

QBE European Operations

# Manual Lifting and Handling

**Issues Forum**





# Issues Forum

## Manual Lifting and Handling

### Contents

Introduction	4
The legal position	5
Case Law	5
An Insurers view	6
Learning from Olympic Weightlifting?	6
Failings in industry: Thinking outside of the box	6
Key failings in Industry	7
Knowledge attitudes and behaviours	7
Supervision of safe working practices	7
What is your strategy?	8
Conclusion	8
Further Information	9
Author Biography	9
Disclaimer	10



# Introduction

**Musculoskeletal disorders (MSDs) have remained the most common cause of work-related ill health in Great Britain for many years, presenting substantial costs to individual sufferers, employers, Insurers and health service providers alike. A significant proportion of MSDs and back pain result from uncontrolled manual handling. Injury and ill-health can arise due to over-exertion, cumulative damage and acute injury. There have been well-intended attempts to tackle the problem via legislation, improvements in the workplace and better advice and rehabilitation from health practitioners following episodes of pain.**

**However MSDs remain a problem for industry, and continue to feature heavily on the employers liability claims landscape.**

**In this Issues Forum we will focus specifically on manual lifting and handling ‘residual risk’, in the context that reasonably practicable ‘higher order’ controls have already been considered and deployed. We will consider current legislation, failings in industry, the civil claims environment and outline a strategy for success in this key exposure area.**

**This edition is written in conjunction with David Snowden, a former Olympic weightlifter and the founder of Pristine Condition Ltd; a manual handling training and solutions provider. QBE have enjoyed an excellent partnership with Pristine Condition for over 10 years, successfully impacting the frequency and severity of accidents, injuries and lost time absence; and the defensibility of civil claims where we have introduced their unique approach to receptive clients on the back of a clear business case.**



## The legal position

UK businesses still follow regulations that were devised over two decades ago - and are still the same today. Have they been effective? Refer to the HSE website today and it still reports that more than 25% of all reported injuries which result in someone being off work for more than 7 days are caused by manual handling. This raises the question; why?

The Enterprise and Regulatory Reform Act 2013 (effective from 1st October 2013) means that Manual lifting and handling claims are pleaded under employers common law duty to their employees i.e. to provide a safe place and system of work, safe plant and equipment and competent fellow employees. The Manual Handling (Operations) Regulations 1992 and associated ACOP and guidance do however remain as indicative of steps an employer will need to take to fulfil those duties. The Regulations advocate a hierarchy of control measures i.e. via elimination, automation and mechanisation of lifting and handling operations. The residual risk must then be managed by ‘lower order’ controls such as employing ergonomic principles to working practices, the use of mechanical and lifting aids, and training and supervision. Most companies understand that they should assess, avoid, and reduce manual handling but ‘hit the brick wall’ when it comes to dealing with the residual risk.

Despite many employers’ best intentions and efforts to avoid and reduce the need for manual handling and lifting, it often remains an unavoidable requirement of their operations. However, there is very little prescriptive guidance as to what best practice principles in controlling residual risk, including training, actually look like – and this is the area where employers typically fail. Employers need to seriously

consider whether the information they are giving their employees is actually correct!

## Case Law

### Wellard v DSG International Plc (2009)

In this case the employer was held not liable for an injury sustained by one of its workers when attempting to remove a washing machine as part of his duties in installing and removing white goods at customers’ homes. It was found that the employee had been suitably trained in manual handling and that a suitable and sufficient risk assessment had been undertaken. Coupled with the reasonable reliance on employees making their own dynamic ‘on the job’ risk assessment there was nothing more the employer could do to avoid the injury.

### McCabe v Royal Mail Group Plc (2011)

In this case a postal driver raised an action of damages against his employer in respect of an injury sustained to his pre-existing inguinal hernia when he lifted a mail bag. Whilst the court held that the employer had in place a theoretically safe system of work, the evidence focused on his manual handling training. The employee had received training in 1998 but had not received any refresher training since. The pursuer’s lifting technique was therefore in line with the only training he had received, but it was agreed that his technique was either wrong or inappropriate for the weight limits that the employer considered safe.

The employer was therefore held to be in breach of the Manual Handling Regulations (Reg 4(1)(b)(ii)) as they had either failed to train their employee in safe lifting techniques or had allowed him to adopt bad practices which it had the responsibility to detect and correct.

Wellard was a favourable decision for employers but unfortunately rather unusual. Ultimately in the case of McCabe the court found that the employee’s injury was not caused by the statutory breach. However both of these cases illustrate some of the crucial and typical debates around evidencing the adequacy of training in a court situation where all other reasonably practicable steps have been taken by the employer.

