

H&S Stage Two

Resources

ACTIVITY 13: Taking action on problems – negotiating with management

Using a systematic approach

Introduction

One of your most important responsibilities as a health and safety representative is to take up workplace health, safety and welfare problems.

Each problem you tackle will be different but the method that you use will be similar. The aim of this section is to outline a step-by-step approach to dealing with health and safety problems.

Three useful headings for dealing with problems are:

- Problem – defining the problem.
- Investigation – finding out more.
- Plan – deciding what to do.

This is known as PIP.

Problem

- Inspections of the workplace.
- Surveys of members or body mapping.
- Encouraging members to raise problems.
- Getting information from management.
- Using information from suppliers.
- Studying accident and ill-health records.
- Reading union publications.
- Using official information.

Getting members' views

Four ways of doing this are:

Interviews: try to find out:

- When? date and time.
- Who? people involved.
- Where? place where the problem is.

- What? nature of problem.
- Why? reasons for the problem.

Surveys: short surveys of members can be a very useful way of getting information and generating interest. TUC body maps are also helpful.

Meetings: you can use meetings with members to get views, information and support.

Inspections: you can use inspections to discuss health and safety with members.

What are the causes?

Some put problems down to members' carelessness or apathy when the problem is really one of defective equipment, poor systems of work, inadequate training or poor supervision. The Accident Investigation checklists on page 179 could help you to ask some of the right questions.

One-off or broader problems

Does the problem raise broader issues?

- Is it an isolated case of racial harassment causing ill health, or are there more?
- Is a single VDU a problem, or do we need to look at the whole procedure for introducing VDUs, getting information, training and use?

You will often find that individual problems raise wider issues. You have to decide which angle to pursue. Sometimes it might be easier to get a result if you raise the matter as a one-off. On the other hand, this may not get to grips with the real problem.

Health and safety problems are rarely self-contained. Often they are linked to problems like pay, discipline and work organisation. Safety reps cannot handle these on their own, so liaison with other union representatives may be vital.

Key points to remember are:

- There will often be deeper issues as well as the immediate problem,
- Negotiation on an individual case can affect other workers, or future negotiations, by setting a precedent.

Investigation

One of your main responsibilities is to look into hazards at work. The SRSC Regulations give you backing on this. The course should give you plenty of ideas about different ways to investigate.

These include:

- Inspections.
- Involving members. Getting information.

What do my members want?

It is crucial to ask them. They may have ideas about what should be done and their support will be vital if management does not respond. You also need to assess how strongly members feel about

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the problem before you decide how to take it up.

What does my union say?

Unions are developing new policies on health and safety issues all the time – on whether to work with certain substances, tackling bullying, working with VDUs, tackling stress, and so on. You should check your union's web page, union journals and publications for details of union policies on health and safety issues. Your branch secretary or full-time official will help you with this. You should make sure you are on the postal or e-mailing list of your union to receive health and safety information.

There may be policies in your workplace or district, which you should take into account as well. You should also take advice from senior reps in your workplace.

What do my agreements say?

There may be agreements about safe working practices or management's responsibilities to keep safety reps informed. There may be special agreements on how health and safety problems should be taken up, in addition to the normal grievance procedure. Other agreements like those on bonus, staffing, work organisation and work methods all affect health and safety. As a union rep, one of your jobs is to make management stick to agreements. You need to make sure that health and safety is considered whenever any new agreements are negotiated.

What does the law say?

Laws, Codes of Practice and Official Guidance lay down many standards for healthy and safe working. It pays to use the law where it helps.

Questions for management

- Safety reps have rights to get information from management. For example: Risk assessments.
- Accident or injury reports.
- Survey reports (for example on violence)
- Registers and records – such as tests on lifts or extraction equipment. Chemical data sheets.
- Letters from health and safety inspectors.

Make sure you ask for all the information you need, and keep in touch with any specialist health and safety staff employed at your workplace.

Health and safety inspectors

Health and safety inspectors will often answer queries from reps, especially when asked in writing. Inspectors should keep union reps informed whenever they visit a workplace, take enforcement action, or issue the employer with advice.

