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## INTRODUCTION TO MODULE 2

This unit covers the competencies required to comply with Unit 2 of the National Occupational Standards for Domestic Energy Assessors entitled "**Contribute to the safety and security of people and property**".

It is easy to dismiss Health and Safety legislation as bureaucratic meddling by the "Nanny State", but workplaces can be dangerous places and accidents do happen. Serious injuries have long term consequences, not just to the injured party but for their dependents and loved ones. Loss of the family breadwinner can ruin a family's financial future and even the temporary inability to work can have serious implications, particularly for the self employed who may lack the protection of an employer's sickness pay arrangements or private loss of earnings insurance.

It is not just a matter of having a moral duty to pay attention of health and safety issues, it is also a legal requirement. Domestic Energy Assessors need to have an awareness of these liabilities and adopt policies and procedures to ensure that they act responsibly and within the law.

This module provides an overview of Health and Safety legislation and considers the practicalities of safety measures DEAs will need to adopt:

- When inspecting properties
- When traveling between inspections
- When back in the office

The unit also looks at security of information and the responsibilities imposed by the Data Protection Act.

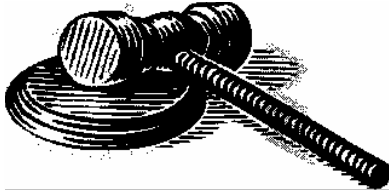
The final section covers other legal issues that DEAs need to consider.

### **Disclaimer**

This information contained in these training materials was correct at the time of printing. However domestic energy assessment is an emerging field subject to rapid change, and further regulation, as such PTS has endeavoured to provide up to date information based on the published national occupational standards.

**SECTION 1 HEALTH AND SAFETY LAW METHODOLOGY**

This section covers the basis of health and safety law and the theory of risk assessment.

**1.01 Health and Safety Legislation**

The basis of Health and Safety law in England and Wales is the Health and Safety at Work Act 1974. This Act sets out the general duties that employers must apply in their dealing with their employees and with members of the public, and the duties that employees have to their employer and to each other.

Self employed people (those without employees) are not specifically covered by the core employer/employee relationship within the legislation, as they are in a health and safety sense both an employer and employee. However, they clearly have a duty to protect their customers and a duty to protect members of the general public that they encounter. Their duty to protect themselves is essentially one of self preservation, not forgetting any dependents they may have.

One of the key principles of the 1974 Act is the qualification "**so far as is reasonably practicable**" to the duties that are imposed. Health and safety law does not require that all risk must be eliminated or that every conceivable safety measure must be adopted, whatever the cost. The Act requires that risks are identified and that measures are taken that are technically feasible and proportionate, in terms of time and cost, to the risk. In other words, there is an acceptance that it is reasonable to apply common sense in the evaluation of risk and only adopt the safety measures that a sensible person would take to avoid those risks. A business activity that is very dangerous, e.g. coal mining, is expected to adopt a much more rigorous health and safety regime than a general office environment

Underneath the 1974 Act are a long list of secondary Acts, Approved Codes of Practice, Regulations and Guidance, each aimed at more specific aspects of health and safety. The main government agency which oversees these is the Health and Safety Commission and its operating arm the Health and Safety Executive (HSE).

For employers, regulations are imposed by The Management of Health and Safety at Work Regulations 1999. Employers must:

- Provide information about health and safety to their employees
- Have emergency procedures for accidents
- Carry out risk assessments to identify risks of the work
- Eliminate and control risks ("so far as is reasonably practicable")
- Maintain insurance for their employees and the public
- Carry out health surveillance of their employees, targeted at the health risks of the work
- Provide necessary equipment ("Personal Protective Equipment") for the type of work involved

- Provide for those with special needs, e.g. disabled access or large computer screens for those with impaired sight
- Control working hours
- Provide regular health and safety training

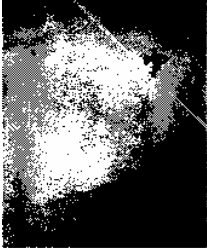
For those employers who have five or more employees there are additional regulations, largely to do with documentation. These employers must:

- Have written health and safety documents, e.g. a health and safety manual
- Have a policy statement issued by a senior executive that is regularly reviewed and updated
- Detail health and safety roles and responsibilities within the organisation
- Ensure management systems are in place to plan and implement health and safety policies - hazard identification, risk assessment and control measures
- Measure and audit health and safety performance on a regular basis

All of this may seem daunting to a newly qualified DEA setting out in business on their own for the first time.

The National Occupational Standards make it clear that DEAs must understand the basis of health and safety law and the liabilities that this imposes. They must also identify the particular risks that they are likely to encounter and minimise danger to self and others. Sections 2 & 3 of this module provides practical guidance as to how DEAs might meet their health and safety responsibilities.

## 1.02 Risk Assessment



The main tool of meeting health and safety responsibilities is a risk assessment. This need not be a complex exercise; it involves identifying the hazards associated with an activity, weighing up the likelihood of each hazard causing harm, and thinking about what precautions could be taken to minimise the risk.

The HSE recommends a five stage approach to risk assessment:

**Step 1. Identify the hazards** - this involves mentally walking through each activity to consider what might cause harm. A reasonable and common sense approach is all that is required; do not go off into flights of fancy. Each hazard needs to be listed separately.

**Step 2. Decide who might be harmed and how** - for each hazard consider which people or groups of people might be at risk and what might happen to them.

**Step 3. Evaluate the risks and decide on precautions** - having identified the hazards and the people exposed to them, the next stage is to consider how to minimise the risks. Some risks might be capable of elimination, e.g. by avoiding doing a particularly risky activity, but most risks will need to be controlled rather than eliminated. This means taking actions to reduce the risk. The law requires that you must do everything that is "**reasonable practicable**" to protect people from harm (including yourself!).

**Step 4. Record your findings and implement them** - it is important that risk assessments are recorded to show that you have gone through a rigorous exercise and for use at future reviews. There is also no point in identifying actions to mitigate risks if those actions are not implemented.

**Step 5. Review risk assessments and update if necessary** - things change over time as new working practices and equipment comes on stream. It is therefore important that risk assessments are reviewed periodically to check that they remain relevant and that new risk assessments are made when significant changes are introduced.

It is helpful to use a standard template to record risk assessments for different work activities and an example is provided later in this module. For DEAs it might be appropriate to break the job down into three key activities; property inspections, traveling and office work.

