health surveillance procedures relating to them. The record should be kept in a format that it can be linked with other information (e.g. with any workplace exposure measurements from the health hazard). Make sure that health records are stored securely (much of this duty is undertaken by Occupational Health).

It is good practice to offer individual employees a copy of their health record when they leave your employment.

### **Risk Management**

Exposure monitoring for dust / noise / vibration etc. measurements and results should be kept by the Service Unit, but where the monitoring results are for specific individual's then good practice would be to include the monitoring results onto the individual's health record. *An example of this is where an employee has individual measurements of vibration outputs from the machinery they have used then such measurements should be stored into the individual's health record.*

The important aspect in risk management will be to ensure such access is available to data specific to the query or claim, which may arise several years from the date of the monitoring exercise or any duty for specific record keeping.

### ***Example:***

*If we consider that wood dust is a known health hazard for wood work / carpenter shop operations and part of the H&S arrangements to protect the employee is reliance on an engineered control measure such as local exhaust ventilation (LEV) system, installed to capture, collect and remove the dust at source.*

*The obligation to monitor the dust risk to the employee is appropriately done and results kept for the requisite 40 years (i.e. personal dust measurements and results attached to individual's health record). However, the effectiveness of the LEV's performance as a control for that employee's health is also important to the Service to demonstrate due diligence in their legal / duty of care obligations.*

*In this regard LEV systems performance for H&S is measured via an independent 'thorough examination' (undertaken every 14 months) and these examination reports need to be kept for 5 years from the last examination.*

*The duty in law for a health record being kept for 40 years and an LEV examination report being kept for 5 years is being adhered to. So in this case health and safety law is being met.*

*However, if we consider the 'risk management' obligations, which have significant cost implications, we may need to think through how best to ensure supporting LEV records can be made available well past the 5 year duty in defence against civil claims and individual actions.*

Hopefully the explanation and example demonstrates how this is an issue for the Authority as a whole in defence of claims that may be actioned several years from now.

Ian Davies **CMIOSH**  
Principal Health and Safety Officer

#### **Employer Duty for Statutory Medical Examinations**

- The Ionising Radiations Regulations 1999
- The Control of Lead at Work Regulations 2002
- The Control of Asbestos Regulations 2006 (2012)
- The Control of Substances Hazardous to Health Regulations 2002 (as amended)
- The Work in Compressed Air Regulations 1996
- The Diving at Work Regulations 1997