The HSE also provides an HSE Infoline on 0845 345 0055.

Plan

The union's aims

Before you raise an issue you must work out what you want to achieve. This will depend on:

- The problem
- The results of your investigation
- Union strength.

Short-term and long-term aims

If the problem is one complaint about bullying, your short-term aim is to prevent the bullying of that person. But your long-term aim may be to get a new policy introduced to prevent bullying in all forms in the workplace. Try to agree a timescale for longer-term improvements.

Compromise

Negotiating means reaching agreement. You will not normally get everything you want from management. Whether you reach agreement or not depends on:

- Your negotiating strength and members' support.
- The importance of the issue.
- Whether management is breaking a law or an agreement.

So, think in advance about your fallback position.

Involving your members

You need to:

- Keep members informed of progress on their problem.
- Win their support.
- The fact that members feel strongly about a problem, and are prepared to support you, is your main source of strength. So always keep them informed about what you are doing. Involve them in planning your approach and deciding what to accept.

It is unwise to exaggerate the strength of members' feelings. If you do, you risk damaging your credibility with both management and your members.

Taking up the issue

Sometimes, minor issues can be sorted out informally by direct contact with relevant managers. In other cases you will need to raise a matter formally.

Bear in mind the following points:

- Look at the procedure and the stages in it.
- It is best to raise issues in writing.

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- Safety committees can sometimes help resolve problems – but it may be more effective to raise problems directly with the relevant manager.
- You may decide to use the disputes procedure, in which case you must involve other relevant union representatives.
- Urgent problems may have to be raised directly with senior management.

Good procedures for resolving problems:

- Let you talk to members of management who can make decisions.
- Contain time limits which help to get problems settled quickly.
- Contain a status quo clause, which should prevent management from making changes without consulting the union.

Union pressure and arguments

Improving health and safety usually costs money and at times there will be disagreement between management and safety reps. You will need a wellargued case and you should refer to the law and agreements when you can. But the main source of negotiating strength is often the support of your own members, and their determination to secure improvements.

The systematic approach (PIP)

Problem

- What are the facts?
- What do my members want?
- What are the causes?
- Is it a one-off or a broader problem?

Investigation

- What does my union say? What do my agreements say? What do my members want? What does the law say?
- What questions should I put to management?
- Should I ask a health and safety inspector?

Plan

- What are the union's aims?
- How should I involve my members?
- How should I take up the issue?
- What pressure and arguments should I use?

Negotiating with management

Introduction

- Effective negotiations need:
- Members' support.
- A well-prepared case.
- Negotiating skills and tactics.

This applies during:

- Informal meetings, for example raising a health and safety issue with a supervisor.
- Formal meetings, for example joint safety committees or other negotiating bodies.

Members' support

No matter how good your case, strong arguments are not enough for negotiating success. Good union organisation and membership support are vital. Otherwise management will be able to ignore your arguments.

Your members' feelings on an issue are central to your negotiating strength. So be careful to keep members informed. Report back regularly and make sure members understand the importance of the issues you take up. Don't exaggerate your members' feelings about an issue – sooner or later your bluff will be called if you don't have members' support.

Preparation

The systematic approach to handling problems in Skillnote 5 on page 192 sums up the steps you must take to prepare for negotiations:

Problem

- What is the problem?
- Is it a well-known hazard?
- How many people are affected?
- Has it been raised before?
- What was the employer's response?
- Have members received training?

Get the facts, check them, talk to members, get advice from fellow union reps.

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Information

Check agreements, procedures, union policy and custom and practice.

What does the law say? Is there anything in:

- Health and Safety at Work Act
- or other Acts?
- Regulations?
- Codes of Practice?
- Guidance Notes?
- How strict are the duties?
- What is the best practice locally and in the sector?
- Could there be a cost versus risk argument?
- Do you need expert advice?
- Where can you get it?

Plan

Decide on the best way to use the facts and arguments you have collected.