### Ali Ghaith v Indesit Company UK Ltd (2012)

This case concerned a service engineer carrying out a stock take of his company van that involved him lifting boxes from his van repeatedly from 9.30am to 4.30pm with only four short breaks. At the end of the day he felt severe pain in his back. He argued that his employers were in breach of Regulation 4 (1) (b) of the Manual Handling Operations Regulations 1992. The defendant had undertaken a manual handling risk assessment , which related to the handling of tote boxes in loading and despatch areas and argued that this was suitable and sufficient. A new risk assessment was undertaken post accident, which did single out stock taking as a separate activity and recommended task specific controls such as;

1. Heavy weights should be left in the van and scanned there
2. Lifting and moving of items out of the van should be shared between the service engineer and supervisor and only after items had been removed from the van should scanning take place.
3. The stock take was a process which should take two hours to complete, although there are no time constraints to the activity.

At the first instance decision the judge dismissed the claim finding that the employer’s pre-accident risk assessment was suitable and sufficient. The claimant appealed and the Court of Appeal unanimously agreed the employer had not complied with its duties under the Manual Handling Operations Regulations 1992. Longmore LJ gave judgment stating that where the employee was injured during a lengthy stock take the failure to carry out a suitable and sufficient risk assessment, which took into account manual handling over a lengthy period, breached the requirements of the regulations.

The case emphasises that each manual handling task should be the subject of its own risk assessment to identify the necessary steps to eliminate or reduce the risk of injury to the lowest level reasonably practicable.



An Insurers view

In QBE’s experience claims relating to acute MSD/Back complaints resulting from lifting and handling operations are difficult to defend where a diagnosis of work related MSD injury is presented, particularly against allegations citing breach of duty in relation to insufficient information, instruction and training. This point is clearly not lost on the claimant legal fraternity and, in the absence of an adequate liability defence, judges will often look sympathetically on claimants even when it is debatable whether the injury was wholly or partially attributable to work. Employers’ risk assessments will typically identify MSD risks from manual handling operations but find difficulty in proving that hierarchical controls were adequately considered or implemented. The legal arguments then shift to the adequacy of training i.e. whether it was correct, task specific, effective or even understood by those it was intended for, and whether there were effective systems for supervision and auditing. The problem can be exacerbated further by an insufficient investigation, the results of which often mean that it is difficult to challenge the version of events presented by the claimant even with suspicions that an injury or condition may not be work related.

Many employers stick their collective heads in the sand rather than attempting to address the problem and suffer the costs of injury, absence and civil claims. Others make gallant attempts to address the issue and strive for legal compliance but may still fail to impact the problem because they lack the practical knowledge and expertise in affecting residual risk. Those aspiring for success should follow the lead of enlightened employers who have challenged accepted norms and embraced the need for assistance and an alternative approach.

Learning from Olympic Weightlifting?

Professional weightlifters improve by continually increasing the weight and the tonnage they lift. Whilst muscle bulk, power, diet and build play their part they are not by any means the prime consideration. Athletes and trainers require an intimate understanding of the human body to hone anatomical techniques and ensure that they reach their full potential whilst avoiding injury. To the ordinary individual the weights being lifted on a daily basis, without injury, are staggering. Currently a 75 kg man can lift 200 kgs above his head in a single lift and in a day’s training will lift in excess of 18,000 kgs. Similarly, females of the same body weight are lifting 170 kgs.

Injury is a huge fear for athletes, but is also rare, even though these athletes push themselves to the limit every day. This is because Olympic weightlifting has evolved, with athletes striving for anatomical and mechanical perfection. The rare accidents that do occur are predominantly due to technical failures as opposed to the weights themselves and ultimately, technique is the key to avoiding injuries in any lifting and handling situation. Pristine Condition’s approach has been to apply these transferable weightlifting / anatomical principles to industry.

Failings in industry: Thinking outside of the box

There are many myths and fallacies that have been promoted as best practice in relation to lifting and handling. For example:-

- Bend the legs and keep the back straight
- Squat all the way down when lifting from the floor
- Use a weightlifting belt to support the back
- The ability to lift boxes correctly means you can lift anything and everything
- The maximum weight you can lift is 25/20 kg (men/women).

Manual handling training is often far too generic and rarely represents the real world of the employee. It dreams up images of diagrammatic figures lifting cardboard boxes from flat floors onto flat waist high tables. Training has historically tended to place an unhealthy emphasis on weight as the crucial risk factor, as opposed to technique and the pressure placed on the body. Literature, guidance, regulation and associated legal arguments on the subject have not always helped and may, in certain instances, have perpetuated the problem.

There are a plethora of methods and tools employers can turn to for assessing risk, but little detail on the controls and systems of work to be employed that tell the employee exactly what he needs to do!



Key failings in Industry

- **Lack of knowledge, information and awareness of MSD risks.**
- **Confusion as to how to lift correctly - it needs to be taught!**
- **In the absence of correct guidance operators carry out tasks the way they feel is best or by copying colleagues whose technique may be flawed.**
- **Incorrect technique leads to increased and cumulative pressure on the body**
- **The body does not always tell you when you lift incorrectly, leading to individual apathy of the risk and a resistance to change i.e. “it won’t happen to me!”**
- **Front line managers don’t challenge employees when they lift incorrectly because they don’t have the knowledge themselves.**

Knowledge attitudes and behaviours

Behaviour is a crucial factor in the reduction of many of today’s most widespread diseases and health problems, including MSDs. Most interventions aimed at reducing MSDs focus on the physical aspects of the work environment and the job task, rather than tackling psychological factors such as risk perception or management commitment.

Risk managers and safety practitioners will be well aware that individuals’ behaviours are strongly determined by their knowledge and attitudes. A crucial, yet frequently overlooked step in reducing health risks is to ensure that the individuals concerned perceive the health issue to be a genuine risk. For MSDs, managers are unlikely to implement changes, or employees to embrace changes to their working practices, unless they are genuinely concerned. Individuals who are apathetic about the risks are unlikely to consider taking action or modifying their behaviour.

This has an unfortunate consequence as back pain and MSD arises from cumulative exposure and the body does not have the mechanism to tell us each time when we lift or handle incorrectly - only when we have done so too many times.

Supervision of safe working practices

Supervisors and managers tend not to challenge lifting techniques due to lack of knowledge. It is notable that front line managers and employees will challenge their colleagues and visitors for not wearing correct personal protective equipment.

However one cannot say the same thing about manual handling, often because the ‘rules’ are less well understood and hence right and wrong is less obvious. The lack of effective supervision, auditing and monitoring of manual handling is therefore a problem in many organisations.

In addition, safe operational practices are produced in a very vague manner e.g.

- Use the correct technique (which is?)
- Use technique as per your training (are we in the business of lifting boxes?)
- Bend your legs and keep your back straight (are we sure?)

Training and instruction is typically evidenced in the written word in the form of technical risk assessments, policies and systems of working. It is rarely read by the operators it is intended for and often only comes to light in the case of an accident, injury or civil claim. Whilst documentation is essential in the defence of civil claims, in the case of manual handling, the content and articulation of what has actually been delivered is rarely sufficient to provide a full defence to allegations of insufficient training i.e. being generic as opposed to task based, without validation of the employee’s understanding and competence, nor evidencing a system of supervision, audit and refresher training.

**What is your strategy?**

We set out an 8 point strategy for success below:-

**1. Conduct a risk assessment and establish safe systems of working**  
The Manual Handling Operations Regulations 1992 are the main, but not exclusive, provision requiring employers to avoid the need for employees to undertake manual handling operations.

Where this is not practical or possible, then employers are required to carry out a risk assessment taking into account the load, individual, task and environment, and introduce controls to minimise the risk as far as is reasonably practicable. Commit to implementation of ‘reasonably practicable’ corrective actions starting with those which avoid and reduce manual handling either through capital expenditure on automation/ mechanisation or by the implementation of documented (or otherwise evidenced e.g. media based) safe systems of work.

Anatomical principles and knowledge can be used to design and devise practical automation and mechanisation techniques and lifting and handling aids e.g. positioning handles on equipment which actually promotes and ensures correct technique. Similarly in the design of work stations can be ergonomically redesigned to reduce identified pressures on the body.

**2. Take training seriously and provide the correct information**  
First and foremost the information provided to employees must be correct. Training programmes should be developed based on your risk assessments and safe systems of work, ensuring that correct anatomical principles and manual handling techniques are taught where there is residual risk. Training should be bespoke to the situation or task and focus on reducing acute and cumulative pressures on the body. It should be engaging, achievable and preferably delivered in the work environment rather than the classroom, offering practical advice and demonstrating specific and correct techniques in a way that employees on the front line can easily understand and replicate. A record of attendance and tested competence will aid any defence to subsequent civil claims for damages.

“  
**First and foremost the information provided to employees must be correct.**

**3. Use technology to evidence and supplement the message**  
Training videos, DVDs and e-learning can be useful media to supplement face to face training i.e. as refresher training and where traditional face to face training is not practical. Media such as this can also be used to record and evidence your systems of work. However this can and should still be bespoke where ever possible i.e. guard against ‘one size fits all off-shelf packages’.

**4. Engage front line managers**  
Provide trainers, supervisors and front line managers with the knowledge, confidence and tools to enforce systems, challenge bad practice and monitor performance. Pristine Condition fully trains this tier of management and have developed a simple auditing / monitoring tool that helps to easily identify and correct poor technique from visual observation. Repeat offenders should be retrained and ultimately disciplined for non-compliance of safety rules where they deviate repeatedly from their training.

**5. Re-enforce key messages**  
Ensure that refresher training is programmed and devise methods of engaging the workforce and re-enforcing key messages by way of campaigns, posters and tool box-talks. The mission is to improve the culture such that employees know the rules as to what good practice is, and to feel sufficiently comfortable and empowered to challenge bad practice.

**6. Investigate accidents properly**  
Contemporaneous evidence is crucial to fully understanding the circumstances and causes of accidents, and in defence of civil claims. A full statement should be taken from the injured party and all relevant witnesses, describing in detail the mechanics of the operation and resulting injury. Photographs should be taken and weights/dimensions and other factors should be recorded. Don't be afraid to challenge inconsistencies in evidence. See QBE's guidance on accident investigation at [www.qbeurope.com/risk-solutions/general-liability/health-safety](http://www.qbeurope.com/risk-solutions/general-liability/health-safety)

**7. Engage with occupational health and rehabilitation services**  
Employees' fitness, health and capability should be considered when matching them to the tasks they are asked to perform – preferably via an occupational health provider for high risk activities.

Organisations should also review facilities to manage employees appropriately and safely when returning to work following absence or an accident. QBE offer a variety of case management and rehabilitation services.

See [www.qbeurope.com/rehabilitation](http://www.qbeurope.com/rehabilitation)

**8. Monitor, review and celebrate performance**  
This does not just mean studying the accident book or absence records. Success in lagging indicators will come from proactive focus on implementing controls established from the risk assessment process, monitoring the delivery and effectiveness of training, good supervision and audit processes and engagement with front line managers and employees. Ensure that positive results are celebrated and shared with the workforce thus re-enforcing positive behaviours. Let's face it; we all like to be associated with something that is successful!

**Conclusion**  
Despite their best efforts many employers are discouraged by their failure to impact the frequency and severity of accidents, absence and civil claims resulting from required manual handling activities in the workplace. A key reason for this is that existing training methods are often flawed and don't instill or inspire the necessary behavioural change in the workforce.

However QBE and Pristine Condition can cite numerous and considerable client successes where employers have followed a strategy to deal with residual risk, implementing a new approach to training with content based on sound and bespoke anatomical principles, engaging methods of delivery, supplemented by supervision and audit and backed up with a robust accident investigation procedure and return to work strategies.

For further information please contact your QBE Risk Manager or other regular QBE contact.



**Further Information**  
HSE Website: MSD / Manual Handling Pages: <http://www.hse.gov.uk/msd/manualhandling.htm>  
  
QBE Risk Management Standards: [www.qbeurope.com/risk-solutions/general-liability/health-safety](http://www.qbeurope.com/risk-solutions/general-liability/health-safety)  
  
QBE Case Studies: <http://www.qbeurope.com/risk-solutions/document-library/case-studies>.  
  
Pristine Condition: [www.pristinecondition.com](http://www.pristinecondition.com)

**Authors biography**  
**Davy Snowdon**  
Davy Snowdon is a former Weightlifting World Record holder, conditioning expert for the Olympic Federation covering all sports for two Olympic Games, a National and staff coach for the British Weightlifting Team and lecturer for many governing bodies.  
  
He has spent most of his life training and studying the human body and the art of weightlifting. His research has taken him as far back as 1675, when amazing feats of strength were performed for King William III at Kensington Palace and all the significant anatomical and mechanical changes since.

**Mark Black**  
  
Mark joined QBE in 1998 serving 6 years as a claims inspector before joining the Risk Management team in 2004. Mark has 15 years of Insurance Industry experience serving major clients, and specialises in liability claims and client risk management.  
  
Mark holds an honours degree in Risk Management and the Nebosh National Diploma in Occupational Health and Safety. He is a Graduate Member of IOSH, a Member of the Institute of Risk Management and a Member of the International Institute of Risk & Safety Management.





**Disclaimer**

This publication has been produced by QBE European Operations, a trading name of QBE Insurance (Europe) Ltd ('QIEL'). QIEL is a company member of the QBE Insurance Group ('QBE Group').

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

This publication provides information about the law to help you to understand and manage risk within your organisation. Legal information is not the same as legal advice. This publication 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 publication. However, QIEL and the QBE Group do not make any warranties or representations of any kind about the contents of this publication, the accuracy or timeliness of its contents, or the information or explanations 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 publication 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 you or any other person's reliance on this publication or on the information contained within it and for any omissions or inaccuracies.





### **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](http://QBEeurope.com/rs) or email us [RS@uk.qbe.com](mailto: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](http://www.QBEeurope.com)

5016CC/QBE/ManualLiftingAndHandling/July2014  
QBE European Operations is a trading name of QBE Insurance (Europe) Limited and QBE Underwriting Limited, both of which are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

