

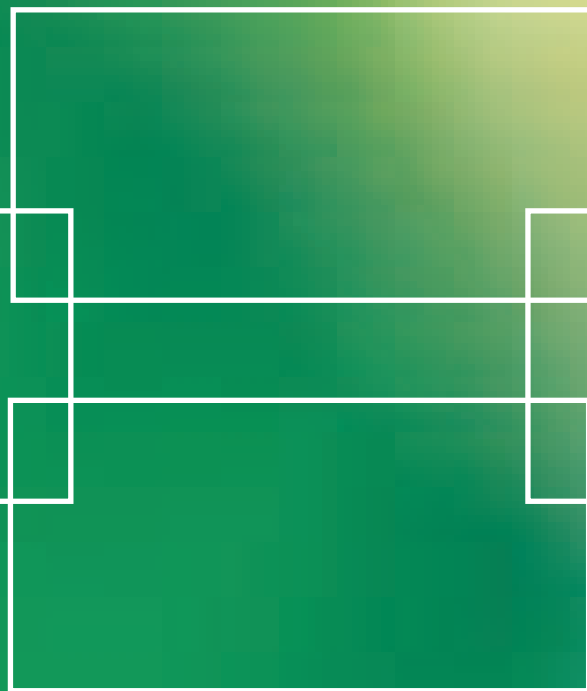
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Unite

HEALTH AND SAFETY

Guide



www.unitetheunion.org

Unite Health and Safety Guide

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Unite

HEALTH AND SAFETY

Briefing

Legal and political update



Introduction

This briefing is issued to update members on recent health and safety changes, most of which are effective from 1 October 2013.

The briefing highlights changes to legislation to update the Unite Health and Safety Guide which was last issued with minor revisions in February 2013. Unite currently plans to carry out a full revision of the Guide in 2014 and members are advised to keep a copy of this briefing with their H&S guide. It is also posted on the Unite website alongside the guide.

Unite is strongly opposed to deregulation and all weakening of health and safety legislation and will continue to fight further attacks on workers' rights and protections by the Tory led coalition government.

Government attacks on health and safety

Members will be aware of the sustained attack by the Coalition government on workers' employment rights including health and safety protection for workers:

Hostile rhetoric from the Prime Minister and others in government about health and safety protection being "red tape", and a "burden on business", pledging to "kill off health and safety culture for good", and attacking facility time for union representatives, particularly those working in the public sector.

Savage cuts to the budgets of the Health and Safety Executive and local authority enforcers.

Falsely categorising as lower risk some industries, including transport, general manufacturing and service sectors, which renders them not worthy of proactive inspection by the enforcers.

Proposed self-employed exemption: the government plans to amend the Health and Safety at Work etc Act 1974 to exempt an estimated 800,000 self employed people – whose work activities "pose no potential risk of harm to others" from health and safety legislation – at an estimated saving to business of a paltry £300,000 a year.

Deregulation

The government has already taken this action:

- **Weakening legislation** such as the removal of strict liability from health and safety regulations, reducing accident and ill health reporting requirements and removing the requirement for the HSE to approve health and safety training.
- **Scrapping** key approved codes of practice such as the code supporting the Management of Health and Safety at Work Regulations 1999 and replacing it with guidance and weakening other guidance.
- **Trivialising harassment** and violence at work by repealing the Equality Act 2010 provisions on third party harassment so that employers will not be liable under equality legislation for third party harassment of staff for example, by customers or members of the public. These provisions were repealed under the Enterprise and Regulatory Reform Act 2013 and with effect from 1 October 2013.

Weakening of health and safety legislation

Two revised health and safety regulations took effect on 1 October 2013. These are:

- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR 2013)
- Amended Health and Safety (First Aid) Regulations 1981.

RIDDOR 2013

The Health and Safety Executive (HSE) has formally implemented changes to reduce the scope of mandatory reporting of workplace injuries for businesses.

The new regulations include the change which took effect on 1 October 2012 when the requirement to report accidents which result in a worker being incapacitated for more than three days was changed to seven days. However, the employer must still record "over three day" injuries.

Unite HEALTH AND SAFETY Briefing

1. The additional main changes are significant and are as follows:

- The classification of 'major injuries' to workers is replaced with a shorter list of specified injuries
- The previous list of 47 types of industrial diseases is being replaced with eight categories of reportable work-related illness
- Fewer types of dangerous occurrences require reporting.

2. There are no significant changes to the reporting requirements for:

- Fatal accidents
- Accidents to non-workers (members of the public)

3. Amendment to the Safety Representatives and Safety Committees Regulations 1977:

RIDDOR 2013 also amends the SRSC regulations as follows:

Regulation 6 (inspections following notifiable accidents, occurrences and diseases) has been amended as follows (additions in red):

Reg 6(1) Where there has been **an over three day injury**, a notifiable accident or dangerous occurrence in a workplace or a notifiable disease has been contracted there and... [regulation continues].

Reg 6(3) In this Regulation "notifiable accident or dangerous occurrence" and "notifiable disease" mean any accident, dangerous occurrence or disease, as the case may be, notice of which is required to be given by virtue of any of the relevant statutory provisions within the meaning of section 53(1) of the 1974 Act, **and "over three day injury" means an injury required to be recorded in accordance with Regulation 12(1)(b) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.**

Further information

RIDDOR – the regulations

<http://www.legislation.gov.uk/ukxi/2013/1471/contents/made>

HSE leaflet: Brief Guide to RIDDOR 2013

<http://www.hse.gov.uk/pubns/indg453.pdf>

HSE information about reportable incidents

<http://www.hse.gov.uk/riddor/reportable-incidents.htm>

First aid

The Health and Safety (First Aid) Regulations 1981 have been amended to remove the requirement for HSE to approve first aid training and qualifications. The new approach applies to businesses of all sizes and from all sectors.

Further Information

The regulations, and guidance for employers, are available on the HSE website at <http://www.hse.gov.uk/firstaid/>

Removal of strict liability – a further attack on workplace health and safety

Professor Löfstedt, in his review of health and safety, identified "potential unfairness" that arises in his view where health and safety at work regulations impose a strict liability on employers, making them legally responsible to pay compensation despite having done all that was reasonable to protect their employees. Professor Löfstedt recommended that regulatory provisions which impose strict liability should be reviewed.

No review took place. Instead the Government, without prior consultation, inserted a clause in the Enterprise and Regulatory Reform Act 2013 (ERRA). ERRA became law on 1 October 2013. Section 69 of ERRA amends Section 47 of the Health and Safety at Work Act 1974.

The effect of Section 69

The government has:

- Weakened health and safety legislation by removing strict liability in health and safety regulations.
- Effectively removed the right of injured people to rely upon breaches of health and safety regulations when pursuing a legal claim. An injured person will now be left to rely solely upon proving his/her claim by reference to common law negligence, which will make it much more difficult to succeed.

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Important advice regarding personal injury claims

Members should not be deterred by this development from seeking advice from Unite's solicitors with regard to personal injury claims.

If a member requires legal assistance as a result of an accident at work or being diagnosed with an occupational disease or any other personal injury they should telephone Unite's panel solicitors directly on 0800 709 007 or telephone their local Unite office to obtain direct access to a Unite solicitor – **WITHOUT DELAY.**

For more information about legal services please go to this link on the Unite website:

<http://www.unitetheunion.org/how-we-help/legalservices/>

This briefing is issued by Unite the union.

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Unite health and safety website resources pages
<http://www.unitetheunion.org/unite-at-work/healthsafety/>

September 2014

Foreword: A message from Unite's General Secretary

Safety representatives are an integral part of Unite's workplace team – this is why organising around health, safety and welfare issues is a key aspect of the safety representative's role. As is the ambition to achieve Unite's declared aim to organise, build solidarity and heighten our members' political awareness – our three pillars.

Healthy and safe work places not only don't kill, injure or make people unwell but are characterised by good pay, good conditions and non-alienating "good work". They are characterised by high levels of job security with no or minimal fear of being pitched onto the unemployment line. As part of the Unite workplace team, the Safety Rep has a key part to play in improving membership terms and conditions of employment. Organising, building and engaging membership is of crucial importance in improving workplace health, safety and welfare. And that is our first pillar.

Our union's vision is of a fairer and therefore better and healthier society and whether we like it or not, politics and political decisions affect almost every aspect of our lives, within and beyond the workplace. Research demonstrates that health inequalities in society are not a consequence of how wealthy a society is but how equal it is. And since the vast majority of people rely on the wage packet for whatever wealth they may have, what they earn will have a direct bearing on how healthy they and their families are likely to be over time. Clearly this embraces politics.

The struggle to improve workplace terms and conditions is therefore as crucial for safety reps as it is for Workplace Reps – organising to secure "good work" as characterised above, is of fundamental importance to the kind of society we want to achieve. With this perspective in mind we need not only to tackle the causes of accidents and ill health in the workplace but work towards eliminating the causes, in both workplace and in society, of poor health caused by social inequalities. The bad news is that, far from becoming more equal as a society, we are becoming more unequal, with the rich getting richer and the poor getting poorer and, in consequence, suffering the effects of increasing health inequality. This is the context of Unite's second pillar.

Unite's third pillar is our internationalist outlook. Workers throughout the world may face similar or different hazards to those encountered by Unite members here in the UK and Ireland. But one thing that is certain is that they will face hazards as a result of work and the labour process or as a result of being denied the opportunity to work. We need to be aware of the response of workers overseas to the hazards they face and reciprocate by contributing our expertise to them.

Working people the world over face many similar issues: from insecure employment to ill health caused by work or lack of it. This is why Unite has made and will continue to forge links with unions and like minded organizations throughout the world. Unite endorses the International Labour Organisation's (ILO, an agency of the United Nations) approach. This places health, safety, welfare and work security in its wider, international socio-economic context: "Workers throughout history have had to demand improvements and have had to put pressure on those around them to ensure that they have what we call work security, safe and decent working conditions and occupational health and safety. The ILO ... believes basic security is the essence of 'decent work' and social justice". Equality is also central to the ILO's decent work agenda.

Unite's three pillars therefore provide the rationale for our approach to health, safety and welfare: organising around day to day workplace health and safety issues and extending our claim for good work; campaigning for work security and a more just society and engaging internationally with workers and their organisations for the realisation of our shared values.

I would like to thank all Unite safety representatives, past and present, for the major contribution they continue to make to help ensure that health and safety is at the heart of Unite's fight to improve workplace conditions.