Planning is vital. You need to take a number of steps:

- **Aims.** Decide what you want. This will depend on the problem, and on the information you have about your rights, and the employer's legal obligations. It also depends on agreements, procedures, union policies and your members' views. Consult them, other groups who might be affected and other union reps.
- **Timescale.** You need to set a time limit for the immediate problem to be solved. You also need to set a time limit on getting management to put systems in place to ensure that the problem does not recur.
- **Arguments.** Pick the strongest arguments to support your case. You may decide to use some of these and keep others in reserve. You shouldn't 'show your hand' completely in negotiations – you may need to change tack during discussion. Think about management's likely arguments, and how you are going to respond to them.
- **Fallback.** It's rare in negotiations to get everything you want. Sometimes you have to compromise. Work out the minimum you would accept bearing in mind the case, the employer's legal obligations and the strength of the members' feelings. Never agree less than the legal minimum.

- **Action.** You need to consider what options are open to you and your members if management does not respond to your case. These might range from a meeting with more senior management, calling in the appropriate inspector or getting your member to refuse to work in dangerous conditions. Make sure your members know what the options are and that you have their support.
- **Tactics.** You should have a union-side meeting before seeing management – to agree on the arguments to use, who will be the main spokesperson, and who will come in with extra points. You must also be clear about what compromises are acceptable.

Meeting management

In negotiations you should be careful about the following points.

United front

Having one main union speaker is necessary to keep unity. Never disagree in front of management. This would show a lack of preparation by the unions, which management could take advantage of. If disagreement on the union side seems likely, use an adjournment to sort things out.

Adjournments

You can stop any meeting for a limited time to:

- Regroup the union side if there are divisions or confusion.
- Consider new facts and information.
- Consider a management offer.

Notes

Someone on the union side should keep notes. You will have limited time and good notes will help you to review the key points. Avoid a rambling discussion; the spokesperson should draw some conclusions about the union's new position, and make sure everyone is agreed on any new tactics.

Control the discussion

Keep the discussion on your best arguments. Ask management questions and get them to justify their position. Keep the emphasis on your complaints and grievances. Object if you get evasive answers and ask for facts if vague statements are made.

Getting a settlement

Your aim is to reach satisfactory settlement. This means:

- Keep your overall aims in mind. Be careful that you don't fall below your minimum acceptable position.
- Watch out for management offers – they will often be phrased in a guarded way. If so, you will need to clarify what exactly is being offered.

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The agreement

Never leave the negotiations without a clear record of what has been agreed. Do not leave it to the management to send you their record afterwards; keep your own notes and, if necessary, insist on a form of words to be agreed there and then.

Reporting back

It's union strength that really counts in negotiations. That means members' support. So reporting back to members on negotiations should be a regular event. You might need to negotiate special facilities from management to enable you to do this.

During the course

You will be taking up workplace problems and preparing for negotiations at work:
Use the Checklist and Plan below to prepare your case. You may be asked to role play a meeting as either:

- A safety rep.
- A member of management.
- An observer (use the observer's checklist below).

Negotiating with management

Preparing your case

- Get the facts and check them.
- Look at agreements, policies and procedures.
- Look at union rights and employers' obligations.
- Work out aims.
- Decide on key arguments and counter arguments.
- Work out a fallback position.

Teamwork

- Arrange a pre-meeting.
- Choose a speaker.
- Make sure notes are taken.
- Agree arguments and tactics.

Meeting management

- Never disagree in front of management.
- Use adjournments when needed.
- Steer discussion to your strongest points.
- Look for management offers.

- Never agree less than the legal minimum.
- Make sure there's an agreed written record.

Reporting back

Keep members in touch, and consult them before accepting final offers.

Checklist

Outline negotiating plan

Main facts.

Cause of the problem.

Underlying problem.

Aims:

- Ideal settlement
- Realistic settlement
- Fall back position
- Timescale

Your main arguments.

Management's likely response.

Management's likely arguments.

Your planned response.

Observer's checklist – presenting the case

Use this checklist to provide feedback to participants in the meeting. Did the participants:

- Have clear objectives?

Negotiate

- With courtesy?
- With firmness?
- Put their case simply and clearly?
- Use counter arguments?
- Defend their own case?
- Use adjournments appropriately?
- Get a clear result?
- Check their understanding of then result with the other side?
- Other comments on how the meeting was conducted: