**Foundations of Safe Practice**

**Legislation Relevant to Moving and Handling**

**Directed Study and Required Reading**

Please read the notes carefully and refer to the referenced web sites and documents for additional information. You will be expected to use your knowledge of relevant legislation in the taught sessions within Foundations of Safe Practice and also within profession specific modules which include moving and handling.

**Development of legislation**

During the 1950’s and 60’s mechanical aids became available in the UK to assist with moving and handling physically disabled people.

The following legislation subsequently became pertinent to the moving and handling of loads, both inanimate and animate

**Health & Safety at Work
Act (1974)**



Display Screen Equipment Regulations

**Management of Health and Safety at Work Regulations**

Workplace Equipment Regulations

**Manual Handling Operations Regulations**

**Workplace Health Safety and Welfare Regulations**

Personal Protective Equipment regulations

This set of regulations is often referred to as ‘The Six Pack’ and outline information on each can be found on the Health and Safety Executive Web Site.

**Health & Safety at Work Act (1974)**

Go to the following link. You need to understand the general duties of employers and employees

http://www.hse.gov.uk/legislation/hswa.htm

From the information, you need to understand:

* The **Employers** duties?
* The **Employees** duties?

**What is reasonably practicable?**

You will come across this phrase in your reading.

Reasonably practicable implies that the cost in time, effort and money to reduce a risk, balances the benefit of doing so.

..”an employer needs to comply with this duty only if the cost of providing, say, equipment or training is not grossly disproportionate to the benefit. Were the benefit to be minimal and the cost substantial, an employer might be released of complying with the duty.”

*(Edwards v. National Coal Board (1949) All ER 743. Cited by Richmond. H (2005) Legal and Professional Responsibilities. In: J. Smith (ed) The Guide to the Handling of People (5th ed) BackCare and Royal College of Nursing Ch.1.*

You will need to be able to understand and apply the concept of ‘Reasonably Practicable’ following risk assessments in all aspects of your work (not just moving and handling) as both a student and a qualified practitioner.

**Manual Handling Operations Regulations (1992)**

*Reference: Manual Handling: Manual Handling Operations Regulations 1992 (as amended) Guidance on Regulations. L23 (2004) Health and Safety Executive .ISBN 0-71762823*

Read the information in the link below and answer the following questions:

<http://www.hse.gov.uk/msd/pushpull/regulations.htm>

Also on the web site [www.hse.gov.uk](http://www.hse.gov.uk/), you should read ‘Getting to Grips with Manual Handling. A Short Guide.)

* When did the Manual Handling Operations Regulations come into force?
* What is the main aim of the Regulations?
* What does the term Manual Handling mean within the context of the Regulations?
* What are the employer’s duties under the Manual Handling Operations Regulations?
* What are the employee’s duties under the Manual Handling Operations Regulations?

**Manual Handling Operations Regulations (1992) update 2004**

When determining potential for risk of injury through handling

activities, the following should be considered:

* Employees physical suitability to carry out job
* Clothing footwear etc. worn by employee
* Knowledge and training of employee
* Results of risk assessments – ref. regulation 3 of Management of HASaW Regulations (1999)
* Whether an employee is in a particular ‘at risk’ group
* Results of health surveillance provided, ref. regulation 6 of Mananagement of HASaW Regulations (1999)

Employee’s Duty:

* Use any Safe System of Work Provided
* Put Training into Practice
* Use Mechanical Aids
* Follow Instructions Laid Down in Assessments

**Management of Health and Safety at Work Regulations**

Please go to the link below to get a summary of how theManagement of Health and Safety at Work Regulations extend duties under the Health and Safety at Work Act

[www.hse.gov.uk/pubns/hsc13.pdf](http://www.hse.gov.uk/pubns/hsc13.pdf)

Consider the following questions and use the information in the regulation documents to help you understand the issues:

What effect does this Regulation have on us with regard to moving and handling people and loads?

What are the employer’s responsibilities?

What are the minimum numbers of employees within an organisation which would make this regulation enforceable?

How would regulation 6 for example apply to the field of moving and handling?

**Additional Relevant Regulations**

* **Provision and Use of Work Equipment Regulations (PUWER) 1998**

Please read: simple Guide to Provision and Use of Work Equipment Regulations 1998. See link below

<http://www.hse.gov.uk/pubns/indg291.pdf>

What do you think this regulation applies to in relation to the moving and handling of people and loads?

Who has responsibility under this regulation and what must they do?

How might this regulation affect your work when moving and handling people or loads?

* **Lifting Operations and Lifting Equipment Regulations (LOLER) 1998**

Please read: Simple Guide to the Lifting Operations and Lifting Equipment Regulations 1998. See link below

<http://www.hse.gov.uk/pubns/indg290.pdf>

What do you think this regulation applies to in relation to the moving and handling of people and loads?

Who has responsibility under this regulation and what must they do?

How might this regulation affect your work when moving and handling people or loads?

* **Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) 1998**

Please read: RIDDOR Explained - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations. See link below

<http://www.hse.gov.uk/riddor/index.htm>

What is this regulation in place for?

Who has responsibilities under this regulation and who does it affect?

What must you do if an incident occurs?

Where does this information ultimately go?

**Human Rights Act (1998)**

The Human Rights Act came into force in October 2000.

With regards to moving and handling, the Human Rights Act (1998) gave greater power to the patient/client to make decisions (within reason) about how they should be handled when requiring assistance with mobility.

Prior to this, the Manual Handling Operations Regulations (1992) placed the greater emphasis in moving and handling on the safety of the handler and the use of equipment and specific handling techniques to reduce risks to the handler from musculoskeletal injury. As a result of this, patients/clients often felt disempowered to make choices about how they were handled.

Application of The Manual Handling Operations Regulations (1992) in the extreme, resulted in some services imposing ‘blanket bans on all lifting’ and in some cases removing services for clients who would not co-operate in using equipment for assisted movement.

The Human Rights Act served to redress the balance and through a number of high profile court cases, introduced the need for ‘balanced decision making’ (Mandelstam 2005)

*Mandelstam. M (2005) Manual Handling in Social Care: law practice and balanced decision making. In:J. Smith. (ed) The Guide to the Handling of People (5th ed) BackCare and Royal College of Nursing Ch21.*

Within the Human Rights Act (1998), articles 2, 3 and 8 may apply in relation to rights of individuals to choose ways to be moved and handled

* **Article 2: Right to life**

With reference to the Manual Handling Operations Regulations (1992), where no-lift policies existed patients/clients could be left in bed, if unwilling to co-operate with the use of lifting equipment to aid mobility. In these cases, infection may result which could prove dangerous to the individual (It is acknowledged that such a case would have to be extreme in order to breach this article).

* **Article 3: Torture, degrading treatment, punishment**

Certain types of mechanical moving and handling procedures may be deemed degrading by a patient/client e.g. hoisting, particularly if carried out in a public area.

For patient’s/clients with cognitive impairment/learning disabilities, use of such equipment could be perceived as punishment for not being able to move independently, therefore it is important to ensure that the client has an advocate to act in their own interests. (As with article 2 above, it is difficult to fully breach this article within moving and handling, however individuals do have a right to be treated with dignity and therefore we need to be aware of treatment and handling procedures that could be interpreted as degrading).

* **Article 8: Right to respect for private and family life**

The courts state that this involves physical and psychological integrity in the home and the community. Moving and handling decisions may impact on this article as privacy is often an issue for those being cared for by outside agencies.

We also need to consider individuals cultural needs within this article. When referring to cultural needs, we need to think broadly, e.g. cultures associated with age, sex, religious beliefs etc.

Please read the summary of the Human Rights Act (1998) below and answer the following questions:

[www.dca.gov.uk/peoples-**rights/human-rights**/pdf/**act**-studyguide.pdf](http://www.dca.gov.uk/peoples-rights/human-rights/pdf/act-studyguide.pdf)

* If a patient was taken from her bed on the ward to the toilet along the corridor, having been undressed ready to use the toilet and transferred by hoist to a wheeled commode chair, how might she feel and what aspects of the human rights act would you need to consider?
* A person with learning disabilities is difficult to move from his bed to his chair and the only hoist in the unit is stored in the cupboard a long way from his room. Staff on duty that week decide to leave him in bed because it will place less stress on the staff and save time. What effect might this have for the client and what would need to be considered within the HRA?

**Mental Capacity Act (2005)**

Please access the following summary of the Mental Capacity Act (2005)

<http://www.dh.gov.uk/en/Publicationsandstatistics/Bulletins/theweek/Chiefexecutivebulletin/DH_4108436>

The Mental Capacity Act will be particularly important for you to consider when working with people with learning difficulties, mental health problems and older people, particularly those with dementia.

Answer the following questions:

* In addition to the situations described above, in which other clinical situations would you need to apply the Mental Capacity Act
* In what way will your moving and handling practice be affected by the Mental Capacity Act?
* Think of an example of where Section 6 of the Act might apply within a moving and handling scenario

NOTE:

Further information on relevant legislation will be made available on the TEL web page of moving and handling and also on blackboard sites for profession specific modules.