QBE European Operations

Slips Trips and Falls on the Same Level

Issues Forum

QBE


CAUTION
ATTENTION
WET
FLOOR
PLANCHER
MOUILLÉ

Issues Forum

Slips Trip and Falls on the Same Level

Contents

Overview

Despite occupationally-classified slips, trips and falls (STFs) accidents costing circa £800 million annually to UK society, STFs are often not taken seriously. Perhaps inevitably in this context, causes are often poorly understood, and risk assessment and management controls deficient. The vast majority of STF incidents are wholly avoidable by way of low cost solutions.

In this Issues Forum, we draw on guidance from the Health & Safety Executive (HSE) and the Construction Industry Research & Information Association (CIRIA) to assist you in developing strategies to reduce accident numbers and contain claim costs from both slipping and tripping incidents.

HSE Statistics

HSE 2013/14 statistics show that once again slipping and tripping were the most common cause of Specified (Major) injuries to employees in UK workplaces with 7742 reports. Slips and trips are often the initiators attributed to other serious accidents such as falls from height. STFs were responsible for more than half (57%) of all major/specified and almost three in ten (29%) over-seven-day injuries to employees, making up 36% of all reported injuries to employees (RIDDOR).

Injuries to employees, 2013/14 provisional (p) (RIDDOR all enforcing authorities)

	SLIPS & TRIPS	FALLS FROM HEIGHT	COMBINED STF
Fatal	2	19	21
Specified (Major)	7742	2895	10 637
Over Seven Day'	13841	3038	16879
Total	21585	5952	27537

The latest estimates from the Labour Force Survey show the rate of injuries due to slips or trips was 190 per 100 000 workers; and slips, trips have a combined estimated number of working days lost of 986,000.

Impact on industry

Industries with the highest rates of all non-fatal employee slips & trips, 2013/14p (RIDDOR)

NUMBER OF SLIPS & TRIPS	STANDARD INDUSTRIAL CLASSIFICATION 2007 SECTION	RATE PER 100 000 EMPLOYEES
677	Water supply, waste	334.1
3041	Transport & Storage	253.3
1532	Accommodation & Food	109.5
2840	Manufacturing	108.6
156	Agriculture	103.6
3552	Health & Social care	96.3
1201	Construction	94.9
1031	Admin & Support	92.1
104	Mines & Quarries	91.3

The highest number of major/specified injury slips & trips was in Health & Social care (1,264) followed by Education (982). Health & Social care reported the greatest number of over-seven-day slips and trips 2,288), followed by Transportation & Storage (2,154).

QBE slip and trip claims experience

QBE has analysed all slip and trip claims since 2009. Between 2009 and 2011 on its Employers' Liability portfolio, an annual average of 1,984 claims were received, with an annual average individual value of £14,198 and average total annual claim costs exceeding £28 million. For the Public Liability portfolio, the annual average number of claims received over the same three year period was 1839 with an average individual claim value of £9,359 and average total annual claim costs exceeding £17 million. For Employers' Liability, 38% of claims settled without damages. This claim defence rate rises to 52% for public liability slip and trip incidents and can be higher with our clients who adopt best practice.

There is scope for QBE clients to target improvements in their own Slip, Trip and Fall claim rates. Any client requiring further detail on their own Slip, Trip and Fall claim performance is invited to contact their respective Broker, Underwriter or Risk Manager.

Legal duties

The main pieces of legislation associated with slips and trips claims are:

The Health and Safety at Work etc Act 1974 requires employers to ensure the health and safety of all employees and anyone affected by their work, so far as is reasonably practicable, which means balancing the level of risk against the measures needed to control the risk in terms of money, time or trouble. This includes taking steps to control slip and trip risks. Employees have a duty to take care of their own health and safety and that of others and must use any safety equipment provided.

The Management of Health and Safety at Work Regulations 1999 build upon the HSW Act and include duties for people in control of workplaces to assess risks (including STF). They also require appropriate arrangements for planning, organisation, control, monitoring and review of any measures to safeguard health and safety as identified by the risk assessment.

The Workplace (Health, Safety and Welfare) Regulations 1992, Regulation 12 states:

1. Every floor in a workplace and the surface of every traffic route in a workplace shall be of a construction such that the floor or surface of the traffic route is suitable for the purpose for which it is used.
2. Without prejudice to the generality of paragraph (1), the requirements in that paragraph shall include requirements that - the floor, or surface of the traffic route, shall have no hole or slope, or be uneven or slippery so as, in each case, to expose any person to a risk to his health or safety; and every such floor shall have effective means of drainage where necessary.
3. So far as is **reasonably practicable**, every floor in a workplace and the surface of every traffic route in a workplace shall be kept free from obstructions and from any article or substance which may cause a person to slip, trip or fall.

Section 69 of the **Enterprise and Regulatory Reform Act 2013** is now in force for accidents occurring on or after 1 October 2013. Section 47 of the Health and Safety at Work Act 1974 has been reversed to mean that any breach of regulations will not be civilly actionable except where specifically stated. This is a significant change as an injured party cannot now solely base their claim on a breach of statutory duty resulting from post 1974 health and safety regulations (including the 'six pack') and can now no longer argue strict liability where it has previously applied under these regulations, as was the case for a breach of Regulation 12 (1) of the Workplace (Health, Safety & Welfare) Regulations. Civil claims for breaches of health and safety duties can now only be brought for negligence, based on the employer's alleged breach of their common law duty of care. The regulations will remain key for criminal law and employers who do not comply will be at risk of prosecution by the HSE.

It is important to remember that regulations will still be of relevance. It was already a settled legal principle that the requirements of a statutory duty could be relied on as evidence of what a reasonable employer should do to satisfy its common law duty, for example in relation to foreseeing particular risks or taking a specific precaution against them. However, it will not be possible to argue that where a strict liability duty arises under regulations, that higher level of duty should be incorporated into the common law duty. This is because the common law duty is limited to one of 'reasonableness'.

EU Directives will remain actionable against 'emanations of the state' including local authorities, government departments, police authorities and public health bodies. In principle, this may entitle a public sector employee to sue his employer for breach of the appropriate European Directive (even though he is prevented from suing that employer for breach of the domestic regulations brought in by virtue of those Directives).

The obligation has now been placed on claimants to prove negligence. Whilst some organisations might therefore take the view that certain claims will now potentially be easier to defend, QBE would caution that given the common law requirements and the continuing importance of regulations in defining the standards for establishing negligence, we will have to judge each case on it's individual merits.

Occupiers also have a duty to lawful visitors which is covered by the **Occupiers' Liability Act 1957**. The Act places a duty on occupiers of premises to ensure all reasonable steps are taken to safeguard persons from known dangers or dangers the occupier should reasonably know exist. The common duty of care is: 'A duty to take such care as in all the circumstances is reasonable to see that the visitor will be reasonably safe in using the premises for the purpose for which he is invited or permitted to be there .....'

Case law review

From the regulatory perspective, it is highly likely the employer or occupier will owe a duty of care to a person who has slipped or tripped, but there may be grounds for claims defence if the employer or occupier has taken all reasonable steps to control the risk.

The following cases are examples of success. Whilst they are instructive, it may be a mistake to infer any general tariff or rule as all cases will turn on their own particular circumstances.

James v Preseli Pembrokeshire Council (1992)

J tripped on a three quarter inch gap between paving stones for which P was the responsible authority. It was held, that P was not liable. The relevant question was not whether the pavement was in a poor condition but whether the particular spot where a plaintiff fell was dangerous. Not every defect in a highway is 'dangerous', and what was required in this context was the sort of danger which an authority may reasonably be expected to guard against. The court accepted that 25mm (1 inch) was the point at which highway authorities generally considered a trip hazard to require repair.

Furness v Midland Bank PLC – Court of Appeal (2000)

F slipped on a few drops of water that had been spilled on stairs. F alleged breach of statutory duty by the defendant under the Workplace (Health, Safety and Welfare) Regulations 1992. Making an order dismissing F's claim, it was concluded that the degree of risk from such a spillage was extremely small, and to protect F from a fall would have required continuous supervision of the staircase, which was not reasonably practicable. F sought to show that the defendant had failed to take reasonable precautions against spillages on the stairs. What the defendant should have done, F argued, was instruct the workforce, or some of them, to keep a look out for spillages. In failing to do so, F claimed, the defendant had failed to discharge its statutory duty under the 1992 Regulations. The defendant argued that the appeal should be dismissed because it carried out health and safety checks periodically, and that the staircase was cleaned at the end of each working day.

It was held that:

1. The spillage of water on the stairs was clearly a substance which was capable of causing a slip or fall. The burden was therefore upon the defendant to establish that it was not reasonably practicable to keep the stairs clear of spillage *(Nimmo v Alexander Cowan & Sons Ltd (1968) AC 107)*
2. There was no doubt that it was reasonably practicable for the defendant to have instructed its employees in the manner suggested by the appellant. However, a failure to make such an instruction was not a breach of the 1992 Regulations
3. If there were frequent spillages, it would have been necessary to have instructed staff to be alert and deal with spillages *(Ward v Tesco Stores Ltd (1976) 1 WLR 801)*
4. In cases such as the present one however, where spillage was very rare and the premises were used by employees only, it was absurd to consider that the suggested instruction served a useful purpose
5. There was no requirement for the defendant to instruct its staff to keep a look out for spillages. It was not reasonably practicable for the defendant to keep the staircase free from spillages of such a small amount
6. Accordingly, the Recorder reached the correct conclusion, namely that F had not established a breach of the 1992 Regulations. Appeal dismissed.

Laverton v Kiapasha (2002) – Court of Appeal

L slipped and sustained injury while walking on the wet tiled floor of K's takeaway premises after drinking with friends. K appealed against a decision awarding damages to L and finding K wholly liable for having breached its duty of care under the Occupiers' Liability Act 1957. It was held in the appeal that K had taken reasonable care in the circumstances of the case. K had fitted non-slip tiles, and whilst it was inevitable that customer would walk in water during wet weather; it was impractical to mop during busy periods and unreasonable to expect that K ensure that the doormat remained in front of the door. Had K been found liable, L would have been 50% contributory negligent as she had not taken the care reasonably expected from a person when walking on an obviously wet floor.

Green v Asda Store Ltd (unreported, May 22, 2003) (CC)

G slipped on a single grape in a supermarket owned by A, and consequently sustained injury. G alleged that A had failed to implement an adequate system of cleaning and had thus failed to discharge their duty of care. A submitted evidence that it operated a 'clean as you go' system under which employees were to be alert to spillages at all times. A janitor from an independent company also patrolled the produce section every 30 minutes (though no evidence was submitted as to whether this was implemented on the accident day). A also submitted evidence that in the year of G's accident 1,905,887 customers had passed through the store and that during the same duration only nine similar incidence had occurred. It was held that A was not liable. The grape could have been there only a matter of seconds or perhaps a little longer and there was an adequate and properly implemented maintenance system. Thus, A had taken reasonable care in all the circumstances of the case.

Catherine Hines v Iceland Foods - Newcastle-upon-Tyne CC – 2010

The claimant's injury occurred while she was shopping at the defendant's supermarket. While she was passing through the checkouts, she tripped on a stray shopping basket, seriously injuring her shoulder.

Although Iceland had asserted, unsuccessfully, that the claimant was the author of her own misfortune, it also argued that there was no breach of the common duty of care under the Occupiers' Liability Act 1957. The judge applied the leading case of *Ward v Tesco* (1976), where it was held that once the claimant has proved that there is a danger on the floor, there is an evidential burden upon the defendant to explain how the accident could arise consistent with the exercise of reasonable care.

Iceland submitted that it had a reasonable system of management inspection where managerial staff inspected 'the area every five minutes or so', and were instructed to prioritise the removal of hazards. The trial judge rejected this submission, finding for the claimant on liability. In his view, the inspection system described by the store manager was too vague and imprecise to discharge the evidential burden. Iceland appealed.

Iceland's appeal was heard by a circuit judge, His Honour Judge Walton. He accepted that it was unreasonable to expect 'some precise time laid down' for the inspection of each aisle. Crucially he accepted that the Court of Appeal's decision in *Tedstone v Bourne Leisure* (2008) had modified the evidential burden on defendants. He found it is open to defendants to show that the accident would have been at least equally likely to have happened, on the balance of probabilities, if there had been a proper and adequate system in place.

In this light, the only system that might have prevented the accident was to have an employee constantly checking the aisles, which the judge considered unrealistic. The appeal succeeded.

Slip, trip and fall risk management strategy

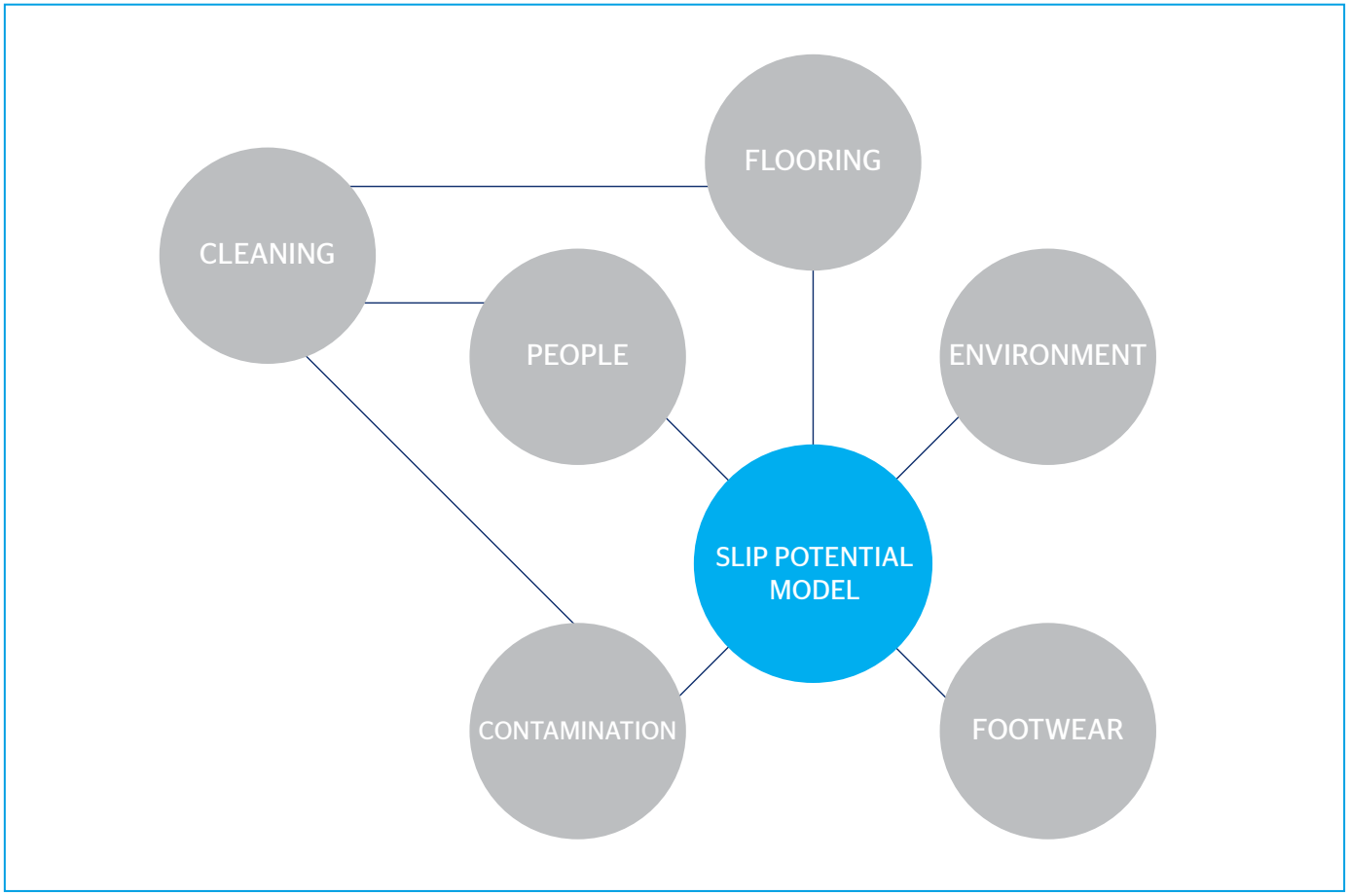
By way of a generic risk management strategy, the following best practice should be considered.

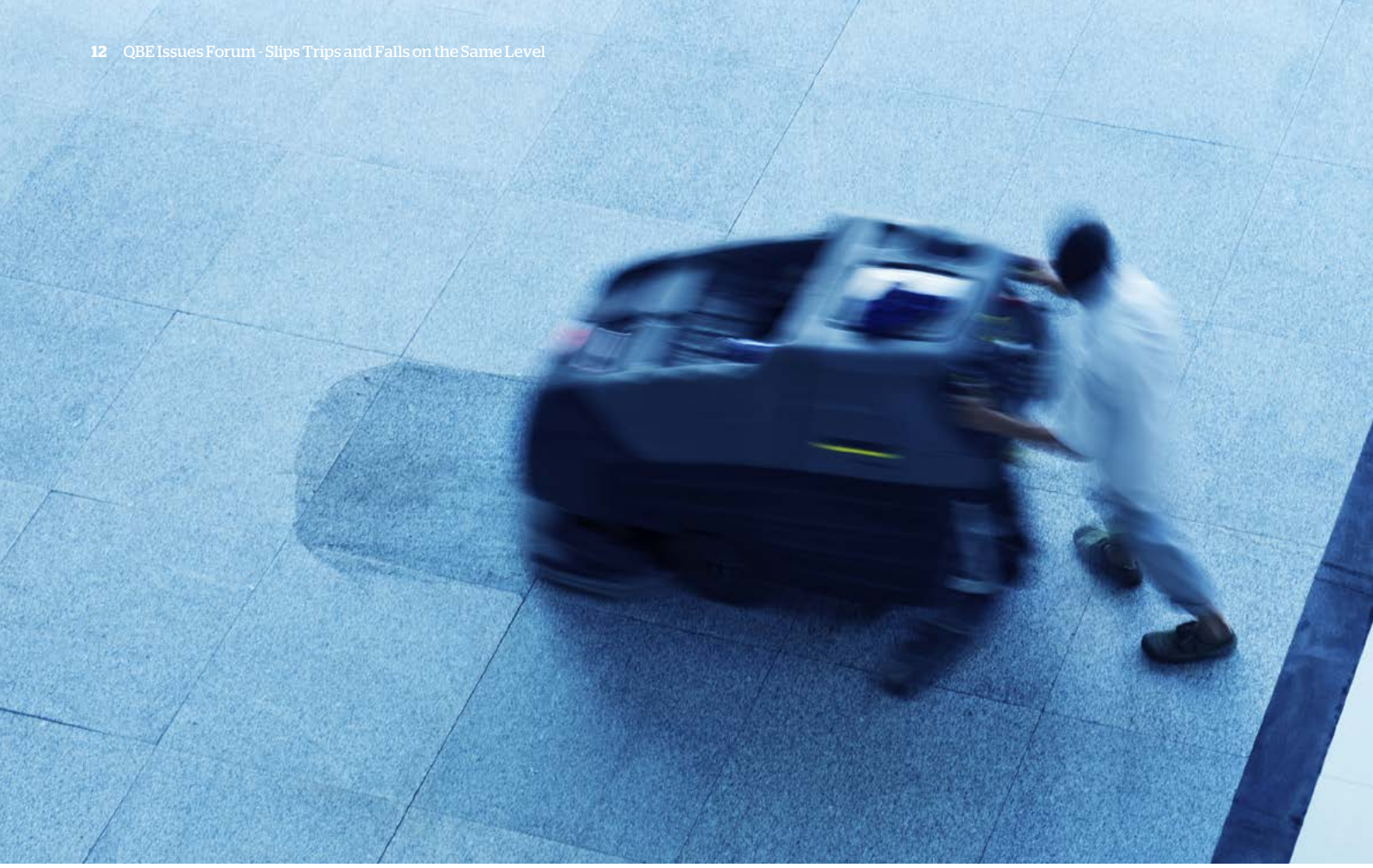
- You maintain adequate data on STF accidents to include accident and near miss numbers, accident frequency, accident severity (days lost), root cause of accident, location of accident, time of day etc.
- Your Board set realistic targets on STF accident reduction, reduction of days lost, reduction of claims incidence, improvement in claims defensibility rates etc. Such targets should relate to company, department and individual line managers.
- The required competence is in place within the H&S department or company's 'competent person' and at manager/ employee level. All persons in the organisation are trained in their personal responsibilities to minimise STF incidents, utilising the HSE slip, trip e-learning tool (STEP) as appropriate.
- Area STF risk assessments are undertaken to the principles of the HSE Slip Potential Model or by using the HSE Slip Assessment Tool (SAT). Instruments such as a floor surface roughness meter and/or pendulum are used to accurately determine the slip resistance value (SRV) and ultimate suitability of floor surfaces. A regular testing regime should be established to include tests for differential wear in areas of heavy and lighter use.
- Flooring is selected at the design stage considering the environment, potential users, footfall and behaviours they may exhibit. Existing floors are replaced or surface roughness enhanced where practicable if the SRV of existing flooring is unsuitable and where foreseeable contamination cannot be effectively controlled by other means.
- Documented controls to reduce contamination and obstructions on floors are introduced.
- Cleaning regimes and methodology are carefully selected and documented for the potential floor contamination e.g. clean as you go methodology should be dry clean. Wet cleaning is only carried out if segregation is possible or in times of no/lowest footfall.
- The organisation has implemented a good housekeeping philosophy (e.g. '5S' - sort, set in order, shine, standardise and sustain), has clear and defined pedestrian routes with adequate space, and has a system of routine maintenance to remedy defects.
- An appropriate anti-slip footwear policy is defined for employees and footwear is selected taking into account its slip resistance (GRIP Rating) and other characteristics such as wear rate, cleanability, cleating and tread pattern.
- To assist with claim defence cleaning and inspection policies are documented to show they have been implemented.
- The STF management system is auditable and audited.

HSE Slip Potential Model

This model provides a summary of the elements to be considered during a slip assessment (i.e. whether the floor surface is suitable for the environment it is in, for the intended users and the behaviour they may exhibit?). Where practicable, you will need to have influence over the footwear of users and consider arrangements for preventing and removing foreseeable contamination on the floor.

Slip Potential Model



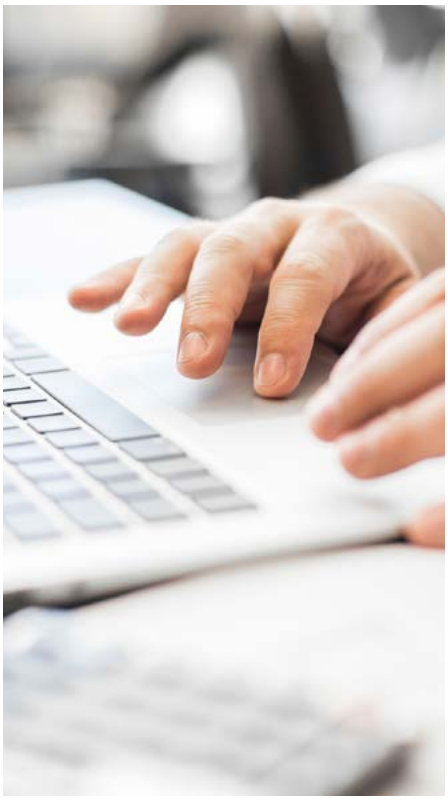


HSE Slip Assessment Tool (SAT)

The HSE **S**lip **A**ssessment **T**ool (SAT) is a computer-based software package which is freely downloadable from the HSE website at www.hsesat.info. The SAT allows an operator to assess the slip potential of pedestrian walkway surfaces. This is a useful tool to aid your risk assessment in line with the Slip Potential Model. SAT will prompt you to gather relevant information concerning floor surface properties, contamination, cleaning regimes, footwear etc. When all of the information is entered into SAT, a slip risk rating is produced. This will assist in determining whether site conditions are likely to give rise to a high or low risk of slipping. The assessment can be repeated using alternative data such as different cleaning regime or footwear type. To use the SAT you will need to obtain a hand held floor surface roughness meter to collect surface microroughness data, and links to obtain these can be found on the HSE web pages. Alternatively, you could liaise with your Local Environmental Health or HSE Office.

HSE Slips and Trips eLearning Package (STEP)

The **S**lips and **T**rips **e**Learning **P**ackage (STEP) is a great introduction to slips and trips, how they are caused, why preventing them is important and how to tackle them. STEP includes easy-to-follow guidance, case studies, videos, animations and quizzes. These are designed to give you the information you need to set up and maintain a safer way of working. The general course is suitable for a wide range of industries. There are four other courses, specifically designed for Food Manufacturing, Hospitality and Catering, Education and Health and Social Care sectors. There are also introductory, intermediate and advanced levels depending on your information needs. Anyone can use STEP to look at and start to understand some of the potential slip and trip hazards and risks found in the workplace. This eLearning package is free and can be accessed at: www.hse.gov.uk/slips/step/index.htm



Flooring – slip resistance

The importance of correct specification, maintenance and cleaning of flooring products and their full assessment with respect to slip resistance cannot be over-estimated.

The HSE and CIRIA guidance describes testing equipment to determine Slip Resistance Value (SRV) of floor surfaces. The most reliable and accurate way to test for slip resistance is using the 'Pendulum'. The pendulum co-efficient of friction tester (also known as the Wessex portable skid resistance tester, the British pendulum, and the TRRL pendulum) is the subject of British Standard, BS 7976: Parts1-3, 2002.2. The method is based on a swinging, imitation heel (using a standardised rubber soling sample), which sweeps over a set area of flooring in a controlled manner. The slipperiness of the flooring has a direct and measurable effect on the pendulum test value (PTV) given.

Table 1 Slip potential classification, based on pendulum test values (PTV), (from UKSRG, 2011)

	PTV (PENDULUM TEST VALUE) OR SRV (SLIP RESISTANCE VALUE)
High slip potential	0-24
Moderate slip potential	25-35
Low slip potential	36 +

Further research has indicated that the relative risk of slipping from surfaces with a specific Slip Resistance Value may be as follows:

Table 1 Slip potential classification, based on pendulum test values (PTV), (from UKSRG, 2011)

PENDULUM TEST VALUE	PROBABILITY OF SLIP ON A HORIZONTAL SURFACE
36	1 in 1 million
34	1 in 100,00
29	1 in 10,000
27	1 in 200
24	1 in 20

The message here is that floors with an SRV greater than 36 are preferable to minimise slip incidents.

A simpler test and one which forms part of the HSE Slip Assessment Tool (SAT), is to measure surface roughness. This data can be used to supplement pendulum test data. Slips will be minimised if the surface roughness of the floor is greater than 20 microns. These benchmarks generally apply where water is the floor contaminant and will need to be uplifted depending on the type of contamination. Within the food industry, a surface roughness greater than 30 microns is recommended. This is not to say all 'smooth' floors need to be replaced. Typically all dry floors provide a sufficient SRV but the type of floor needs to be selected in line with its use, the contamination foreseeable and the cleaning that is practicable to remove contamination.

The SRV of common floor surfaces can be seen below.

FLOOR	SRV DRY FLOOR	S RV WET FLOOR	ROUGHNESS/MICRONS
Parquet	74	10	1.6
Unpolished Terrazzo	52	27	6.4
Quarry	55	41	12.5
Vinyl Safety	56	33	16.5
Cork	65	50	54.9
Vitrified Ceramic	53	20	2.5
Polished Terrazzo	52	17	1.3
Carborundom Quarry	65	57	22.6
Profiled Ceramic	N/A	21	8.4

Contamination

Contamination can be any substance on the floor surface, whether it is a wet or dry substance. By removing the contamination and returning the floor to a dry state, the risk of slipping will be insignificant. Preferably the risk assessment process will identify all sources of potential contamination and introduce controls to prevent the contamination reaching the floor or to prevent its spread e.g. building canopies, entrance matting, drip trays around machines & conveyors. Where constant or frequent contamination on a floor, with a poor SRV, is foreseeable and users cannot be prevented from using such a floor then liability is likely to attach. In such circumstances, the use of warning signs or cones is unlikely to absolve a duty of care and employers and /or occupiers in these circumstances should plan to replace or treat the floor so that the SRV or surface roughness of new floor is suitable for the type of contamination expected.

A common argument for not increasing surface roughness of a floor is a perceived inability to clean floors to required hygiene standards. Further research is summarised in the CIRIA guidance, which shows this argument to be unfounded, subject to applying the correct cleaning technique for the type of floor.

Cleaning and inspection

A well defined cleaning regime and inspection system is a crucial element in preventing accidents and successful claims. The message to instill in all employees is that a dry, clean floor will be a safe floor. Systems need to be created that maintain this dry/clean state as far as reasonably practicable. It is essential that documentation is maintained to demonstrate these systems have been adhered to. Practical systems to consider and adapt to your circumstances include:

- Appropriate methods and materials should be used at all times.
- Employee training is provided to ensure they apply the correct cleaning technique for flooring type and contamination encountered.
- All employees participate in a 'clean as you go' regime.'Clean as you go' methodology should be 'dry cleaning' where practicable e.g. use a paper towel to absorb a spillage rather than creating a greater surface risk with 'mop and bucket'.
- Thorough 'wet cleans' to be designed to cleanse floor and remove all contamination. Where practicable, such cleans should be cordoned off until returned to a dry state and done at a time of day when pedestrian movements are at their lowest.
- Active monitoring techniques are recorded to demonstrate employees are working to 'clean as go' routine. These can be included in manager/supervisor's responsibilities and more formally perhaps by departmental audits that score housekeeping performance.
- In premises, which the public have access to, regular inspections of the thoroughfares should be recorded at least hourly.
- Warning signs should be used to alert pedestrians to slip risks, for example during cleaning, after a spill or during wet weather.
- When selecting Cleaning Contractors a process of due diligence will assist in the selection of competent firms and establish their ability to carry out the work required. In addition, you should ensure that they hold current insurance protection with sufficient financial cover to indemnify them in the worst case scenario. It is prudent to consider Contractors who are members of trade and professional associations and to ask for testimonials and references. Additionally, verification of a contractor's safety policy, safety performance and accident rates should be included in any due diligence programme. Validate their competency for the task to be undertaken and to manage health and safety. Look for evidence of personnel being trained in health and safety management, such as an accredited IOSH qualification and trade qualifications, like The British Institute of Cleaning Sceince (BICS). Provide your contractor with sufficient information to undertake the contract safely.

Footwear

The selection of footwear for employees will form part of your Personal Protective Equipment risk assessment. The risk of slipping needs to be considered alongside other risks to the foot such as falling objects or materials piercing the sole. Research in to the slip resistance of footwear highlights:

- Not all safety footwear is slip resistant.
- The properties of the shoe sole are highly relevant in determining with a pedestrian slip.
- The surface roughness and material hardness of the sole have a significant influence on its frictional characteristics and therefore, its slip resistance.
- The wear rate and to a degree cleanability of the sole influences the surface roughness levels throughout the life of a shoe sole.
- Wearing flat shoes that maximize the area of contact with the floor, especially at the heel, can reduce the number of slip injuries considerably.
- To improve the slip resistance in contaminated conditions, the shoe sole should generally have deeper cleating and a well defined tread pattern.
- Footwear should fit correctly. Slipping is more likely if the wearer's foot moves within the shoe.

GRIP is a new footwear slip resistance rating scheme developed by Health & Safety Laboratory (HSL) to actively reduce slips. The HSL GRIP rating scheme uses rigorous, scientific testing to measure and grade the slip resistance of footwear.

Footwear manufacturers who have signed up to the scheme will be able to display the rating, from 1 to 5 stars, clearly on their product packaging, allowing footwear buyers to select the most appropriate footwear for their particular work environment. Footwear manufacturers will also be able to use GRIP, which provides an independent, objective and trusted view of their products, to drive improvements in the slip resistance of footwear and gain competitive advantage over non-rated footwear.

Footwear buyers will benefit from clear ratings that enable them to make informed purchasing choices, offering greater levels of slip and fall protection to their staff and helping to save the cost of slip-related absences.

Trips risk control

Of the HSE's statistics on STF, 25-33% of these are due to 'tripping'. The comments on the previous pages are specific to 'slipping' but the principles will apply to tripping incidents too. The main difference between slips and trips is the causative element. Primarily, trips are caused by poor housekeeping. Your risk assessment needs to address common causes of tripping (e.g. trailing cables, uneven edges to flooring or gratings/covers, loose mats/carpet tiles, temporary obstructions, unseen changes in floor level). By removing these obstructions, or making them more visible to the person, tripping incidence should significantly reduce. Many companies have achieved considerable success with the '5S Philosophy'. This system aims to eliminate unnecessary items from the workplace using the principles of 'Sort, Set in order, Shine, Standardise and Sustain'.

Active monitoring

All the controls identified by your STF risk assessment will need to be actively monitored. Shortcomings that have hindered claims defence include:

- failure to monitor wear and tear on floors and to maintain the slip resistance value of floors
- failure to inspect and replace footwear
- poor preventative maintenance
- faded floor markings denoting clear zones
- incorrect cleaning procedures
- poor recording of inspection and cleaning procedures etc.

Accident investigation

A key part of any claims defence is good accident investigation. QBE claims inspectors can guide you through this process. With regard to slips and trips, it is important all mitigating factors are recorded including the condition of the floor, any contamination present, what the person was doing, the environmental conditions, quality of lighting, footwear worn etc. It is important the investigator records facts and does not express opinions that could hinder defence if all the reasonable control measures mentioned above are in place. With regard to public liability claims, you may often not be aware of any incident until a claim is submitted. Here the value of your active monitoring, and systems that record your cleaning and inspection regimes come into play to demonstrate at the time of the alleged accident you had done all one could reasonably expect.

Winter weather – snow & ice

It is a myth that an occupier cannot be held liable for failing to clear snow and ice, but can be held liable once an attempt at clearance has been made and then someone is injured. This is a misunderstanding of the rule against nonfeasance which does not apply where a statutory duty is imposed. Therefore both an occupier and an employer can be liable if they take no reasonably practicable steps to guard against the risks of snow and ice on their premises.

Practical action by an employer to deal with winter weather should include the implementation of a cold weather policy. There must then be steps taken to follow that policy – training on implementation and use. The policy should confirm who is responsible for doing what for example, a caretaker, owner of a business, manager or supervisor. Checklists should be used to include action on arriving at a premises to attempt to eliminate or reduce the risk of slips and falls due to snow or ice. Weather forecasts should be reviewed regularly and where appropriate relied upon. Signage should be put out for known slippery areas. Such signage should be readily available and erected by the first on site. Of course ensure there is an ample supply of grit available.

Cold weather policy – key features

1. This must be proactive and not reactive. Anticipate the formation of ice.
2. Give regular consideration of the weather forecasts – not too far in advance.
3. Appropriate staff must be trained to do the following:
   - a. Consider forecasts.
   - b. Make decisions on whether to treat.
   - c. Consider how to treat.
4. Decisions must be tailored depending on the location.
5. Decisions must be taken regularly and as close in time as possible. Assessing the risk is key.
6. Allocate appropriate Human Resources to treat.
7. If likely to be a delay in treating take interim measures to address the risk. e.g.
   - a. Cordon off hazardous areas.
   - b. Install signage.
   - c. Make announcements.
   - d. In the case of a concern like a school it may be appropriate to close the premises until the worse of the weather is over.
8. Consider the type of treatment:
   - a. Effectiveness.
   - b. Cost.
   - c. Time to implement.
   - d. Method to apply.
   - e. Err on over treatment.
   - f. Evidence of decision making process to be provided.

The policy must be monitored

1. Is compliance with the weather forecasts effective?
2. Are there any features peculiar to location?
3. Record accidents and near misses.
4. Consider other factors such as lighting (particularly relevant in car parks).
5. Have appropriate investigative steps:
   - a. Ensure a copy of weather forecast is kept for a specific period.
   - b. Log any decision in relation to treatment and in response to it.
   - c. When was the decision made?
   - d. When was that decision communicated and actioned?
   - e. Why was it actioned in a particular way at a certain location?

Conclusions

"Simple mistakes can shatter lives. Your actions could stop them happening. You might think you're doing everything to prevent slips, trips and falls in your workplace, but everyone could do a lot more." HSE

With recent research, guidance and use of available slip assessment tools and training, a structured risk managed approach can now be developed within all organisations. If followed, this should lead to significant improvements in accident frequency rates and improved systems to allow defence of claims that develop. With the magnitude of slip and trip incidents within British society, the financial and moral rewards make a case for action very compelling.

For more about our services, please visit www.QBEeurope.com/rs or email RS@uk.qbe.com or discuss with your Insurance Broker.

Disclaimer

This Forum has been produced by QBE Insurance (Europe) Limited ('QIEL'). QIEL is a company member of the QBE Insurance Group.

Readership of this Forum does not create an insurer-client, advisor-client, or other business or legal relationship.

This Forum provides information about the law to help you understand and manage risk within your organisation. Legal information is not the same as legal advice. This Forum does not purport to provide a definitive statement of the law and is not intended to replace, nor may it be relied upon as a substitute for specific legal or other professional advice.

QIEL has acted in good faith to provide an accurate Forum. However, QIEL and the QBE Group do not make any warranties or representations of any kind about the contents of this Forum, the accuracy or timeliness of its contents, or that the information or explanations (if any) given. QIEL and the QBE Group do not have any duty to you, whether in contract, tort, under statute or otherwise with respect to or in connection with this Forum or the information contained within it.

QIEL and the QBE Group have no obligation to update this report or any information contained within it.

To the fullest extent permitted by law, QIEL and the QBE Group disclaim any responsibility or liability for any loss or damage suffered or cost incurred by you or by any other person arising out of or in connection with your or any other person's reliance on this Report or on the information contained within it and for any omissions or inaccuracies.

QBE Insurance (Europe) Limited and QBE Underwriting Limited are authorised and regulated by the Financial Services Authority. QBE Management Services (UK) Limited and QBE Underwriting Services (UK) Limited are both Appointed Representatives of QBE Insurance (Europe) Limited and QBE Underwriting Limited.


CAUTION
ACHTUNG
ATTENTION
CUIDADO

Risk Solutions

This Issues Forum is produced by our Risk Solutions team. The team offer a range of services to our clients, from expert advice and technical guidance, to tailored 'risk based' improvement programmes. Our objective is to reduce the frequency and severity of our clients' Insured loss experience.

Our dedicated team of risk management professionals draw upon a wealth of experience inherited from a variety of backgrounds supported by our rehabilitation, claims and other client service functions. Through their allocated risk manager, our clients can access bespoke risk management services and advice.

For more about our services, please visit QBEeurope.com/rs
Or email us RS@uk.qbe.com or discuss with your insurance broker.

QBE European Operations Plantation Place 30 Fenchurch Street London EC3M 3BD
tel +44 (0)20 7105 4000 www.QBEeurope.com

5347CC/QBE/SlipTripsFall/IssueForum/June2015

QBE