**SECTION 2 HEALTH AND SAFETY OF PROPERTY INSPECTIONS**

This section covers some the hazards that Domestic Energy assessors might face when inspecting properties and the actions that can be taken to reduce the risks.

**2.01 Assessing Risks before Inspection**

Good practice is to build a simple risk assessment into each set of site notes, to be completed both prior to the inspection and on site as one of the first actions undertaken.

When making inspections to visit properties, DEAs and their support staff have the opportunity to ask questions and to build up a consideration of hazards:

Is the property inhabited or uninhabited?

If uninhabited is it derelict?

Are services turned on - is artificial lighting and heating available?

Does the owner occupy the property or tenants?

If tenants what are their names and are they aware that the assessor will be visiting?

Will the owner be present or is the assessor collecting keys and visiting an empty property?

What are the parking arrangements - on or off street, any restrictions?

How old is the property, what type and how big is it - this will be key to estimating the likely time on site?

Will children and pets be present - the owner will be expected to control these?

Will all parts of the property be accessible?

The questions above will help the DEA plan the inspection and consider some of the likely hazards. The risk assessment within the site notes can be partially completed before leaving the office or car. For example, if the property is empty the DEA will need to consider how he/she might summon help if an accident is suffered while alone inside the property.

**A1 Energy Assessors- Inspection Risk Assessment**

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**Property Address** ..... **Case Reference**.....

**Assessor**..... **Home Owner**..... **Instruction Source**.....

**Inspection Date**:..... **Arrival time**..... **Departure**.....  
**Time**.....

**Additional Notes:**

<b>Risk Factor</b>	<b>Hazards Identified (by questioning and initial inspection)</b>	<b>Risk Classification (Low/Medium/High)</b>	<b>Action Taken To Reduce Risks</b>
Weather at Time of Inspection			
Parking Provision Access			
Arrangements Security -			
Keys/Alarms			
Property Vacant or Occupied			
Occupants			
Children/Animals			
Valuables on Display			
Apparent Safety of Structure/Flooring			
Cellar - Access, Height, Footing, Lighting			
Loft - Access, Height, Footing, Lighting			
Safety of Electrical Installation			
Safety of Gas Appliances			
Safety of Drives, Paths, Gardens & Boundary Structures			
Asbestos Suspected			
Other Hazards			

## 2.02 Assessing Risks on Arrival



The first task on arrival is to make a brief inspection internally and externally of all parts of the property to familiarise yourself with the layout and the circumstances of the inspection. Following this inspection, the full risk assessment can be undertaken.

If an occupier is present, introduce yourself and show them your identification card. Ask for their name if it is not offered. Are they the person you expected? If not, what is their relationship to the owner? They might be someone standing in for the owner and less knowledgeable about the property.

Explain what you will be doing and how long you are likely to be present, and ask them to briefly show you around the property. This gives you a good opportunity to establish rapport and ask questions about issues you encounter, e.g. are there keys to locked garden gates or internal doors? After the brief tour you will be able to finish the risk assessment and set off on your full inspection to collect data for the EPC.

If the property is empty, be cautious when making the inspection. This is when you find dogs left unattended in the garden; someone asleep in the back bedroom, loose stair treads, etc. Depending on what you find, you will be able to plan your full inspection to minimise the risks, or in extreme cases abandon the inspection and make a hasty retreat!

## 2.03 Derelict and Dangerous Properties



Fortunately these are rarely encountered in the owner occupation market, but some derelict properties are offered for sale and they will need EPCs. Properties that are being sold by mortgagees in possession can also be derelict in some respects where disaffected former borrowers have undertaken vandalism prior to departing.

Inside there may be broken glass, loose or missing flooring and stair treads, missing banister rails on stairs and doors hanging off hinges. Outside there may be gutters and chimney pots about to fall.

A common feature of derelict property is that doors and windows have been boarded up restricting natural light and hindering a speedy escape if one is needed. Services are likely to have been cut off, so there will be no electric lighting, and if the electricity is still on, its use is inadvisable as it may have left in a dangerous condition.

Derelict property probably represents the most extreme dangers DEAs will face in terms of the poor physical condition of the building and the likelihood of unexpected complications, e.g. encountering squatters.

The best practice is to ensure that you do not inspect derelict properties alone. Take a colleague or arrange for the owner or estate agent to be present. This way someone will be able to summon help should you suffer an accident.

## 2.04 Empty Properties



A key hazard for a DEA is being unable to summon help if alone in an empty property. It is probably unfeasible in terms of cost to always take a colleague when inspecting properties that you know will be empty and estate agents are unlikely to be willing to send one of their employees, other than in exceptional circumstances. Therefore the risk needs managing:

- Be particularly vigilant about a pre inspection risk assessment on empty properties to avoid surprises
- Be hyper sensitive about suspicious circumstances
- Always have a fully charged mobile phone on you person.
- Consider carrying a highly audible personal alarm to summon help or put off would be attackers.
- Do not lock doors behind you.
- Plan your escape route should you encounter difficulty, ideally in two directions.
- Implement a call-back system with your office (or a relative/friend if you work alone). This works by you telephoning them to say that you are about to inspect an empty property and that you will phone back after a pre-set time to confirm that you are safe. Make sure that they know your phone number and your location, so that they can summon help if you do not call back. Remember to make the call-back as you leave the property!
- Make sure that your daily work schedule is available to others in the event that you do not return at the end of the day. Ideally this should be access to your diary, which should record addresses to be visited, names and contact details of owners and estate agents you will be visiting and the expected time of arrival at each property. With this information it will be possible for others to trace you steps.
- Be particularly careful about inspecting the roof void and the safe positioning of your ladder.
- Do not try to move heavy furniture on your own (e.g. to get to boiler cupboards)

## 2.05 Dealings with Occupiers



It must be emphasized that the vast majority of home owners hold no dangers for the DEA. Indeed, many are, if anything, too friendly and can distract the busy DEA by wanting to engage in conversation. Dealing with pre-inspection questioning of the occupier and avoiding post-inspection questions from the occupier is dealt with in Modules 4 and 5. In this Module the potential hazard of disaffected occupiers is considered:

- Make sure you greet occupiers and identify yourself.
- In return find out who they are and what their status is in relation to the property. Home owners should know the purpose of your visit, but a tenant might not know and might be nervous.
- Explain what you will be doing and how long it is likely to take.
- After the initial risk assessment inspection it is best to ask to be left alone to make your EPC inspection, because having the occupier at your shoulder can be distracting. Don't be dogmatic about this if the occupier is clearly unhappy about allowing you to inspect unattended. Avoid a confrontation on this issue.
- If occupiers insist on following you at all times and keep asking questions or distracting you in other ways, be polite but assertive in asking for space to get on with your job done. Explain that you need to concentrate and offer to answer any questions at the end of your inspection.
- If you unexpectedly walk in on some one in bed or in the bath, leave immediately and apologise from the far side of the door!
- If you see valuables, money, private documents or sexually compromising material, suggest to the occupier that they be removed before your unattended inspection. This avoids the chances of being accused of theft or inappropriate behaviour.
- If children have been left in a property without an adult present, it is probably better not to proceed to avoid the risk of accusations of abuse.
- If you do enter into general conversation with occupiers, avoid offering opinions on sensitive issues that might result in an argument.
- Keep your site notes and equipment close to you at all times. Do not allow the occupier the chance to read your site notes in case they take offence at something you may have written.
- If you do encounter an angry occupier, stay calm, try to rationalise with the angry person, but leave if they do not calm down or become abusive.
- Keep your equipment close by to allow you to take everything with you in case of an emergency escape. (This also makes it less likely that you will forget something in the normal course of events).

- Try to avoid parking your car in a way that allows it to be boxed in and keep control of you car keys at all times.
- Finally, follow you instincts. If you feel uncomfortable about a person's attitude or behaviour, make an excuse to leave and return with a colleague at a later time.

## 2.06 Dealings with Pets and Children



The golden rule for both pets and children is to place responsibility for controlling them with the occupier. Both can be a nuisance when allowed to follow you around a property:

Be polite but firm in explaining that you need to concentrate on with your work.

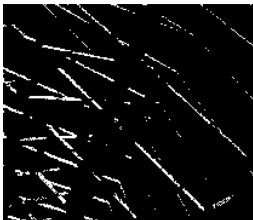
Avoid being left alone with children and pets in a property. Both can be unpredictable at times.

Dogs can be aggressive, as can geese, goats and other animals. Try to find out about animals in your pre-inspection risk assessment and ask that they be locked away from your presence if possible.

If you do encounter an aggressive pet, try to stay calm and be assertive until the owner can take the animal under control. If necessary, walk away slowly while facing the animal and talking to it calmly. Turning and running away is asking to be chased.

If you do get bitten by a pet (or a child!) tell the owner, clean the wound and seek medical advice.

## 2.07 Roof Void Inspections



DEAs will need to inspect roof voids to identify the nature, thickness and consistency of roof insulation. This will often entail just a "head and shoulders" inspection from the ladder, without the need to enter the roof void, but sometimes it will be necessary to climb into the roof to view more distant parts of the void.

The inspection of roof voids is probably the most hazardous aspect of a typical EPC inspection and there are a number of specific hazards that need to be considered:

- It is best to use your own ladders whenever possible. Home owners may offer to provide their DIY step ladders or there may be a descendible fitted loft ladder. Home owners' ladders are an unknown quantity and experience suggests they are often of questionable quality. If they are to be used, they must be quality assessed before use, i.e. are they fit for purpose?

When assembling ladders make sure they are placed on non slip surfaces at a safe, workable angle. Beware of placing ladders on mats on a laminate or similar smooth surface.

Risk assess the loft hatch to ascertain if it is safe to lift. Beware of hatches positioned over high stairwells, heavy part glazed hatches and very small hatches that do not allow the ladder to be fed through to a safe distance. If the hatch is considered to be unsafe, record the circumstances in your risk assessment and proceed with the EPC on the basis of "As built" assumptions for roof insulation.

On first accessing the roof, undertake a risk assessment from the head and shoulders position before leaving the safety of the ladder. Are the ceiling joists sufficiently robust to take your weight? Are walking boards securely fastened? Is a pathway to the area you wish to inspect clear or hindered by stored material?

If there are no walking boards make sure can you see the ceiling joists easily to step on them. If they are covered in insulation walking across joists by "feel" is unsafe and should not be attempted.

If there is any sign of dangerous material, e.g. asbestos lagging, leave immediately?

Roof voids are often places where insects, birds and animals are encountered, e.g. flies, wasps, fleas, pigeons, rats, mice and squirrels. If any of these are present there is a hazard to health from droppings and the hazard of them causing surprise if they move suddenly resulting in a fall. If a roof is infested, it is best to decline to inspect further, inform the home owner or estate agent and reinspect after the infestation has been removed.

Bats are also sometimes encountered in roof voids. The same principle applies as stated previously and there is the extra hazard of a potentially criminal offence of interfering/disturbing an endangered species under the Wildlife and Countryside Act 1981.

If you do decide to enter a roof void, it is wise to wear overalls to protect your clothing from dirt and tears. Use a reliable torch (ideally a head mounted torch) and try to always keep three points of contact with roof timbers at all times as you make your way across the void, using your hands to steady you.

Wear a hard hat when head height is restricted.

Insulation materials can be irritating to the skin and throat so wear gloves and a dust excluding face mask.

When measuring the depth of insulation try to be non destructive. Do not turn back insulation.

## 2.08 External Inspection Risks



DEAs need to inspect externally to measure the exterior of a property, to observe methods of construction and to assess the character of window openings.

There are some commonly encountered hazards associated with external inspections:

- Beware of loose parts of the structure falling from above, e.g. aging gutters, slipped slates, redundant aerials and loose chimney pots. The risk is higher in windy conditions.
- Paths can be have slippery surfaces particularly when wet.
- Paving stones and steps can be loose and uneven.
- Overgrown gardens can conceal voids and sharp edged hazards.
- Boundary structures are often poorly maintained and can easily crumble. Do not climb on walls and fences to get a better vantage point.

## 2.09 Protecting the Property



When visiting someone else's property remember that you are a guest and behave accordingly.

If you are asked to remove your shoes, or if you note that they are muddy, take them off at the door. It is sensible to carry some clean lightweight shoes in your equipment bag for these circumstances, such as trainers or plimsolls.

If you move ornaments or light furniture when making the inspection, put these items back where they were after you have finished.

If you have to move heavy furniture, consider asking the occupier to help.

Do not force windows open (e.g. to inspect draught proofing) or apply unreasonable force to meter cupboards, boiler flaps and loft hatches. Do not unscrew fixed covers.

Beware of measuring rods and tapes knocking things off shelves.

Beware of ladder end protectors marking wall decorations. Have a small towel in your equipment bag to place over the ladder to protect decorations.

Beware of debris falling from loft hatches. Clear up after yourself.

Ask before making use of a toilet or washing facilities.

Don't read the occupiers personal correspondence or message pads

Finally, if you do cause damage, own up immediately and offer to recompense the owner. You will be insured for major damage via your Public Liability policy. Minor repairs, below your uninsured excess, just have to be written off against income in the interests of goodwill. Keeping quiet about damage or dirt you may have caused is both unprofessional and immature.

## Section 3 Special Risks

This section covers some specialised hazards that DEAs may encounter.

### 3.01 New Build Property

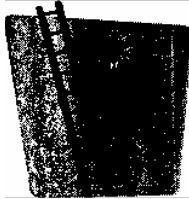


The Home Information Pack proposals do not envisage DEAs inspecting properties undergoing construction. New dwellings will require EPCs, but these are derived off-plan by new build energy assessors using full SAP calculations, not RdSAP.

Building sites are strictly controlled environments due the high health and safety risks from building operations and the multiplicity of contractors working side by side.

If DEAs do visit building sites they should report to the site manager and follow any instructions provided. They are unlikely to be allowed to wander freely around the site and will be required to wear safety hats, high visibility clothing and safety boots.

### 3.02 Working at Height



It is unlikely that DEAs will encounter circumstances when they are working at height.

If you do need to inspect flat roofs (possibly to determine if the roof has warm deck construction with surface insulation) use a standard surveyors ladder (maximum three meter high) and do not climb from that ladder onto the roof.

DEAs should not need to climb scaffolding and should not climb out of upper windows or onto roof surfaces.

### 3.03 Working in Confined Spaces



Confined spaces, such as down manholes, under floors and in tight roof spaces should be avoided as they hold special dangers.

DEAs may venture into cellars with low head height and into roof voids with restricted height. A hard hat should be used in these circumstances to limit the risk of catching the head on exposed nails or other protruding hazards.

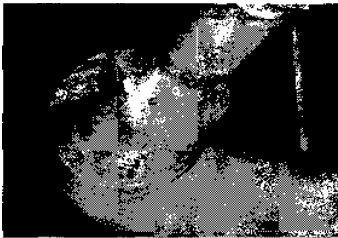
### 3.04 Unauthorised Occupiers



DEAs need to be vigilant when inspecting vacant and derelict premises that may be occupied by squatters or vagrants. If such unauthorised occupants are identified it is best to withdraw and notify the building owner or manager so that they can take steps to remove them to allow safe access at a later date.

Be particularly vigilant when a property has been occupied in an unauthorised way. Beware of used syringes, condoms and other material that may carry a health risk.

### 3.05 Asbestos



Air borne fibres of asbestos containing materials (ACMs) are hazardous to health as they can lodge in the lungs and cause cancer. The most hazardous are those materials that remain in a fibrous state, (e.g. spraying insulation on old boilers and pipework) and those solid materials which are deteriorating due to wear and impact damage (e.g. asbestos insulation board that has been abraded).

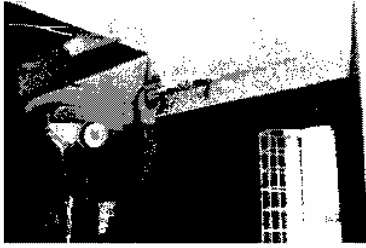
DEAs do not need the expertise of asbestos surveyors or removal contractors, and, indeed, do not have the necessary insurance to advise about this material, but they do need to be aware of the likely locations where asbestos might be found and need to undertake risk assessments about whether it is safe to proceed with an EPC inspection.

There are three different types of asbestos:



**Blue Asbestos** (although it does not have a blue colour) is found mainly in sprayed and loose insulation and pipe lagging. This is the most dangerous type of asbestos because it has a more fibrous nature.

If this type of insulation is encountered (most likely in a boiler house, heating pipe ducts or roof voids) you should immediately withdraw, abort the inspection and notify the building owner. Inform them that you will return to complete the EPC once it has been confirmed that the asbestos has been removed.



**Brown Asbestos** (also not necessarily brown in colour) was used extensively for insulation board and in electric storage radiators dating from pre mid 1970s.

Beware of damaged boards with loose material at the edges.



**White Asbestos** was used extensively in asbestos cement products, e.g. gutters, downpipes, soffits, roofing sheets, roof tiles, wall and ceiling boards, flue pipes. If these materials are in good condition, the risk of airborne fibres is low as the asbestos is well bound into the cement, but these materials do pose a risk if disturbed, e.g. by drilling, sawing or abrasion.

Asbestos can also be found in all sorts of unlikely products such as the backing to thermoplastic floor tiles, in textured ceiling finishes (Artex), paper, felt and card, ropes and yarns, and (classically) on the heat rests of domestic ironing boards.



Use of asbestos was progressively banned throughout the 1970s and 1980s and finally finished in 1999 when asbestos cement roofing sheets and other relatively safe uses were prohibited.

On inspection, it is unlikely that DEAs will encounter asbestos in dwellings built from the mid 1980s, other than perhaps corrugated roofing on a garage or shed. They are most likely to find asbestos used for internal wall and ceiling boarding in system build housing from the 1940s to 1960s and in local authority built properties. Use of sprayed asbestos on boilers and pipework is fortunately quite rare in domestic construction and most likely to be found in large houses with old heating systems and in the communal heating systems of old mansion blocks of flats.

A final word of cautious needs to be made about use of protective face masks. The standard DIY store masks are appropriate to protect against dust and fibre glass inhalation, but will not protect against asbestos fibres. Asbestos grade breathing apparatus is a specialist product.

### 3.06 Defective Services



DEAs will need to inspect electric and gas meters and will come into close proximity to gas and electrical supplies when inspecting boilers and heating appliances.

You need to be alert to dangerous circumstances.

- Electrical cable, fuses and switchgear should not be touched, particularly in roof voids and cellars where it is often not well secured.
- Clearly dangerous situations, such as bare cable, should be reported to the building owner.
- Scorch marks around electrical or gas appliances indicate failure and possibly the release of dangerous flue gases. Again report such finding to the building owner.
- If leaking gas is suspected (i.e. if you smell gas) report this to the building owner if it seems to be a minor leak, but if a serious leak is suspected turn off the supply at the mains, telephone the Transco emergency number 0800 111 999 and tell the building owner what you have done.

## SECTION 4 HEALTH AND SAFETY WHILE TRAVELING

This section deals briefly with health and safety while driving. It is assumed that DEAs will travel by car to their inspections, although those in Central London might use public transport.

### 4.01 Planning Journeys and Safe Driving



Car travel is inherently hazardous, particularly if you are not sure where you are going and the risks need to be mitigated:

Maintain the vehicle in good condition. Have it serviced regularly and check lights, tyres and fluid levels once a week.

Make sure your insurance company is aware of your business use of the vehicle.

Plan your journeys before setting out. Use a satellite navigation aid or print off large scale maps from Multimaps or similar websites.

Be realistic about traveling time, considering likely traffic congestion at the time of your journeys.

Check directions when making appointments, particularly for country properties and houses with names but no number. These can be hard to find.

Ask about parking arrangements for properties in busy town centre locations.

Do not use a mobile phone while driving and do not juggle open maps on your knee.

Observe speed limits and slow down in adverse driving conditions.

Do not drive if overly tired, under the influence of alcohol or if advised not to do so because of medication.

If you are "running late" do not rush. Stop the car and telephone ahead to warn of your late arrival.

**SECTION 5 HEALTH AND SAFETY IN THE OFFICE****5.01 Office Working**

The Workplace (Health, Safety and Welfare) Regulations 1992 cover a wide range of health and safety issues in the workplace including offices, but do not cover home working.

The regulations cover a range of issues:

- Ensuring that there is adequate ventilation and air changes
- Requirements for comfortable working temperatures
- The provision of adequate light at the work station and when moving about
- Facilities for waste disposal and maintaining cleanliness
- The avoidance of cramped conditions
- Regulations about workstations design and seating
- Maintenance of equipment and services
- Safety of circulation space
- The provision of toilet and washing facilities, drinking water, rest and changing facilities
- Maintenance of first aid materials and a record of all accidents

A free HSE leaflet "***Workplace health, safety and welfare- A short guide for managers***" summarises the requirements and provides a list of further reading and information sources.

**5.02 Home Working**

It is likely that a large proportion of DEAs will be home workers. Those that are self employed (and not themselves employing support staff) fall outside of the definition of a home worker as far as health and safety legislation is concerned, but they have a duty to themselves and to their dependents to keep themselves safe and fit.

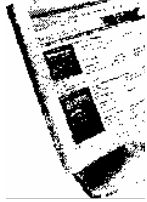
Employed home workers are protected by the Health and Safety at Work Act 1974, which imposes a range of duties on employers similar to those duties owed to people attending a work place:

- Employers must carry out regular risk assessments of the home workers circumstances
- They must consider handling of heavy goods (see a later section)

- They must provide equipment of the task in hand and are responsible for its maintenance and safe usage
- They must test electrical equipment periodically (but employers are not responsible for the condition of the electrical supply in a workers home, even though they may contribute to the cost of electricity)
- They must consider the safety of hazardous materials provided for the work
- They must consider the hazards of computer screen use (see earlier).

The HSE publishes a leaflet titled **"Homeworking - Guidance for employers and employees on health and safety"**.

### 5.03 Working with Computers



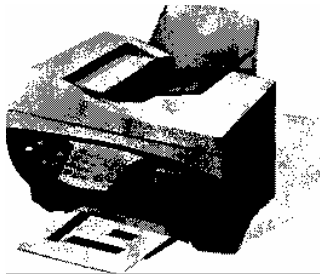
This is covered by The Health and Safety (Display Screen Equipment) Regulations 1992. These apply to employees who work mainly with computers, including those working from home, but not to the self employed. However the self employed should have regard to the regulations to protect their own health.

The regulations require that::

- Workstations should be analysed to ensure that there is sufficient adjustability of seating and equipment, sufficient lighting and space for documents
- Work must be planned to allow breaks and changes in activity
- Eye tests should be provided free of charge to those employees whose job involves long periods of computer screen use
- Training and health and safety information should be provided

Advice on posture, lighting and equipment adjustment for workstations is set out in the free HSE publication **"Working with VDUs"**, together with a full summary of the Regulations and a bibliography of related topics.

### 5.04 Electrical Equipment



Electrical equipment, e.g. computers, printers, fax machines, portable heaters, photocopiers, must be safe for use whether located in a work place or at an employee's home. The electrical supply is the employer's responsibility within the work place but not in a home worker's dwelling.

Employers (and prudent self employed individuals) can take simple steps to prevent harm from electrical

appliances:

- Ensure appliances are turned off when not in use and prior to checking
- Check that plugs are not damaged or loosely screwed together
- Check that electrical supply outlets are available at the point of use
- Check that there are no trailing wires and, if there are, manage them by tucking them out of the way
- Check that plugs are correctly wired and that the gripping mechanism for the outer cover of the wire is secure
- Check the outer cover of wires to ensure there are no splits
- Check the outer cover of equipment to ensure that cover plates are secure and that no screws are loose or missing
- Check for burn or scorch marks
- Repair appliances as soon as defect are noted
- Arrange tests of appliances for correct functioning and earthing on a regular basis (at least every five years and label them accordingly).

The free HSE leaflet ***"Maintaining portable electrical equipment in offices and other low-risk environments"*** provides a summary of good practice for inspecting and maintaining electrical equipment.

### 5.05 Handling Heavy Loads



Work related musculoskeletal disorders (MSDs) are the most common sort of occupational ill health in the UK and most can be avoided if suitable equipment, training and work planning is undertaken. The Manual Handling Operations Regulations 1992 (as amended 2002) apply to a number of activities including lifting and carrying.

DEAs will have to consider handling heavy loads if attempting to move furniture when inspecting property. This should be avoided whenever possible and help from the occupier should be sought if furniture must be moved, e.g., to gain access to a meter cupboard.

Fortunately, loads in the office are likely to be low risk and will normally be restricted to handling stationary boxes and the like. However, sometimes heavy equipment, such as printers or computers may need to be moved.

The following is basic guidance for the likely handling operations in the office. Fuller advice is available in the HSE publications ***"Getting to grips with manual handling"*** and ***"Manual Handling Assessment Charts"***.

- Improve the workplace layout to remove the need for manual handling, particularly awkward handling, involving twisting and lifting to and from heights
- Split loads down into more manageable sizes and weights
- Assess your staff as to their lifting capabilities. Don't let people lift more than they should even if they are willing
- Assess the risks of each load - are they slippery, do they have sharp edges, is the floor surface dry and stable?
- Will trolleys or other equipment help?
- Observe activities so see if loads are being lifted inappropriately by individuals
- Provide training in correct lifting techniques (see the HSE publications)
- \*
- Set a policy for team lifting of particularly heavy or awkward loads

#### 5.06 Hazardous Materials



The DEAs office environment will be low risk. The most hazardous material is likely to be the boiling water in the office kettle, followed by the toner for the printer and the office cleaning materials.

However one must not be complacent and the risks must be considered and managed.

Some simple guidelines are appropriate:

- Make sure manufacturer's instructions are followed
- Arrange for safe and appropriate storage of materials with correct labeling of what they are
- Supply protective clothing and gloves if necessary
- Ensure that facilities for cleaning are available after handling
- Ensure that materials are handled in a secure environment and on stable surfaces
- Provide training as necessary

The HSE publication "***COSHH: A brief guide to the Regulations***" gives fuller guidance to the Control of Substance Hazardous to Health Regulations 2002.

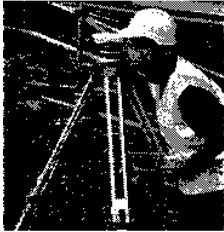
### **5.07 Health and Safety - Further Reading**

The training material provided in this module is not an exhaustive explanation of all of the liabilities imposed by Health and Safety legislation, particularly for those DEAs who are or will become employers. This is a very complex subject and you are urged to read more widely on the subject.

A key text is "Surveying Safely" available as a free pdf download from the Royal Institution of Chartered Surveyors ([www.rics.org](http://www.rics.org)), which is focused on the risks associated with property inspections. Also, as specified throughout this unit, comprehensive publications on all aspects of health and safety are available from the Health and Safety Executive ([www.hse.gov.uk](http://www.hse.gov.uk)), some free and others at modest cost.

**SECTION 6 DEA INSPECTION EQUIPMENT**

This section provides a list of equipment Domestic Energy assessors should possess to assist in data collection and provide health and safety protection when inspecting properties.

**6.01 Equipment List**

The equipment list for Domestic Energy assessors is similar to that for Home Inspectors and Residential Surveyors. The table on the next page sets out what a typical DEA might possess.

Some items should be kept in a bag to be carried into each property and other items can be kept in the car for occasional use depending on the circumstances.

**DEA Equipment List**

ITEM	PURPOSE	COMMENTS
Ladder	For accessing loft hatch and viewing close-up at high level.	Easily carried surveyors four section aluminium ladder or collapsible. Minimum height 3 metres
Torches	For inspecting roof voids and other dark conditions	Carry a spare torch and spare batteries as this is a key piece of equipment. Head mounted torches good for roof void work where hands need to be free for support
Binoculars	Viewing items at high level from the ground	Arguably not necessary for DEAs, but useful for viewing walls to spot construction type and presence of cavity wall fill holes, plus whether chimneys are open or capped off.
Digital camera	Recording factual evidence	Very useful addition to written site notes to record circumstances that restricted the inspection and aspects of inspection that need research back at the office e.g. unusual boiler installations
Clipboard	For recording site notes	Clipboards more versatile and can be used to keep together all papers, plans, maps, etc.
Dictaphone	For recording site notes	Can't be used for measurements but useful for speed of record keeping and when raining. Will need transcribing into paper format for storage.
PDA or tablet computer	For site notes and EPC completion	Such devices have been developed for valuation report use and will no doubt be developed for EPC use. Can be cumbersome to operate on site.
Measuring tapes and rods	For measuring perimeters and floor areas	Measuring techniques are discussed in Unit 3
Hard hat	For head protection	Useful in roof voids and cellars and mandatory on building sites. Need replacing if subject to impact damage
Fluorescent vest	To be seen in dark conditions	Mandatory on building sites
Safety boots	Protection from sharp objects in ground and crushing damage	Metal toe and sole boots are available as work boots or Wellingtons. Mandatory on building sites. Use in overgrown gardens where tread uncertain.
Overalls	Protection in dirty conditions	Use in roof voids and dirty cellar conditions. Useful for holding equipment in multifarious pockets
Gloves	Protection from dirt and irritants	For use in roof void and cellars and any other dirty or hazardous location. Disposable latex type best.
Face masks	Protection from air borne irritants	Use in any dusty environment and when exposed to glass fibre insulation. Invest in more expensive type with renewable air filters.
Light weight shoes	To change into from outdoor shoes	Useful when outdoor shoes muddy to protect carpets and appease proud home owners. An alternative is plastic slip on shoe covers but these can be cumbersome.
Mobile phone	To maintain contact when on site	Vital health and safety tool when inspecting alone. Keep well charged and on your person.
Personal alarm	To summon help and deter attackers	High pitched audible alarm. Keep on person when inspecting alone.

## SECTION 7 SECURITY OF INFORMATION

This section provides a basic understanding of Data Protection law and the implications for a Domestic Energy Assessor.

### 7.01 Data Protection



DEAs and their support staff will hold "personal data" about home owners, in that they will record their addresses on the EPC and will hold their names, telephone numbers and possibly email addresses on instruction sheets, site notes and computer records.

Anyone who holds personal data on individuals must comply with the Data Protection Act 1998 and this section outlines the duties imposed.

Fortunately, the personal data held by DEAs is not particularly sensitive. For instance, it does not relate to a home owner's financial circumstances (other than the fact that they are selling their property) and does not relate to issues of race, relationships, date of birth, employment, etc. The likelihood of DEAs falling foul of the law or having to deal with access to information requests is therefore remote, but DEAs do need to know the background to Data Protection law.

The 1998 Act superseded the Data Protection Act 1984 and crucially brought computer held records of personal data into the ambit of the legislation, whereas previously only paper records were included.

Personal data is defined as that which relates to a living individual, including expressions of opinion, and identifies them by name, plus postal or email address.

The Act imposes a heavy burden on those that hold data:

**Personal data must be processed fairly and lawfully** - There must be justification for holding the data and you must hold consent for keeping the data. This is likely to be incorporated in a standard contract issued by a Home Information Pack provider. The full HIP will contain much fuller and more sensitive personal data than that relating to the EPC.

**Personal data must be obtained and used for specified and lawful purposes** - When you obtain personal data from people, you have to tell them what you are going to do with their information and whether it is going to be disclosed to anyone. The most common way of doing this is by telling people at the end of an application form and it is likely that HIP contracts will cover this issue.

**Personal data must be adequate, relevant and not excessive** - You need to hold enough information to do your job, but you must not hold information that isn't really needed. DEAs need the home owners name and address in order to make arrangements to inspect, which is fine, but they must not keep names and addresses for other purposes, e.g. to use in future sales campaigns.

**Personal data must be accurate and where necessary, kept up to date** - Your responsibility doesn't stop with just recording the information correctly. Some

information, such as a person's address, may change. If you are told to update information, you should do so promptly so that the information remains accurate and up to date. Arguably, a DEA will not need to have an ongoing relationship with the home owner and it is most unlikely that they will be asked to amend names and addresses kept in their databases.

**Personal data must not be kept for longer than necessary** - The Act doesn't define how long each type of record should be kept, but it does require that information is only held as long as it is needed. Arguably a DEA can purge the home owners name from computer records soon after the EPC is completed.

**Personal data must be processed in accordance with the rights of data subjects** - People have a number of rights over data held about them.

- They can have inaccurate information corrected or erased
- They are entitled to a copy of the information
- They can opt out of direct marketing (we are all familiar with these tick-boxes)
- They are entitled to compensation for breach of the Act

**Personal data must be kept secure** - systems must in place to keep information secure (e.g. passwords to get into computer systems)

- Don't let other know your password or write it down where it might be found
- Don't let the public or visitors read your screen
- Don't leave paperwork around for others to read, e.g. site notes
- Use a shredder to dispose of paperwork that holds personal data
- Ensure that all staff, including temps, understand the data protection principles

**Personal data must be properly protected when transferred overseas** - This is unlikely to present problems for DEAs.

**SECTION 8 PROFESSIONAL NEGLIGENCE & OTHER LIABILITIES**

This section covers considers the basis for professional negligence claims against Domestic Energy Assessors and looks at some other liabilities likely to be associated with working as a DEA. A very brief summary of the law is provided and DEAs are advised to seek clarification from a qualified lawyer before agreeing to contracts or other legal documents.

**8.01 Negligence**

DEAs will have a contractual duty to produce an accurate EPC and that duty will be owed to whoever the DEA has contracted with.

As mentioned in Section1, the Government has yet to pronounce on a standard set of contractual terms for an EPC, but such a set was produced for the Home Condition Report and one is expected for the EPC. The contracting parties, who might be the home owner, estate agent or pack provider, will be able to sue the DEA for losses sustained as a result of an erroneous EPC using contract law.

In addition, a DEA will have a "Duty of Care" to other parties who might reasonably be expected to rely on the EPC. The two obvious candidates for such a right are the purchaser of the property and their lender. This duty of care flows from the Law of Tort rather than the contract law. To bring a claim for compensation in Tort claimants will need to establish:

- That the EPC was incorrect
- That they have sustained a loss due to the error
- That the error was due to negligence on the part of the DEA
- That they might reasonably have been expected to rely on the EPC

It is not possible to contract out of a duty of care to third parties, so even though the contract, and indeed the EPC document itself, might proclaim that only certain parties can rely on it, other parties are likely to be able to establish a duty of care. Fortunately, Professional Liability insurance, which is mandatory for DEAs, will provide cover for both contractual and tortious claims.

It is only after cases have come to court that a degree of certainty will emerge as to how the courts will interpret the law of negligence concerning EPCs, but the following scenarios are likely:

- A home owner might claim that the SAP or Environmental Impact ratings in the EPC were too low and that this caused the selling price of the property to be lower than it would have been had the ratings been correct
- A purchaser might claim that the SAP or Environmental Impact ratings in the EPC were too high and that this caused them to pay more for the property than they would have done had the ratings been correct.
- A lender might claim that the SAP or Environmental Impact ratings in the EPC were too high and that caused them to lend more money than they would had the ratings been correct
- A purchaser might claim that their heating bills are higher than they expected due to the SAP rating being too high.

The first three scenarios rely on the premise that property values are affected by the ratings in an EPC, which is tenuous at present because very few SAP ratings are undertaken. However once HIPs are introduced and the market becomes used to SAP and Environmental Impact ratings being published for all properties, it is conceivable that a relationship between ratings and property values will emerge.

It is important to recognise that a claimant would have to establish that the open market value of a property was affected by an incorrect EPC, not just their own personal preference, and this would require them to obtain expert opinion from professional valuers.

The fourth scenario, concerning higher than expected heating bills, has a more direct physical link to the SAP rating, but it remains to be seen whether the courts will determine compensation on the basis of additional cost of energy, if the market value of the property is unaffected by the error in the EPC.

## 8.02 Handling a Negligence Claim



The requirement to have a published complaints procedure, to act reasonably and to comply with the rules set by an Accreditation Scheme was explained in Section 1 of this Module.

If negligence complaints are received they need to be handled in accordance with the agreed procedures. It is also likely that Professional Indemnity insurers will require notification of negligence claims at the outset.

Do not try to negotiate a settlement on you own without the insurers' knowledge, as this could prejudice their handling of the claim if it transpires that your negotiations fail.

### 8.03 Time Limits and Storage of Documents



Two pieces of legislation need to be considered.

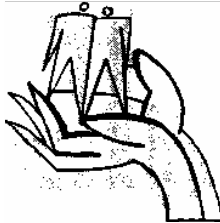
**The Limitation Act 1980** sets a time limit of six years for an aggrieved party to start an action alleging professional negligence (other than for personal injuries). That is six years from the date of the negligent action.

**The Latent Damage Act 1986** complicates matters in the case of those acts of negligence that are not reasonably apparent to the claimant when the damage was caused, i.e. that are latent.

Arguably, an incorrect EPC would not be apparent to a home owner or purchaser until a later EPC was undertaken, so EPC errors are likely to be considered by the courts as being latent damage. The 1986 Act sets a time limit for bringing claims of three years from first knowing of the damage, subject to an ultimate long-stop of fifteen years from the negligent act.

Therefore, DEAs can conceivably face a negligence complaint for work they undertook at any time within the last fifteen years and it is for this reason that they are required to keep site notes and other records for this lengthy period.

### 8.04 Other Duties of Care



When undertaking an EPC, a DEA is not conducting a survey of the building or of the heating, lighting and hot water services. Condition is irrelevant to an EPC; services are not tested or checked to see that they function.

All that the DEA is required to do, is observe how the building is constructed, what insulation is provided, and what heating and lighting appliances are present. They can assume that all is functional or could be made functional by repair.

However, DEAs are a professional people, knowledgeable in matters relating to domestic construction and services. What if they observe a defect that has serious health and safety implications for an occupier? Examples might be, sprayed asbestos insulation, lack of ventilation to open flue gas appliances and obviously dangerous electrics. Do they have a duty to report such findings? Who do they report to and how do they make that report?

In the absence of direction from the Government, in terms of published Inspection and Reporting Requirements, this is a matter for conjecture, but it seems that there is a moral duty to report such defects, even if not a legal one.

The following seems to be a reasonable cause of action:

- If clearly dangerous circumstances are observed in a property, the DEA should report those circumstances to a responsible person (the property owner, or managing agent in the absence of the owner). This should be done orally as soon as possible after the inspection and be followed up in writing.
- When reporting the defect, the DEA should explain what they have observed and explain why there is a danger associated with the observation. For instance, if there is a lack of ventilation to an open flue appliance, the DEA should explain that this could lead to carbon monoxide poisoning. Merely stating that ventilation is missing is not really sufficient warning.
- The EPC document does not provide space for free text, so a letter to the property owner is the best format to report dangerous circumstances. Whether the owner passes the information on to a purchaser must be on their conscience. It is suggested that the DEA has done his/her duty.

#### 8.05 Occupier's Liability Acts 1957 and 1984



These Acts impose a duty on occupiers to keep visitors safe on their land, both lawful visitors invited onto the land or (to a lesser extent) trespassers. For the DEA this means that home owners and their agents have a duty not to expose a DEA to dangerous circumstances or at least to warn of those dangers.

#### 8.06 Vicarious Liability



This legal principle relates to an employer having liability to the actions of his/her employees. So, for a DEA employed by a company, it is the company that is sued for negligent acts of the DEA, rather than the DEA personally.

However the courts have been inclined to allow valuers to be sued personally where a valuation company for whom they worked no longer exists, so the law is not quite as clear as it might be in this regard in respect of a DEA.

**SECTION 9 – SELF TEST QUESTIONS**

Test your understanding of Module 2 by answering the following questions. There is no need to write an essay, just note down the key points. Model answers are provided in the appendices at the end of the training pack.

1. What is the main underlying qualification to duties imposed by the Health and Safety at Work Act?
2. List the five stages of risk assessment as recommended by the HSE.
3. What is the main hazard of inspecting empty properties and how might it be mitigated?
4. When considering whether to enter a roof void, what are the main factors the DEA should take into account?
5. What is the most hazardous type of asbestos and where is it most likely to be found by a DEA?
6. If a DEA smells gas when inspecting a property what action should he/she take?
7. What H&S regulations apply to a secretary working in a DEA's home based office?
8. What are the main requirements of the Health and Safety (Display Screen Equipment) Regulations?
9. When inspecting a roof void, what equipment should a DEA utilise?
10. What was the key additional liability imposed by the Data Protection Act 1998?
11. Why is data held by a DEA considered to be "personal data"?
12. What time limits were imposed by the Latent Damage Act?

## SELF TEST ANSWERS

1. What is the main underlying qualification to duties imposed by the Health and Safety at Work Act?

***"so far as is reasonably practicable"***

2. List the five stages of risk assessment as recommended by the HSE.

***Step 1. Identify the hazards***

***Step 2. Decide who might be harmed and how***

***Step 3. Evaluate the risks and decide on precautions***

***Step 4. Record your findings and implement them***

***Step 5. Review risk assessments and update if necessary***

3. What is the main hazard of inspecting empty properties and how might it be mitigated?

***Empty properties***

***Be hyper sensitive about suspicious circumstances***

***Always have a fully charged mobile phone.***

***Consider carrying a highly audible personal alarm***

***Do not lock doors behind you.***

***Plan your escape route***

***Implement a call-back system with your office***

***Make sure that your daily work schedule is available to others***

***Be particularly careful about inspecting the roof void***

***Do not try to move heavy furniture on your own***

4. When considering whether to enter a roof void, what are the main factors the DEA should take into account?

- **Are the ceiling joists sufficiently robust to take your weight?**
- **Are walking boards securely fastened?**
- **Is a pathway to the area you wish to inspect clear**
- **If there are no walking boards make sure can you see the ceiling joists easily**
- **If there is any sign of dangerous material**

5. What is the most hazardous type of asbestos and where is it most likely to be found by a DEA?

**Blue asbestos, found in lagging to boilers and pipework**

6. If a DEA smells gas when inspecting a property what action should he/she take?

***Tell the occupier/agent and consider whether to phone Transco yourself***

7. What H&S regulations apply to a secretary working in a DEA's home based office? ***The***

***Workplace (Health, Safety and Welfare) Regulations 1992***

8. What are the main requirements of the Health and Safety (Display Screen Equipment) Regulations?

- ***Workstations should be analysed to ensure that there is sufficient adjustability of seating and equipment, sufficient lighting and space for documents***
- ***Work must be planned to allow breaks and changes in activity***
- ***Eye tests should be provided free of charge to those employees whose job involves long periods of computer screen use***
- ***Training and health and safety information should be provided***

9. When inspecting a roof void, what equipment should a DEA utilise?

**Sectional ladder, overalls, hard hat, torches**

10. What was the key additional liability imposed by the Data Protection Act 1998?

***Electronically held personal data was included***

11. Why is data held by a DEA considered to be "personal data"?

***Because it identifies the homeowners and their address***

12. What time limits were imposed by the Latent Damage Act?

**Claims must be made within 3 years of the claimant knowing of the damage, subject to a 15 year long stop from the negligent act**