Len McCluskey

Acknowledgements and publisher's note

Unite would like to thank everyone who has helped make this book. These include Unite safety representatives and Unite employees who have contributed comments, case studies and text; and the Government of Gibraltar and the Health and Safety Executive for Northern Ireland which provided help in compiling information about comparative legislation.

The legislation cited is current at 1 July 2011.* Reference in the text is to legislation which is in force in England, Scotland and Wales. Information about legislation in other jurisdictions is in Chapter 17.

There is insufficient space to cover all the health and safety regulations in detail. Instead we have provided brief descriptions for many of them, and have covered a few of the most important in more detail.

At the end of each chapter members will find Signposts to further information. Limited space means we cannot include everything, and new information and guidance is published virtually daily. We recommend that members sign up for Unite, TUC and HSE/HSENI/HSA email bulletins and visit their respective websites regularly to keep up to date. Unite has a wide range of health and safety resources on the union's website: www.unitetheunion.org.

We welcome feedback on this guide, which will be kept under constant review, and updates will be posted on the Unite website.

Please contact Susan Murray (susan.murray@unitetheunion.org) or Bud Hudspith (Bud.Hudspith@unitetheunion.org) with your comments.

* This reprint includes changes to the Control of Asbestos Regulations (Chapter 3) and to the reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Chapter 5).

Abbreviations – organisations, statutes and common terms

ACAS	Advisory, Conciliation and Arbitration Service	LOLER	Lifting Operations and Lifting Equipment Regulations 1998
ACM	Asbestos-Containing material	LRD	Labour Research Department
ACOP	Approved Code of Practice	MAC	Manual Handling Assessment Chart
BBS	Behaviour Based Safety	MHSWR	Management of Health and Safety at Work Regulations 1999
CBI	Confederation of British Industry	MSDs	Musculoskeletal Disorders
CDM	Construction (Design and Management) Regulations 2007	NOCN	National Open College Network
CHIP	Chemicals (Hazards Information and Packaging for Supply) Regulations 2009	OHS	Occupational Health Service
COMAH	Control of Major Accident Hazards Regulations 1999	PIN	Provisional Improvement Notice
COSHH	Control of Substances Hazardous to Health Regulations 2002	PPE	Personal Protective Equipment
DDA	Disability Discrimination Act (replaced by the Equality Act 2010)	PUWER	Provision and Use of Work Equipment Regulations 1998
DEFRA	Department for Environment, Food and Rural Affairs	REACH	Registration, Evaluation and Authorisation of Chemicals
DPA	Data Protection Act 1998	RIDDOR	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
DSE	Display Screen Equipment	ROSPA	Royal Society for the Prevention of Accidents
DSEAR	Dangerous Substances and Explosives Atmospheres Regulations 2002	RPA	Radiation Protection Adviser
EHO	Environmental Health Officer	RPE	Respiratory Protective Equipment
EMAS	Employment Medical Advisory Service	RSI	Repetitive Strain Injury
EPA	Employment Protection (Consolidation) Act 1978	RSR	Roving Safety Representative
ETUC	European Trade Union Confederation	SEPA	Scottish Environment Protection Agency
FACK	Families Against Corporate Killers	SME	Small and Medium-sized Enterprise
G&OSH	Gender & Occupational Safety and Health	SRSC	Safety Representatives and Safety Committees Regulations 1977
HAV	Hand Arm Vibration	SSP	Statutory Sick Pay
HSA	Health and Safety Authority (Republic of Ireland)	STUC	Scottish Trades Union Congress
HSE	Health and Safety Executive	TUC	Trades Union Congress
HSENI	Health and Safety Executive of Northern Ireland	TUSDAC	Trade Union Sustainable Development Advisory Committee
HSL	Health and Safety Laboratory	UIN	Union Inspection Notice
HSWA	Health and Safety at Work etc Act 1974	VDU	Visual display unit
IEE	Institute of Electrical Engineers	VOSA	Vehicle and Operator Service Agency
ILO	International Labour Organisation	WBV	Whole-Body Vibration
IOD	Institute of Directors	WEL	Workplace Exposure Limit
IOSH	Institute of Occupational Safety and health	WHO	World Health Organisation
ITUC	International Trade Union Confederation	WRULDs	Work Related Upper Limb Disorders
LA	Local Authority	WSA	Worker Safety Adviser



Introduction

“Without union safety representatives the British “tick the box culture” would have no challenge whatsoever. If this culture goes unchallenged people will die, families will be devastated and employers will face legal and financial consequences..”

Unite safety rep working in a food factory in the South West

Welcome to the first Unite Health and Safety Guide. Surveys have shown that health and safety is a major reason why workers join trade unions. Everyone is entitled to go to work and return home again every day without being harmed by their work.

This book is designed to provide you with an introduction to health, safety and environment issues at work, including guidance on your legal rights and functions, and how you can use them to organise around health and safety, and at the same time help prevent occupational injuries and ill-health.

We have had about 175 years of health and safety legislation in Britain which had developed in an ad hoc manner. Then the Robens Committee in the early 1970s recommended fundamental changes to legislation and this resulted in the Health and Safety at Work etc Act 1974 (HSWA) which became law in 1975.

Since 1975 consulting employees about health, safety and welfare at work has been a specific legal requirement under the HSWA, the Safety Representatives and Safety Committees Regulations 1977 (SRSC) and in some other health and safety regulations.

The SRSC give trade unions the legal right to appoint workplace safety representatives. As a result you are one of more than 40,000 Unite safety reps – so you are not alone. And there are plenty of opportunities for Unite safety reps to meet, network and share experiences and tactics.

The HSE publishes a detailed Approved Code of Practice and Guidance to the SRSC which is an essential tool for every safety representative. This is known as the “Brown Book”. Please see Chapter 1 for more information.

As a Unite safety representative you can make a huge difference in your workplace. The Health and Safety Executive’s Strategy issued in 2009, *“The Health and Safety of Great Britain”*. Be part of the solution states: “There is strong evidence that unionised workplaces and those with health and safety representatives are safer and healthier”.

The HSE strategy and policies also place great emphasis on worker involvement. For Unite this means in particular involvement of Unite safety representatives in a preventive culture: don’t blame the worker, fix the hazard!

Health and safety legislation is criminal law, and breaking the law can result in prosecution, fines, imprisonment: a criminal record. Everyone has duties under the law including employees, and the self-employed but employers have the primary duty. In spite of this, 70 per cent of serious workplace injuries occur as a result of management failures.

Unite is campaigning for a change in the law to impose specific legal health and safety duties on company directors and senior managers.

Health and safety legislation is in place to protect the health and safety of workers and the public alike, but the law only states the minimum requirements. So there is always room to negotiate above the minimum to improve health and safety protection and practices, and extend rights for safety representatives and members. In some situations this can be relatively easy, but in others it takes a bit more negotiation and skill to work with the employer to provide a healthier and safer workplace for all concerned. Unite will help you acquire the skills you need to as a safety representative.

Here are three key points to remember:

1. You are part of a branch, a region, a sector. You are part of your union, Unite, which provides advice, support and information to help you succeed. You can work together with other Unite representatives at your workplace including Equality Reps and Learning Reps to include health and safety in the whole workplace agenda.
2. **Safety reps can use their role to:**
 - Help protect your work colleagues by making health and safety central to the bargaining agenda.
 - Educate and involve all Unite members to help to keep their workplace safe.
 - Organise and campaign to get things improved.
 - Publicise workplace improvements negotiated by Unite.
 - Ensure that all incidents are investigated and the lessons learned are put into practice.

- Integrate equality into health and safety organisation to ensure that opportunities for prevention are not missed. This book includes disability and gender checklists which safety reps can use to help mainstream equality into health and safety.
- 3. Through union action and organising and using your rights and functions, you can achieve improvements at work – this will also increase member involvement and support for Unite.

Unite Education

Unite has a national and regional education programme which includes a wide range of courses covering health and safety, equality and many other industrial issues. Every year 12,000 Unite members pass through Unite training. The Unite education department is committed to providing the very best service to reps and members based on Unite's "Three Pillar" strategy of Organising, International Solidarity and Politics.

Unite also works with the HSE on training initiatives and research. An example of the effectiveness of Unite safety rep training is given in the box below.

HSE Better Backs Campaign and Unite training

In 2006 the HSE conducted research with Unite safety representatives: HSE Better Backs 2006: worker involvement evaluation to evaluate whether promoting HSE campaigns at Unite safety representative training is an effective way of encouraging safety representatives to take action. The findings were that this was certainly the case. For example, within three months of the training course around half the representatives had already raised awareness of back safety issues among work colleagues, had been involved in workplace safety assessment and distributed and/or put back safety information in the workplace.

Source: HSE Research Report RR581 www.hse.gov.uk/research/rrpdf/rr581.pdf

Safety Reps' Action Points

For more information about Unite Education

- Contact your Regional Education Organiser – there is a list on page 114
- Visit the Unite Website education pages.
www.unitetheunion.org/member_services/education.aspx

CHAPTER 1

Safety Representatives and Safety Committees

Who is a Unite trade union safety representative?

A Unite safety representative is elected by their members and accredited through their regional office. Safety representatives have a wide range of rights and functions. Their role in the workplace is vital to enable improvement of health, safety and environmental standards in the workplace and Unite provides accredited training for safety representatives.

Who can be a safety representative?

In Unite, workplace reps/stewards can carry out a dual role as safety reps too, but there are also many Unite safety reps who carry out solely health and safety activities. All safety reps should work closely with their trade union colleagues and representatives – equality reps, workplace reps, learning reps – to make sure that they do not take decisions without the support of the members they represent – and many issues can be linked to health and safety activity.

Why are safety representatives important for Unite?

Some points that emphasise the importance of safety reps are listed below:

- Two of the most fundamental trade union aims are improving members' terms and conditions and promoting their welfare. This includes workplace health, safety and welfare.
- Giving attention to health and safety has significant recruitment potential.
- Workers have a legal right to representation by safety representatives and in turn safety reps have greater legal rights in the workplace than any other representative.
- An effective, well-trained and experienced trade union safety rep is an essential first step in getting to grips with health and safety issues in the workplace.
- Experienced health and safety reps are also an asset to the employer – they know the workplace and can alert the employer to health and safety concerns.
- Safety reps can use their knowledge to negotiate better than minimum standards in the workplace.
- Unite members will benefit most from a healthier and safer workplace. So will the employer, as injuries and ill health cost money. A further benefit is a happier and more secure workforce working in a safe environment.

Safety reps in the aerospace sector, Scotland

“Over the last few years the TU safety reps and the company have recognised the mutual benefits of forming a partnership approach to Health & Safety.

Trained, pro-active safety reps can provide positive benefits to the business and members alike. This has been acknowledged by the company recognising the position of two full time H&S Reps at our site. They are involved in all levels of H&S from strategy, risk assessment, audits and accident investigation to training and development.

Management/TU relationships have developed to a level of trust where openness of communication has allowed us to move forward in a positive manner, improving the safety culture and ensuring all levels of the workforce are aware of their H&S responsibility”

These safety reps received the Scottish TUC Safety Representatives Award 2010

What is the role of a safety representative?

The key role of the trade union safety rep is to check and follow up on management's actions or lack of action on health, safety and environmental issues in the workplace. Being a trade union safety representative does not mean you become part of the management team (although safety reps may themselves be managers or supervisors) nor are they unpaid company safety officers.

Safety reps should use their rights and functions (see below) to protect workers' health and safety and their most important union health and safety role is to represent workers' views to management.

Who appoints safety representatives? (SRSC Regulation 3)

Independent trade unions recognised by the employer have the right to appoint safety reps. Each union has to decide on their own arrangements for their appointment. It is not a matter for the employer. In most cases, safety reps are elected by the members they represent. Safety reps should always notify their regional official if they have been elected/appointed as a Unite health and safety representative. Unite approves their election and the appropriate regional official should advise the employer in writing of their appointment, also indicating which group or groups of employees the safety rep represents. Any changes in representative should also be notified in writing to the employer. Unite provides their appointed safety reps with credentials (not the employer).

Employees cease to be safety reps (SRSC Regulation 3(3)) when:

- The trade union which appointed or elected them notifies the employer in writing that the appointment has been terminated; or
- They are no longer employed at the workplace (although, if they represent employees at more than one workplace, they may continue to be a rep provided that they still work at one); or
- They resign.

How many safety reps should there be in your workplace?

There is no prescribed number. The SRSC Guidance Notes to Regulation 3 suggest that the following factors should be taken into account:

- The total number of employees
- The variety of different occupations and grades
- The size of the workforce and number of locations
- The operation of shift systems
- The type of work activity and its dangers.

Arising from these criteria and other considerations, a widely varying ratio of safety reps to employees can be found, even within the same industry. It is very important to ensure that they are representative of the whole workforce, a gender balance is maintained and diversity in the workplace is fully recognised. For example a woman member may prefer to talk to a safety rep of the same gender about health and safety issues which concern her, and men may wish to do the same. You can use the TUC's "Gender Sensitivity" Checklist (see pages 107-9) to help ensure that all your health and safety practices and policies are gender sensitive.

It is also very important to try to ensure that there is a safety rep available at all times at the workplace, for example on each shift, and that this is reflected in your agreement.

When there is more than one union involved

Sometimes for health and safety purposes at a workplace unions favour joint representation. The guidance on SRSC Regulation 3 specifically allows for this, stating that the regulations do not preclude the possibility of a safety rep representing, by mutual agreement between the appropriate unions more than one group or groups of employees. (e.g. in a small workplace or within the organisation of a small employer when the number of recognised trade union reps is high relative to the total number employed).

Safety Representatives' Functions (SRSC Regulation 4)

These are:

- To represent employees in consultations with the employer (S 2(4) HSWA).
- To investigate potential hazards and dangerous occurrences at the workplace and examine the causes of accidents.
- To investigate complaints by any employee they represent about health, safety and welfare at work
- To make representations to the employer on general matters relating to health, safety and welfare of the employees at the workplace.
- To carry out workplace inspections.
- To represent the employees they represent in consultations with inspectors of HSE or any other enforcement authority.
- To receive information from inspectors.
- To attend meetings of safety committees where they attend in their capacity as a safety representative in connection with any of their other functions.

The duty of the employer to consult safety representatives

The Health and Safety at Work Act 1974 Section 2(6) states:

...it shall be the duty of every employer to consult any such [safety] representatives with a view to the making and maintenance of arrangements which will enable him/her and his/her employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

SRSC Regulation 4A requires employers to consult "in good time" over:

- The introduction of any measures which may substantially affect health and safety.

- The arrangements for appointing competent people (e.g. to carry out risk assessments) to assist with health and safety and implementing procedures for serious and imminent risk.
- Any health and safety information the employer is required to provide by law.
- The planning and organisation of health and safety training.
- The health and safety implications of the introduction (or planning) of any new technology.
- The appointment of a person to oversee emergency procedures.

"In good time" is not defined but the guidance suggests that it should be sufficient for a safety rep to take an informed view about the proposals. The employer should therefore allow time to provide safety reps with information about what is being proposed, allow time to enable the opportunity for the safety rep to express their views, and allow time to take account of any response.

Employer's duty to consult on risk assessments

Under the Management of Health and Safety at Work Regulations 1999 employers must assess the risks to the health and safety of their employees which they are exposed to while they are at work. HSE guidance states that the risk assessment must be practical and take account of the views of employers and their safety representatives who have practical knowledge to contribute. This guidance is reproduced in the current (2008) edition of the "Brown Book" (paragraphs 38-40).

Employer's duty to consult under other health and safety legislation

The "Brown Book" provides useful cross referencing to other health and safety legislation where there is a requirement to consult safety representatives (for example on risk assessments and on the selection of personal hearing protection under the Control of Noise at Work Regulations 2005). This information is found at Appendix 3 of the "Brown Book".

Safety committees

An effective joint safety committee can ensure that the employer develops, promotes, reviews and updates their health and safety management systems. There must be a genuine desire on the part of management to tap the knowledge and experience of its employees and an equally genuine desire on the part of the employees to improve the standards of health and safety in the workplace.

SRSC Regulation 9 states that an employer must establish a safety committee if two or more safety reps request this in writing – and they must do so within three months of that written request. The employer

must consult with the safety reps and the relevant unions as to how the committee will function, and a notice must be posted where it can be easily read by employees, giving the composition of the committee and the areas it will cover.

Health and safety committees should meet as often as necessary. Many members ensure that this is at least once a month. This will depend on the volume of business, local conditions, the size of the workplace, numbers employed, the kind of work carried out and the degree of inherent risk.

Sufficient time should be allowed during each meeting to ensure full discussion of all business.

The guidance to the SRSC states that the size, shape and terms of reference of a safety committee must depend on discussion and agreement between employers and unions. It recommends that:

- Committees should be compact.
- There should be 50/50 management and union representation.
- Safety advisers, doctors and other health and safety professionals should be ex-officio members.
- Safety committees could also provide a link with the enforcing authorities.

Agendas for safety committee meetings should be agreed and circulated in advance of the meeting and could include the following:

- Studying accident, ill health trends, near misses and causes of notifiable occupational diseases.
- Making sure that the diversity of the workforce is considered in health and safety management at work – for example are accident and ill health statistics collected separately for men and women? Do risk assessments reflect equality issues such as gender and disability?
- Examining safety inspection and audit reports.
- Considering information received from enforcement bodies, unions, employer and industry bodies.
- Discussing reports from safety representatives.
- Developing safe systems of work and safety procedures, including first aid, emergency evacuation procedures and permit to work systems.
- Examining the health and safety implications of new legislation and health and safety guidance and their implementation in your workplace.
- Examining the health and safety implications of new plant, equipment and processes.
- Reviewing the health and safety content of employee training.
- Monitoring the effectiveness of the employer's health and safety systems.

- Reviewing risk assessments.
- Monitoring and reviewing the communication, publicity and profile of health and safety within the workplace.
- Reviewing the implementation and effectiveness of the employer's health and safety policy.

Access to information

Under SRSC Regulation 7 the employer must make available to safety representatives the information within the employer's knowledge which is necessary to enable them to fulfil their functions. The SRSC Approved Code of Practice to Regulation 7 provides advice on the sort of information which should be disclosed:

- Information on the plans and performance of the organisation and any changes proposed that may affect health and safety.
- Technical information about hazards and necessary precautions, including information provided by manufacturers, hygiene measurements and so on.
- Information and statistical records on accidents, dangerous occurrences and notifiable diseases.
- Any other information relevant to health and safety at work, such as measures to check the effectiveness of health and safety arrangements (e.g. audit results, consultants' reports, etc.).
- Information on articles and substances issued to home workers.

There are exemptions from disclosure, however, namely:

- Information the provision of which would be against the interests of national security.
- Information the disclosure of which would contravene a prohibition imposed by law.
- Information relating to individuals, unless their consent has been given (anonymous aggregate figures in defined working areas, however, can be given – on blood lead levels, for example, or degrees of deafness as shown by audiograms, or personal dust levels).
- Information that would damage the employer's undertaking.
- Information obtained for the purpose of bringing, prosecuting or defending legal proceedings.

Facilities and assistance for safety reps

Regulations 4A, 5 and 6 of the SRSC require employers to provide facilities and assistance to enable safety reps to enable them to carry out their functions. This is a general requirement under Regulation 4A and there are also specific requirements in relation to safety reps' regular inspections (Reg 5) and for inspections following notifiable accidents, occurrences and diseases (Reg 6).

Unite believes the following facilities, recommended by an ACAS Code of Practice, should be made available as a minimum:

- Accommodation for meetings.
- Access to telephone and other communication media such as email, intranet and internet – and therefore arguably to a computer.
- The use of dedicated office space – to ensure that there are secure facilities for storing confidential documents and there is a suitable place for confidential meetings with members.
- The use of workplace notice boards.
- Access to members who work at a different location.
- Access to e-learning tools where computer facilities are available.

Unite believes that facilities for safety representatives should also include:

- Access to typing and copying facilities.
- Being given the names of new workers.

Right to time off

The SRSC Regulation 4(2) requires an employer to permit a safety representative to take such time off with pay during the employee's working hours as is required to perform their various functions and to undergo approved trade union training. Normally, the time off for these activities is decided by negotiation between the employer and either the safety reps or their trade union. If your employer appears unwilling to allow you this right, contact your Unite Regional official immediately.

Training

The SRSC Regulation 4(2) – is clear on the issue of training. It is a function of the safety rep to "undergo such training in aspects of those functions as may be reasonable in all the circumstances". Again, the employer has a legal duty to allow safety reps time off with pay for their training.

The Approved Code of Practice to the SRSC describes the requirements in more detail. The main points are as follows:

As soon as possible after their appointment safety representatives should be permitted time off with pay to attend basic training facilities approved by the TUC or by the independent trade union, which appointed the safety representatives.

Further training, similarly approved, should be undertaken where the safety representative has special responsibilities or where such training is necessary to meet changes in circumstances or relevant legislation. With regard to the length of training required, this cannot be rigidly prescribed.

A trade union... Should inform management of the course it has approved and supply a copy of the syllabus, indicating its contents, if the employer asks for it. It should normally give at least a few weeks' notice (to the employer) of the safety representatives it has nominated for attendance.

The number of safety representatives attending training courses at any one time should be that which is reasonable in the circumstances.

Unions and management should endeavour to reach agreement on the appropriate numbers and arrangements and refer any problems which may arise to the relevant agreed procedure.

“I became the local H&S rep last year. I undertook training with Unite. Since then, I have carried out an H&S inspection in conjunction with my employer. An action plan was created and recommendations to improve the safety of my colleagues in the workplace have been implemented”

Unite safety rep working for a trade union in the North West

Absence of legal liability for safety representatives

Under the SRSC, safety reps have a number of legal functions. The regulations at Reg 4(1) also state that these functions do not impose legal duties on safety representatives [over and above their duties as employees].

Protection for safety reps and employees

The Employment Rights Act 1996 (section 44 and 100) strengthens the position of safety reps and employees. Safety reps are protected from detriment or dismissal for carrying out their designated functions.

They and other employees are also protected:

- If they leave, or propose to leave the workplace in circumstances of **serious and imminent danger**.
- If they take or propose to take action against serious and imminent danger.

This section of the Act adds sections 22A and 57A to the Employment Protection (Consolidation) Act 1978. Protection is available regardless of length of service, hours of work or age. The rights are enforceable through employment tribunals.

Unite and the Construction Industry – Safety Reps' training

A joint initiative between Unite and a major construction company took place to encourage new safety reps to come forward and to give them quality health and safety training relating to their sector. Reps were trained to increase awareness of their rights and the scope of their role. The programme included generic training surrounding the construction industry, risk assessment, accident investigation and site inspections. The initiative was supported by union and company officials at the highest level. Following the programme incident rates fell significantly.

SAFETY REPS' SIGNPOSTS

The "Brown Book"

Safety Representatives and Safety Committees Regulations 1977

TUC downloadable copy for training purposes available at:

www.tuc.org.uk/extras/brownbook.pdf

TUC worker involvement information available at

www.tuc.org.uk/h_and_s/index.cfm?mins=346

TUC Biennial Survey of Safety Reps 2012

www.tuc.org.uk/thefiles/437/focus-on-health-and-safety.pdf

Hazards magazine tools and resources for involving workers available at

www.hazards.org/tools/ www.hazards.org/unioneffect/

HSE – 'topic pack' Worker consultation and involvement available at

www.hse.gov.uk/involvement/index.htm

HSE worker involvement website

www.hse.gov.uk/workers

“We have fought long and hard for recognition as safety reps and we feel that our contribution to the organisation's health and safety structure is now being taken seriously”

**Unite safety representative
working in the Energy Sector in
the East Midlands**

CHAPTER 2

Health and safety legislation (1)

Health and Safety at Work Act and overview of Regulations

Introduction

This section is included to give some idea on the scope of legislation that exists to control and legislate for hazards in the workplace. There is legislation covering virtually every aspect of health and safety. Unite will always uphold and encourage others to uphold the law.

This chapter includes information on the Health and Safety at Work Act and health and safety regulations. The regulations are listed to signpost you to them as there is a wide range of information and guidance produced by Unite, the TUC and the HSE to which we will refer in the Signposts section at the end of this chapter. More detailed information is included in Chapter 3 on six sets of regulations, ones about which safety representatives most often inquire.

Legislation is divided into Statutes (Acts) and Regulations. The basis of most British health and safety law is the Health and Safety at Work etc Act 1974. Health and safety regulations are approved by Parliament. These are usually made under the Health and Safety at Work Act, following proposals from HSE.

The regulations are kept under review and information about the most important ones is listed below – nearly all of these have been amended since they first became law. So it is essential to consult the most up-to-date version of the regulations.

Legislation is supported by Approved Codes of Practice and Guidance. Guidance and Approved Codes of Practice give advice, but employers are free to take other measures provided they do what is reasonably practicable. However, some risks are so great, for example from asbestos exposure, or the appropriate control measures so costly, that it would not be appropriate to leave it to the employers' discretion to decide the action to be taken. The regulations identify these risks and set out specific action that must be taken.

The European Union

Much of our health and safety legislation is based on European Union (EU) legislation. It is the responsibility of the governments of individual EU states to implement European legislation. The process of reviewing the law on a European-wide basis, including harmonisation on such issues as exposure limits, is continuing.

Safety representatives and legislation

The Health and Safety at Work Act and the general duties in the Management of Health and Safety at Work Regulations 1999, are key pieces of legislation.

Employers have the primary duty to ensure health and safety at work but everyone has a role to play.

The law is only one of the tools Unite can use. Safety representatives should use their functions and rights to work with their employer to ensure that the right decisions are taken to protect everyone at their workplace.

The Health and Safety at Work etc Act 1974

The Act sets out the duties that employers have towards employees and members of the public, including employees' duties.

These duties are qualified in the Act by the principle of 'so far as is reasonably practicable'. In other words, the degree of risk in a particular job or workplace needs to be balanced against the time, trouble, cost and physical difficulty of taking measures to avoid or reduce the risk.

The Act places a general duty on employers to ensure the safety, health and welfare of their employees. To do this, employers must consult employees concerning arrangements for joint action on health and safety matters, and in certain circumstances, at the request of duly appointed or elected trade union health and safety representatives, to establish safety committees; and to prepare and publicise a statement of their health and safety policy and arrangements. It also makes provision for the appointment of trade union health and safety representatives by recognised trade unions.

Section 2(2) of the Act states the general duties of employers.

The employer must, as so far as is reasonably practicable, provide:

- Safe plant, maintenance and systems of work – Section 2(2) (a).
- Safe use; handling and transport of articles and substances – Section 2(2) (b).
- Information, instruction, training and supervision – Section 2(2) (c).
- Safe place of work and safe means of access and egress to workplaces – Section 2(2) (d).

- Safe working environment – Section 2(2) (d)
- Adequate welfare facilities – Section 2(2) (d)

Section 3 places a duty on employers and the self employed to ensure that their work activities do not endanger anybody and, in certain circumstances, to provide information to the public about any potential hazards to health and safety.

Section 4 places a duty on anybody responsible for places of work to ensure that premises themselves, as well as plant and machinery in them, do not endanger people using them.

Section 7 places duties on employees to take reasonable care to ensure that they do not endanger themselves or anyone else who may be affected by their work activities; and to co-operate with the employer and others in meeting statutory requirements.

Section 9 provides that no employer may charge his/her employees for anything done or equipment provided for health and safety purposes under a statutory requirement. This prohibits the employer, for example from charging for health and safety training or for PPE such as safety boots, hard hats and safety glasses and ear protection.

Section 28 (8) requires enforcing inspectors to supply certain information on health, safety and welfare matters to workers or their representatives.

Health and Safety Regulations

Here is a list of some of the most important of these.

Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009

These regulations apply in relation to the carriage of dangerous goods by road and by rail. They also apply to the carriage of dangerous goods by inland waterways but only to the extent relating to the training and examination system for safety advisers and the connected issuing and renewal of vocational training certificates.

Chemical (Hazard Information and Packaging for Supply) Regulations 2009 (CHIP 4)

CHIP is the law that applies to suppliers of dangerous chemicals. Its purpose is to protect people and the environment from the effects of those chemicals by requiring suppliers to provide information about the dangers and to package them safely.

CHIP requires the supplier of a dangerous chemical to:

- identify the hazards (dangers) of the chemical. This is known as 'classification';

- give information about the hazards to their customers. Suppliers usually provide this information on the package itself (eg a label); and

- package the chemical safely.

'Information': Safety data sheets (SDS) should contain hazard information about the chemical being used. Safety Data Sheets are no longer covered by the CHIP regulations. The laws that require a SDS to be provided have been transferred to the European REACH Regulation. For more information about SDSs and REACH see

www.hse.gov.uk/reach/resources/reachsds.pdf

'Supply' means making a chemical available to another person. Manufacturers, importers, distributors, wholesalers and retailers are all examples of suppliers.

CHIP applies to most chemicals but not all. The details of the scope are set out in the regulations. Some chemicals, such as cosmetics and medicines, are outside the scope and have their own specific laws. The CHIP regulations are gradually being replaced by the European Regulation on Classification, Labelling and Packaging of Substances and Mixtures, known as the CLP Regulation.

The Control of Major Accident Hazards Regulations 1999 (as amended) (COMAH)

COMAH applies to sites where specified quantities of dangerous substances are present, or likely to be present. This includes sites where dangerous substances may be generated due to the loss of control of an industrial chemical process. Every operator of such a site has a general duty to take all measures necessary to prevent major accidents, and limit their consequences to persons and the environment. Every operator must also prepare and keep a major accident prevention policy – a MAPP.

Construction (Design and Management) Regulations 2007 (CDM)

These place duties on clients, designers and contractors in respect of all construction projects. The definition of a construction project is very wide and covers many minor maintenance and repair activities. The regulations cover many practical aspects of construction work including planning projects, eliminating risks, welfare facilities, checking competence and training.

The Control of Asbestos Regulations 2012

Please refer to Chapter 3.

Control of Lead at Work Regulations 2012

Working with lead can put workers' health at risk, causing diseases including headaches, stomach pains and anemia. Other serious symptoms include kidney damage, nerve and brain damage and infertility. The Control of Lead at Work regulations require employers to control worker exposure to lead.

Control of Noise at Work Regulations 2006

Please refer to Chapter 3.

Control of Substances Hazardous to Health Regulations 2002 (COSHH) (as amended)

Please refer to Chapter 3.

Control of Vibration at Work Regulations 2005

These regulations cover the risks of vibration at work including whole body and hand/arm vibration.

Employers' duties include:

assessing the vibration risk to their employees; deciding if they are likely to be exposed above the daily exposure action value (EAV); taking steps to eliminate the risk or reduce exposure to as low a level as is reasonably practicable.

Employers must also provide health surveillance, decide if their employees are likely to be exposed above the daily exposure limit value (ELV) and if they are: take immediate action to reduce their exposure below the limit value, provide information and training to employees on health risks and the actions being taken and consult safety representatives on their proposals to control risk and to provide health surveillance.

There was a transitional period for the exposure limit values up to 2010. This would allow work activities where the use of older tools and machinery cannot keep exposures below the exposure limit value to continue in certain circumstances. The transitional period has been extended to 2014 in the case of whole-body exposures in the agriculture and forestry sectors.

Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)

These regulations, with some minor exclusions, require the elimination or control of risks to safety from fire, explosion or other events arising from the hazardous property of a dangerous substance in connection with work. A dangerous substance is defined as a substance or preparation that is listed in CHIP, which is explosive, oxidising, extremely flammable, highly flammable or flammable. It can also create an explosive atmosphere. The regulations require risk assessments to be carried out and go into detail on the requirements. They build on the requirements of the Management of Health and Safety at Work Regulations 1999 in relation to the making of emergency arrangements.

Electricity at Work Regulations 1989

These regulations contain requirements relating to the construction and maintenance of all electrical systems and work activities at or near such activities. They apply to all electrical equipment.

Health and Safety (Consultation with Employees) Regulations 1996

If trade union safety reps have not been appointed or there are employees who are not covered by them, then these regulations apply to employees in these groups. They give elected representatives of employees the following roles:

- To represent employee concerns on hazards and risks in the workplace.
- To discuss matters affecting health and safety of employees.
- To represent employees when in consultation with health and safety inspectors.



Health and Safety (Display Screen Equipment) Regulations 1992 (as amended) (DSE)

Lay down specific standards for work stations and specify that work must be planned so that there are breaks away from the VDUs to ensure that workers have rests from repetitive work. The regulations define “users” as people who habitually use display screen equipment as a significant part of their normal work. Workers who are VDU users under the regulations are entitled to have regular eye tests for which the employer must pay. If the eye test shows that the VDU user needs glasses specifically for VDU work then the employer must pay for these. See also Chapter 14.

Health and Safety (First-Aid) Regulations 1981 (as amended)

Require employers to provide adequate and appropriate equipment, facilities and personnel to enable first aid to be given to employees if they are injured or become ill at work. These regulations apply to all workplaces including those with five or fewer employees and to the self-employed.

Health and Safety (Miscellaneous Amendments) Regulations 2002

These amended several regulations, mainly to address disability/health and safety issues.

Lifting Operations and Lifting Equipment Regulations 1998 (as amended) (LOLER)

Closely linked to PUWER in many ways, these regulations cover lifting equipment such as cranes. Among other things, the employer must ensure that lifting equipment is of adequate strength and stability for each load; it must be positioned to minimise risks and must generally be subject to thorough examination and inspection before being put into use for the first time. The employer must also ensure that defects are reported and acted upon before the equipment is used.

The LOLER Approved Code of Practice states that raising or lowering of people by work equipment not designed for this purpose should only be done in exceptional circumstances.

Management of Health and Safety at Work Regulations 1999 (as amended)

Please refer to Chapter 3 and see also Chapter 14.

Manual Handling Operations Regulations 1992 (as amended)

The Manual Handling Operations Regulations 1992, as amended in 2002 apply to a wide range of manual handling activities, including lifting, lowering, pushing, pulling or carrying. The load may be either inanimate – such as a box or a trolley, or animate – a person or an

animal. They require employers to avoid the need to undertake any manual handling operations which involve a risk of injury. If this cannot be done, then appropriate measures must be taken to reduce the risk of injury.

Musculoskeletal disorders are a major cause of ill health in Britain so these are very important regulations. Safety reps are urged to consult the wide range of guidance and tools which have been developed by the HSE and which are freely available on their website. These include guidance and online tools to help manage repetitive work. See also Chapter 14.

RTC sector: Unite action on manual handling in supermarket deliveries

Unite safety reps working as professional delivery drivers were required to handle roll cages containing up to 264 kg. This involved dragging them across pavements and heavy lifting. The difficulty of the tasks was increased because the cages were easily damaged, particularly the wheels, and were poorly maintained.

After raising this with the employer a working group comprising three stewards, and two management reps was set up which instigated and monitored a series of remedial measures over a period of just over two years. These included: identifying a more logical method of loading cages to avoid product falling over and getting damaged; using a tagging system for damaged cages which were then taken out of use; designating an employee at the depot to check all cages before issue and send damaged ones for repair; using a pull weight test to ensure the wheels function when the cage is fully loaded, retraining staff in manual handling and issuing written guidance on manual handling and roll cages.

As a result of Unite action, over a period of 14 months the number of drivers having accidents at stores was reduced from 99 per cent to 27 per cent.

Personal Protective Equipment at Work Regulations 1992 (as amended)

Please refer to Chapter 3 and see also Chapter 14.

Provision and Use of Work Equipment Regulations 1998 (PUWER)

PUWER require risks to people's health and safety, from equipment that they use at work, to be prevented or controlled. In addition to the requirements of PUWER, lifting equipment is also subject to the requirements of the Lifting Operations and Lifting Equipment Regulations 1998.

PUWER require that equipment provided for use at work is: suitable for the intended use; safe for use, maintained in a safe condition and, in certain circumstances, inspected to ensure this remains the case; used only by people who have received adequate information, instruction and training; and accompanied by suitable safety measures, e.g. protective devices, markings, warnings.

Generally, any equipment which is used by an employee at work is covered, for example hammers, knives, ladders, drilling machines, power presses, circular saws, photocopiers, lifting equipment (including lifts), dumper trucks and motor vehicles including buses.

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)

Require employers to record certain details of certain specified accidents, dangerous occurrences or diseases at work. Records should be kept for a minimum of three years. See Chapter 5 for more information.

Health and Safety (Safety Signs and Signals) Regulations 1996

These regulations require safety signs to be provided, where appropriate, for risks which cannot adequately be controlled by other means. Signs must be of the prescribed design and colours. See also the Workplace (Health, Safety and Welfare) Regulations 1992.

Work at Height Regulations 2005 (as amended)

The regulations apply to all work at height where there is a risk of a fall liable to cause personal injury. The "two metre rule" no longer applies. The regulations therefore apply not only to fixed sites, but also to vehicles. The information included here is very brief and safety reps are urged to consult the detailed official guidance on this subject.

Regulation 2 states that a place is 'at height' if (unless the Regulations are followed) a person could be injured falling from it, even if it is at or below ground level. 'Work' includes moving around at a place of work (except by a staircase in a permanent workplace) but not travel to or from a place of work.

The schedules give detailed guidance on existing places of work and means of access for work at height; collective fall prevention (eg guard rails and toe boards); working platforms; collective fall arrest; personal fall protection (eg work restraints, work positioning, fall arrest and rope access; ladders and stepladders; inspection reports (for working platforms in construction); and revocations.

Duty holders must avoid work at height where they can; use work equipment or other measures to prevent falls where they cannot avoid working at height; and, where they cannot eliminate the risk of a fall, use work equipment or other measures to minimise the distance and consequences of a fall should one occur.

The regulations require duty holders to ensure: all work at height is properly planned and organised;

- All work at height takes account of weather conditions that could endanger health and safety;
- Those involved in work at height are trained and competent;
- The place where work at height is done is safe;
- Equipment for work at height is appropriately inspected;
- The risks from fragile surfaces are properly controlled; and
- The risks from falling objects are properly controlled.

The HSE provides extensive guidance and practical tools on their website. This includes information on avoiding slips and trips, avoiding falls from vehicles, use of stepladders, to mention a only a few.

Workplace (Health, Safety and Welfare) Regulations 1992 (as amended)

See Chapter 3.

Other relevant legislation

Corporate Manslaughter and Corporate Homicide Act 2007

The Corporate Manslaughter and Corporate Homicide Act 2007 came into force in 2008. For the first time, companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care. This Act does not provide for individuals being held accountable. This legislation applies across the United Kingdom (England, Scotland, Wales and Northern Ireland).

Equality Act 2010

This became law in England and Wales on 1 October 2010. It consolidates equality legislation covering age, disability, gender reassignment, marriage and civil partnership, race, religion and belief, sex and sexual orientation. See also Chapters 13 and 14.

Regulatory Reform (Fire Safety) Order 2005 (FSO)

This came into effect in October 2006 and replaced over 70 pieces of fire safety law. The FSO applies to all non-domestic premises in England and Wales, including the common parts of blocks of flats and houses in multiple occupation (HMOs). The law applies to the following:

- Someone responsible for business premises.
- An employer or self-employed with business premises.
- Someone responsible for a part of a dwelling where that part is solely used for business purposes.
- A charity or voluntary organisation.
- A contractor with a degree of control over any premises.
- Someone providing accommodation for paying guests.
- Under the FSO, the responsible person must carry out a fire safety risk assessment and implement and maintain a fire management plan. Further information on what you need to do when carrying out a risk assessment is available in the 5-step fire risk assessment checklist below.

The fire and rescue authorities enforce the FSO in the majority of places, with the HSE, local authorities and others enforcing in some situations.

For more information and government guidance on fire risk assessment in various types of workplace go to this website: www.communities.gov.uk/fire/firesafety/firesafetylaw/

Social Security (Claims and Payments) Regulations 1979

For more information see Chapter 5.

Working Time Regulations 1998

Specify maximum working hours and minimum requirements for rest periods and rest breaks for all workers whom they cover. In addition the regulations require extra breaks for work that is monotonous or where the work rate is predetermined. For more information see the Unite guide to the Working Time Regulations and Unite leaflet "Shift work and night work".

The status of Regulations, Approved Codes of Practice (ACOPs) and Guidance

In addition to regulations, the government issues approved codes of practice (ACOPs), and often additional guidance.

Health and safety regulations are legally binding.

ACOPs give practical guidance on complying with the law. Failure to comply with any provision of the ACOP is not in itself an offence; but the failure may be taken into account in criminal proceedings as proof that a person has contravened the regulation to which the provision related. In such cases, however, it will be open to that person to satisfy the court that he or she has complied with the regulations in some other way.

Words and expressions that are defined in the Health and Safety at Work etc. Act 1974 or in a regulation have the same meaning in the ACOP unless the context requires otherwise. Guidance that does not form part of the ACOP is identified as such.

Guidance gives advice on how to comply with the regulations. It is not legally binding but gives examples of good practice.

SAFETY REPS' SIGNPOSTS

The HSE website provides extensive information about all the regulations. Please note that though the HSE website provides links to all the regulations, these are likely to be in the form in which they were originally passed and do not take account of subsequent amendments. The exception is the Health and Safety at Work etc Act 1974 which is posted on the site with all subsequent amendments included.

www.hse.gov.uk

HSE: The health and safety system in Great Britain

www.hse.gov.uk/pubns/web42.pdf

Health and Safety Executive for Northern Ireland (HSENI)

www.hseni.gov.uk

Health and Safety Authority Republic of Ireland (HSA)

www.hsa.ie

HSE: Guidance on reasonable practicability

www.hse.gov.uk/risk/theory/alarp1.htm

HSE: Workers' rights and employers' duties

www.hse.gov.uk/workers/index.htm

HSE: Links to important regulations

www.hse.gov.uk/legislation/statinstruments.htm

HSE web pages on a range of issues such as musculoskeletal disorders, noise, vibration, machinery, chemicals, biological hazards, falls from height, slips and trips, workplace transport etc, also web pages aimed at particular industries or workplaces such as construction, offices, agriculture and food manufacturing.

Manual Handling



Unsafe lifting, carrying, pushing and pulling can damage your body.
What is your employer doing about it?

Contact details:

www.uniteunion.org


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the UNION

CHAPTER 3

Health and Safety Legislation (2) Six regulations in more detail

Introduction

In this chapter, several key regulations are covered in more detail. They have been selected not because they are necessarily more important than other regulations but because Unite receives the majority of inquiries from safety reps about the issues they cover.

These are:

- Management of Health and Safety at Work Regulations 1999.
- Workplace (Health, Safety and Welfare) Regulations 1992.
- Control of Asbestos Regulations 2006.
- Control of Substances Hazardous to Health Regulations 2002.
- The Personal Protective Equipment at Work Regulations 1992.
- Control of Noise at Work Regulations 2005.

Management of Health and Safety at Work Regulations 1999

These are very important regulations which set out a range of fundamental legal duties about health and safety management. The duties include:

Employer's duty to carry out risk assessments (Regulation 3)

Part of the employer's duty is to carry out risk assessments in relation to all employees and put in place measures to reduce the risks to as low a level as reasonably practicable.

A risk assessment is a careful examination of what could harm people and how likely this is to happen, so that employers can decide whether they have enough precautions in place. Risk assessments can be carried out in five steps:

- STEP 1** Identify the hazards (what, in the work, can cause harm to people).
- STEP 2** Decide who may be harmed and how.
- STEP 3** Evaluate the risks and decide on precautions.
- STEP 4** Record the findings and action them.
- STEP 5** Review the assessment regularly and update if necessary.

Employer's duty to apply principles of prevention (Regulation 4)

Schedule 1 to the regulations sets out the general principles of prevention to control the risks.

These include:

- Avoiding risks.
- Evaluating the risks which cannot be avoided.
- Combating the risks at source.
- Adapting the work to the individual especially workplace design, choice of work equipment and of working an production methods with a view to alleviating monotonous work and work at a pre-determined work-rate and reduce their effect on health.
- Adapting to technical progress.
- Replacing the dangerous by the non-dangerous or the less dangerous.
- Developing a coherent protection policy.
- Giving collective measures priority over individual protective measures.
- Giving appropriate instructions to employees.

Health and Safety Arrangements (Regulation 5)

The employer must have these in place and record them if there are more than employees. A system must be in place for planning, organisation, control, monitoring and review of preventive and protective measures. Safety reps should be consulted on all aspects of this.

Health Surveillance (Regulation 6)

Employers must ensure that employees are provided with health surveillance having regard for the results of risk assessments.

Employer's duty to obtain competent advice (Regulation 7)

The employer has a duty to obtain competent advice in relation to their health and safety management.

Procedures for serious and imminent danger and contacts with external services (Regulations 8 and 9)

Employers must put in place emergency arrangements and contacts with emergency services.

Employer's duty to provide information to employees about the risks to their health and safety at work (Regulation 10)

This duty extends not only to their own employees but also to employees of other employers on their site, to visiting employees for example agency workers and to contractors, and the self-employed. The employer will need to ensure that such information is provided as appropriate in a range of accessible formats, for example using large print for visually impaired workers or pictures or other visual aids as appropriate to convey messages to workers who may have learning disabilities or whose first language is not English.

Co-operation and co-ordination (Regulation 11)

When two or more employers occupy or share a workplace (whether on a temporary or permanent basis) they should co-operate with each other and co-ordinate health and safety arrangements. This may include appointing a health and safety co-ordinator. This regulation does not apply to multi-occupancy buildings or sites where each unit under the control of a tenant or employer would be regarded as a separate workplace – though common areas may be shared workplaces.

Persons working in host employers' or self-employed persons' undertakings

This requires every employer and every self-employed person to ensure that they provide the employer of anyone who comes to work at their premises (e.g. contractors' employees visiting the premises to carry out cleaning or maintenance activities) with information about the risks and the measures they have taken to comply with health and safety requirements.

Employer's duty to provide health and safety training (Regulation 13)

Requires employers to provide health and safety training for all employees when they start work and when changes arise such as a change in their duties, the introduction of new work equipment or change to it, introduction of new technology or a new system of work. Such training should be repeated periodically, be adapted to take account of changed risks to health and safety and take place during working hours.

Mentoring trainees in the logistics sector – North West

A Unite safety rep working in a large logistics company raised concerns about the high level of health and safety errors made by newly appointed drivers when making deliveries to a major customer. The drivers were being disciplined as a result. The main problem was that their initial training was too hurried and lacking in detail.

The safety rep designed and developed a system of mentoring new drivers, which was agreed with the company and then implemented by the union. The safety rep worked alongside a new driver for a day or two to help them apply the training they had received. In this way problems were identified and put right and/or systems adjusted as necessary and the new drivers were then able to recognise and deal appropriately with the hazards they encountered. The union kept records of the action taken. This Unite intervention resulted in a significant reduction in incidents, the customer was pleased, and disciplinaries were avoided.

Employees' duties (Regulation 14)

Requires employees to use equipment, machinery, dangerous substances etc in accordance with their employer's training and instructions.

Temporary workers (Regulation 15)

This requires employers to provide various information to workers they employ on a temporary contract and also to employment businesses.

Risk assessment in respect of new or expectant mothers and other requirements (Regulations 16-18)

This includes requirements for employers where the people working in their undertaking include women of child-bearing age to carry out risk assessments; requirement for an employer to suspend a new or expectant mother who works at night from night work if a certificate from a doctor or midwife shows that this is necessary for her health and safety.

Protection of young persons

Requires employers who employ young persons to provide special protection for them because of their lack of experience; and prohibiting the employment in particular activities of young people in some circumstances. Risk assessments should be carried out before the person starts work.

Workplace (Health, Safety and Welfare) Regulations 1992 (as amended)

The Workplace (Health, Safety and Welfare) Regulations 1992 (as amended) expand on the duties under the HSWA. These Regulations cover all workplaces and aim to ensure that workplaces meet the health, safety and welfare needs of all members of a workforce, including people with disabilities.

Workers with disabilities (Regulation 2 (3) and Guidance paragraph (4) – see also Chapter 14.

Workplaces must meet the needs of all those who work in them. Several of the Regulations require things to be “suitable”, which makes it clear that such as traffic routes, facilities and workstations used by people with disabilities should be suitable for them to use.

Application of the Regulations (Regulation 3)

The Regulations do not apply to:

- Ships.
- Building operations or works of engineering construction.
- Workplaces for exploration or extraction of mineral resources.
- Most means of transport.
- Agricultural or forestry workplaces which are outdoors and are away from the undertakings' main buildings.

Employer's Responsibility

Employers have a duty to ensure that workplaces under their control comply with the Regulations. People other than employers also have duties under the Regulations if they have control, to any extent, of a workplace. (Regulation 4).

Maintenance

Employers must maintain the workplace and any equipment required by the WHSW Regulations, including mechanical ventilation systems, in safe working order. Regular maintenance should be carried out. Potentially dangerous defects should be remedied, and records should be maintained. (Regulation 5).

Ventilation

Workplaces need to be adequately ventilated. Fresh, clean air should be drawn from a source outside the workplace, uncontaminated by discharges from flues, chimneys or other process outlets, and be circulated through the workrooms.

Ventilation should also remove and dilute warm, humid air and provide air movement which gives a sense of freshness without causing a draught. If the workplace contains process or heating equipment or other sources of dust, fumes or vapours, more fresh air will be needed to provide adequate ventilation.

Windows or other openings may provide sufficient ventilation but, where necessary, mechanical ventilation systems should be provided and regularly maintained. (Regulation 6).

Temperatures in indoor workplaces

Environmental factors (such as humidity and sources of heat in the workplace) combine with personal factors (such as the clothing a worker is wearing and how physically demanding their work is) to influence what is called someone's 'thermal comfort'. Individual personal preference makes it difficult to specify a thermal environment which satisfies everyone. For workplaces where the activity is mainly sedentary, for example offices, the temperature should normally be at least 16 °C. If work involves physical effort it should be at least 13 °C (unless other laws require lower temperatures). (Regulation 7).

Lighting

Lighting should be sufficient to enable people to work and move about safely. If necessary, local lighting should be provided at individual workstations and at places of particular risk such as crossing points on traffic routes. Lighting and light fittings should not create any hazard. Automatic emergency lighting, powered by an independent source, should be provided where sudden loss of light would create a risk. (Regulation 8).



Unite action in a bus garage

*“My General Manager took it upon himself to close our canteen at night due to alleged misuse. I informed him that by closing the canteen he was blocking access to a fire exit. This fell on deaf ears, so I contacted the HSE** , which resulted in a visit from an inspector. The canteen was reopened immediately plus, after speaking to the inspector, all walk ways in the garage were repainted using non slip paint with guard rails erected along the length of them and all the garage lighting was replaced as well ”*

**Safety rep working for a bus company
in the South East**

Cleaning

Workplaces should be kept clean, indoor surfaces should be capable of being cleaned, and waste material should not be allowed to accumulate outside suitable containers. Floors should be cleaned at least once a week. Cleaning should be carried out by a safe method. (Regulation 9).

Space

Workers should be able to get to and from workstations and move about freely. The recommended minimum space is 11 cubic metres per person, including the space occupied by furniture, and the minimum area is 3.7 square metres per person. More space per person may be required by the contents and layout of the room and by the nature of the work. (Regulation 10).

Workstations

Workstations must be suitable both for the users and for the work so that all operations can be performed safely where work can be done sitting down, a seat must be provided, together with a footrest where necessary. The particular requirements of disabled workers must be considered. (Regulation 11).

Floors and stairs

Floors and traffic routes should not have holes and slopes or be uneven or slippery. Defects in floors should be guarded against. Floors likely to get wet should have a slip-resistant coating. Leaks and spills should be dealt with promptly. There should be no obstructions particularly at any place which is likely to cause slips, trips or falls. Handrails or guards should be provided on at least one side of staircases unless this obstructs access. (Regulation 12).

Duty to prevent falls from height or being struck by a falling object

[formerly Regulation 13]. These issues are now covered by the Work at Height Regulations 2005 which provide for much more wide ranging duties on work at height.

Falls into dangerous substances

The consequences of falling into dangerous substances are so serious that a high standard of protection is required. Dangerous substances in tanks, pits or other structures should be securely fenced or covered. Traffic routes associated with them should also be securely fenced. (Regulation 13).

Windows

Transparent or translucent surfaces (e.g. windows) shall be made of safety material if necessary or protected against breakage and incorporate features to make them apparent. This refers to clear surfaces where there is a danger that someone might walk into them. If a window, skylight or ventilator can be opened, then it must be possible to do it in a safe manner. When open, the window should not create a hazard (e.g. of collision). Windows must be able to be cleaned safely. This entails either a safe method of cleaning them from the inside or the provision of safe access equipment for cleaning them from the outside. (Regulations 15 & 16).

Movement

Pedestrians and vehicles must be able to move about workplaces in a safe manner and without danger to people working near by. It should be possible to separate pedestrians and vehicles safely. Traffic routes should have suitable signs. Traffic routes include stairs, staircases, fixed ladders, doorways, gateways, crossings, loading bays or ramps. (Regulation 17)

****Very important: always consult your Regional Official before contacting the enforcement authorities**

Doors and gates

Doors and gates must be suitably constructed and fitted with necessary safety devices. These should be fitted to sliding doors to prevent them coming off tracks and to upward opening doors to prevent them falling back. Powered doors should be prevented from trapping people and if the power fails should be operable manually or open automatically. Doors which can be pushed open from either side should allow a clear view of the space close to both sides.

(Regulation 18)

Escalators

Escalators and moving walkways should have safety devices and at least one emergency stop control which is easily identifiable and readily accessible.

(Regulation 19)

Toilets and washing

Toilets and wash stations (basins, showers) should be in adequately ventilated and lit rooms and the toilets and rooms should be kept in a clean and orderly condition. There should be separate toilets and wash stations for men and women unless each is in a separate room which can be locked from the inside. Toilets need not be in the workplace or even in the building but must be available at all material times. Toilet paper in a dispenser and a coat hook must be provided. For women, suitable means should be provided for the disposal of sanitary dressings. Wash stations should be provided in the immediate vicinity of toilets. Clean hot and cold or warm water should be provided (preferably running water) together with soap and towels or other suitable means of cleaning and drying. Privacy must be protected in toilets and wash stations.

The minimum number of facilities is specified (broadly – up to five people, one toilet and wash station; 6-25 people, two toilets and wash stations; one extra toilet and wash station for each subsequent 25 people). For men a mixture of toilets and urinals can be provided. On temporary sites toilets and wash stations should be provided as far as possible. On remote sites water in containers and chemical closets should be provided. Toilets should never communicate directly with a room in which food is prepared or eaten. (Regulations 20 and 21).

Unite and toilet access for drivers

Unite has a long-running campaign to improve toilet access for professional drivers. London bus drivers demonstrated in London outside Victoria Coach Station. As a result the then Mayor of London allocated £1m in funds to improve facilities along bus routes.

The TUC has produced a leaflet as part of a campaign for improved access to welfare facilities “Give us a (loo) break” which is posted on the TUC website.

Water

Employers must provide wholesome drinking water and vessels from which to drink it. The water should normally be from the mains and if refillable containers are used the water should be changed daily. Drinking water taps should not be installed where contamination is likely. Drinking water or non-drinkable water should be clearly marked. Washing facilities should be provided for non-disposable cups.

(Regulation 22).

Lockers and changing rooms

Accommodation should be provided for workers' clothing not worn at work and special work clothing which is not taken home. The facilities should enable clothing to be dried. Changing facilities should be provided for special clothing needed at work and to safeguard health. If it is necessary “for reasons of propriety” separate changing facilities for men and women should be provided. (Regulations 23 and 24).

Meals and restrooms

Facilities should be provided to eat meals at work where meals are regularly eaten. Eating facilities should enable hot drinks to be obtained or prepared.

(Regulation 25)

Unite action: welfare facilities

“We led a long running campaign to get the cleaning staff rest room facilities. They had to use an old football changing room. It had no heating, nowhere to heat food and it was hardly ever cleaned. It had only cold water, with no facilities for women. The final straw was that there was only one key which was shared by everyone. Premises were converted to provide the facilities needed. Based on this we are now starting a campaign to get better welfare facilities in other areas”

Unite safety rep, Local Authority in the South East

Smoking

Rest rooms and areas should protect non-smokers from discomfort caused by tobacco smoke.

Please note that smoking in enclosed workplaces is banned in England, Scotland, Wales, Northern Ireland and the Republic of Ireland.

Rest facilities must be provided for pregnant women and nursing mothers. **(Regulation 25)**.

Safety Reps' Action Points

Even though these regulations cover fundamental safety and welfare issues many employers fail to comply fully with them and they are very rarely enforced by the authorities. Unite can take action by:

- Ensuring safety representatives carry out regular inspections.
- Calling on the employer to ensure suitable training and education is provided on health and safety.
- Bringing all departures from the legal standards to the attention of their employers and asking for remedial action to be taken.
- Ensuring all incidents, accidents and injuries are reported in the accident book.
- Calling in the enforcement authorities if the management persistently fails to meet the minimum standards.
- Organise through the union to demand satisfactory conditions.

Control of Asbestos Regulations 2012 (CAW 2012)

The Control of Asbestos Regulations 2012 provide a single set of regulations for the control of asbestos. These regulations replace CAW 2006 with effect from 6 April 2012. This was to give effect to the European Commission's view that the UK had not fully implemented the EU Directive on exposure to asbestos.

From 6 April 2012, some non-licensed work needs to be notified to the relevant enforcing authority.

From 6 April 2012, brief written records should be kept of non-licensed work, which has to be notified e.g. copy of the notification with a list of workers on the job, plus the level of likely exposure of those workers to asbestos. This does not require air monitoring on every job, if an estimate of degree of exposure can be made based on experience of similar past tasks or published guidance.

By April 2015, all workers/self employed doing notifiable non-licensed work with asbestos must be under health surveillance by a doctor. Workers who are

already under health surveillance for licensed work need not have another medical examination for non-licensed work. BUT medicals for notifiable non-licensed work are not acceptable for those doing licensed work.

Key Points

A single control limit

There is **no action level**. There is a single Control Limit of 0.1 f/cm³ and a Short Term Exposure Limit (STEL – ACOP standard, not in the regulations) of 0.6 f/cm³ measured over 10 minutes. The Control Limit is a level of asbestos fibres in air that, so far as is reasonably practicable, should not be exceeded. No-one's personal exposure should ever go above this limit when measured over four hours, in line with current practice, which is equivalent to the directive's 0.1 f/cm³, if the shift is eight hours long.

Employers using their own workers on their own premises are no longer exempt from the licensing requirements

Mandatory training requirements for anyone liable to be exposed to asbestos. Employees are entitled to a copy of their training certificate, and to be given the results of tests such as face-fit test, air monitoring, medical examination etc.

A requirement to analyse the concentration of asbestos in the air using the 1997 World Health Organisation recommended method of measurement.

Changes to the licensing regime

De-licensing of work involving removal of textured coatings.

Most work with textured decorative coatings containing asbestos e.g. "artex" has been removed from the licensing regime. Unite other unions and many employers strongly opposed this move – these materials are found in millions of buildings. Relaxing the licensing regime does NOT mean that work with textured coatings is safe.

The requirement to notify work to the enforcing authority and the requirement for medical surveillance of workers at present does not apply to certain specified types of work where (a) the worker exposure is sporadic and of low intensity and (b) it is clear from the risk assessment that the STEL will not be exceeded.

No exposure to asbestos can be considered to be sporadic and of low intensity if the concentration of asbestos in the atmosphere is liable to exceed 0.6 fibres per cm³ of air measured over 10 minutes (this is set out in the ACOP L143, para 32).

Risk assessment

All work with asbestos containing materials, including textured coatings, must be undertaken by trained workers following a risk assessment and in accordance with appropriate controls to prevent exposure to asbestos fibres. The approved code of practice to the regulations describes how to go about removing them safely.

A summary of the regulations

The Control of Asbestos Regulations 2012 apply to all work with asbestos materials carried out by employers, the self-employed and employees.

Here is a brief summary of the most important regulations. This is not the full text and you should consult the regulations for full details.

Reg 4: Duty to manage asbestos in buildings

Whoever has control of a building has a duty to manage asbestos there.

This means they must:

- Carry out a risk assessment to find out if asbestos is present or liable to be present – this should include looking at the building plans, and inspecting all the reasonably accessible parts of the building.
- Write down the assessment and its conclusions – and any subsequent review of the assessment.
- If asbestos is present or liable to be present decide what risk it poses, make a written plan identifying where it is, and note in the plan the measures to be taken to manage the risk.
- The written plan must include adequate measures for:
 - monitoring the condition of the asbestos or any substance suspected of containing asbestos
 - ensuring it is properly maintained or where necessary safely removed,
 - ensuring that information about the location of the asbestos or substance suspected of containing asbestos is provided to anyone likely to disturb it (e.g. maintenance workers such as electricians, buildings renovators) and to the emergency services.
- Ensure that the plan is reviewed and revised at regular intervals, and immediately if the plan is no longer valid or there has been a significant change to the premises.
- Ensure that the plan is implemented and the implementation measures taken are written down.

Reg 5: Identification of the presence of asbestos

An employer must not carry out any work on any premises which may expose employees to asbestos unless they have found out whether asbestos is present or liable to be present, or assumes that it is present, and observes the relevant provisions of the regulations.

Reg 6: Assessment of work which exposes employees to asbestos

An employer cannot carry out work which is liable to expose their employees to asbestos unless they have done a risk assessment, recorded the findings, and decided what steps are to be taken to prevent exposure or reduce it to the lowest level reasonably practicable.

Licensed contractors

Although a licence may not always be required, the Control of Asbestos Regulations 2012 still require employers to carry out risk assessments and put in place control measures to prevent exposure of employees or members of the public to asbestos. The work still needs to be done in compliance with the controls required under CAW 2006 and the employer should be able to demonstrate that whoever does the work is complying with these requirements.

Licensed contractors may have better experience, organisation and discipline relating to work with asbestos. Safety reps can ask their employer to use a licensed contractor for all types of work with asbestos even if it is not expressly required by the regulations.

A list of licensed contractors is available from the HSE Licensing Unit which has dedicated pages on the HSE website.

Reg 7: Plans of work

The employer must prepare a written plan of the work to be done.

Reg 8: Licensing of work with asbestos

An employer cannot undertake any work with asbestos unless they have obtained a licence from the HSE. In practice this will cover most work with asbestos. But there are some exceptions (Reg 3(2)). These are:

- The exposure of employees to asbestos is sporadic and of low intensity; (see above for the definition given at Para 32 of the ACOP)
- The risk assessment shows that exposure of any employee will not exceed the control limit; and
- The work involves short, non-continuous maintenance activities, removal of materials in which the asbestos fibres are firmly linked in a matrix, encapsulation or sealing of asbestos-containing materials which are in good condition or air monitoring and control and the collection and analysis of samples to ascertain whether a specific material contains asbestos.

Reg 9: Notification of work with asbestos

An employer cannot undertake any work with asbestos unless they have notified the enforcing authority (HSE or EHO) – there are some exceptions which are the same as those listed under Reg 8.

Reg 10: Information, Instruction and Training

Every employer must provide adequate information, instruction and training to employees, including supervisors, who are exposed or liable to be exposed to asbestos.

Reg 11: Prevention or reduction of exposure to asbestos

Every employer must prevent the exposure of their employees to asbestos so far as reasonably practicable, and where exposure cannot be prevented, use control measures to reduce exposure to the lowest level practicable. In addition, suitable respiratory equipment of a standard approved by the Health and Safety Executive must be provided.

Every employer must ensure that no employee is exposed to asbestos over the control limit, and if the control limit is exceeded then they must tell the employees concerned and take measures to ensure it is not exceeded again.

Reg 12: Use of control measures

Every employer must ensure that the control measures are properly used or applied

Every employee must make full and proper use of any control measure (eg RPE or PPE), ensure it is returned after use and report any defects.

Reg 13: Maintenance of control measures

Every employer must ensure that plant and equipment including RPE/PPE is maintained properly and kept in good repair, and regularly review systems of work and supervision. Exhaust ventilation equipment must be tested and examined at regular intervals and records kept of each examination/testing and repairs for at least five years.

Reg 14: Provision and cleaning of protective clothing

Every employer must provide adequate and suitable protective clothing and ensure that it is either disposed of properly as asbestos waste, or cleaned.

Reg 15: Arrangements to deal with accidents, incidents and emergencies

Every employer must ensure that procedures are in place for emergencies. They must also ensure that if there is an unplanned release of asbestos at the workplace, immediate remedial steps are taken.

Reg 16: Duty to prevent or reduce the spread of asbestos

Every employer must prevent or reduce to the lowest level practicable the spread of any asbestos.

Reg 22: Health records and medical surveillance

This includes the following (unless the exceptions noted under Reg 8 apply):

- Employer must maintain a health record for every employee and keep it for 40 years.
- Employer must ensure that every employee is kept under surveillance by a relevant doctor.
- Surveillance must include a medical examination (including the chest) not more than two years before the start of asbestos exposure, and further examinations at no more than two-yearly intervals.
- Employer must pay for these medical examinations.
- Employer must give the doctor access to any records they have to keep under the Regulations if they request them.
- Employees must attend these examinations when requested by the employer.
- Employees are entitled to have access to their medical records.

Reg 23: Washing and changing facilities

Employers must provide adequate washing and changing facilities, and facilities for storing PPE, RPE and personal clothing – which must all be separate from each other.

There are also requirements for the employer to keep premises clean, seal and label asbestos waste, carry out and record air monitoring, designate asbestos areas and respirator zones, and make arrangements for employees to have separate areas for eating, drinking and smoking, ensuring competent persons are used. Standards are set for analysis of materials.

Other regulations cover prohibitions of exposure to asbestos and, importation, supply or use of asbestos and requirements for labelling of products containing asbestos.

Safety Reps' Action Points

- Never assume your workplace is asbestos free unless you are absolutely certain.
- Do not start work until a risk assessment has been carried out.
- Ensure the employer surveys the premises for asbestos, carries out risk assessments and draws up an action plan, in consultation with workers, to deal with asbestos if it is found or disturbed.
- Make sure you are involved in all risk assessments and are given copies of these and the plans of work .
- Stop any job immediately if you suspect asbestos is present.
- If the work is being carried out on non-domestic premises which are not your employer's, has the person in control of the building provided your employer with their written plan identifying where asbestos is to be found and given you a copy?
- Ensure all workers are kept informed about the risks associated with asbestos and control/prevention measures.
- Ensure all workers are provided with appropriate training about the new regulations.
- Ensure that the workforce is provided with appropriate protective equipment including respiratory equipment.
- Insist that all work with asbestos complies with Control of Asbestos Regulations 2006.

Compensation for personal injuries

Asbestos exposure

The union provides a comprehensive compensation service, through our solicitors, for members and retired members who have developed ill-health caused by exposure to asbestos. There are very strict time limits to pursue claims. You should not delay in seeking advice, however long ago you were exposed to asbestos.

For more information about all compensation claims contact your Regional Official **without delay**.

Control of Substances Hazardous to Health Regulations 2002 (COSHH)

The Control of Substances Hazardous to Health (COSHH) Regulations 2002 (as amended) apply to all workplaces using substances that are labelled as dangerous (i.e. very toxic, toxic, harmful irritant or corrosive) including substantial quantities of any dust; harmful micro-organisms and any material, mixture or compound used at work which can harm people's health. So they apply to workplaces where Unite members use substances such as solvents, cleaning materials, adhesives, inks, aerosols, pesticides, paint or where they are exposed to paper dust, fumes and biological hazards such as animal faeces.

Set out below are the main duties imposed on the employer by the COSHH Regs:

Employers' Duties

The employer must:

- Assess the risks.
- Decide what precautions are needed.
- Prevent or adequately control exposure.
- Ensure that the controls are used and maintained.
- Examine and test the control measures.
- Prepare plans and procedures to deal with accidents, incidents and emergencies.
- Ensure employees are properly informed, trained and supervised.

Additionally, where appropriate, they must:

- Monitor the exposure of employees and non-employees who may be on the premises.
- Ensure that employees who require it are under health surveillance.

The COSHH Assessment

Under Reg 6 employers have an absolute duty to carry out an assessment. It is against the law for work involving hazardous substances to continue unless there has been a suitable and sufficient assessment of the risk created by that work to the health of employees. This does not simply mean collecting data sheets. The employer must assess the steps needed to meet the Regs. and implement them.

The risk assessment shall include consideration of:

- a) The hazardous properties of the substance.
- b) Information on health effects provided by the supplier, e.g. safety data sheets.
- c) The level, type and duration of exposure.
- d) The circumstances of the work, including the amount of the substance involved.

- e) Activities such as maintenance, where there is the potential for a high level of exposure.
- f) Any relevant occupational exposure limit.
- g) The effect of preventive and control measures which have been or will be taken.
- h) The results of relevant health surveillance.
- i) The results of monitoring of exposure.
- j) Where work will involve exposure to more than one hazardous substance, the risk presented by combined exposure.
- k) The approved classification of any biological agent.
- l) Such additional information the employer may need in order to complete the risk assessment.

The assessment must be reviewed regularly and forthwith if there is any reason to suppose that the original assessment is no longer valid, or when there are significant changes to the work, or when the results of any monitoring show it to be necessary.

Where five or more people are employed a written record must be kept of the significant findings of the risk assessment, and the steps taken to prevent or control exposure.

Competent Persons

Employers can either carry out the assessment or appoint someone else to do it. Employers should use competent employees, where they exist, in preference to external sources, for competent advice and assistance. Whatever the case, those carrying out the assessment must:

- Have adequate knowledge, training and expertise in understanding hazard and risk.
- Know how the work activity uses or produces substances hazardous to health.
- Have the ability and authority to collate all necessary, relevant information, and
- Have the knowledge, skills and experience to make the right decisions about the risks and precautions that are needed.

The person who carries out the assessment does not always have to be fully familiar with the requirements of COSHH and the ACOP. However that person should have access to someone who has a firm grasp of those requirements. This pooling of knowledge would allow, for example, a supervisor's experience of a process to be combined with the technical and legal knowledge of a health and safety manager.

Employers have a duty to consult trade union safety reps, and Unite expects safety reps to have an input into COSHH assessments. The ACOP makes it clear that employers should involve reps in the process of carrying out and reviewing risk assessments.

Prevention or Control

Under Reg 7 the employer must prevent or, where this is not reasonably practicable, adequately control exposure to substances hazardous to health.

Substitution is the preferred method of compliance. It is important that where substitutes are used, these do not themselves present a further risk to health. If it is not reasonably practicable to prevent exposure, then employers must control it.

Such control measures include in order of priority:

- Design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work equipment and materials
- Control of exposure at source, including adequate ventilation systems and appropriate organisational measures
- Where adequate control cannot be achieved by other means, the provision of suitable personal protective equipment in addition to the measures above.

Protection Measures

Reg 7 states that protection measures shall include:

- Safe handling, storage and transport of hazardous substances and hazardous waste.
- Adoption of suitable maintenance procedures.
- Reducing to the minimum required
 - the number of employees exposed
 - the level and duration of exposure
 - the quantity of hazardous substance present
- Control of the working environment, including appropriate general ventilation.
- Appropriate hygiene measures including adequate washing facilities.

Workplace Exposure Limits (WELs)

WELs have been established for a number of substances hazardous to health. They are intended to prevent excessive exposure by containing exposure below a set limit. A WEL is the maximum concentration of an airborne substance averaged over a reference period, to which employees may be exposed by inhalation. WELs should not be considered a hard and fast line between safe and unsafe. The principles require the degree to which exposure is reduced below the WEL to be proportionate to the health risk. If employers apply the principles of good control practice correctly, exposure should be below any relevant WEL.

Adequate Control

Control of exposure is adequate only if:

- The principles of good practice are applied (see below)
- Any Workplace Exposure Limit (WEL) is not exceeded,
- For any carcinogen labelled R45, R46 or R49, or any prohibited substance or process; or any asthmagen labelled R42 or R42/43; exposure is reduced to as low a level as is reasonably practicable.

Principles of good practice for the control of exposure to substances hazardous to health

Employers have a responsibility to manage and minimise the risks from work activities. They must develop suitable and sufficient control measures and ways of maintaining them. They should:

- Identify hazards and potentially significant risks.
- Take action to prevent and control risks.
- Keep control measures under regular review.

To be effective in the long term, control measures must be practical, workable and sustainable. The principles of good control are part of the COSHH Regulations – they appear in Schedule 2A, aligned with Reg. 7(7). They are to:

- (a) Design and operate processes and activities to minimise emission, release and spread of substances hazardous to health.
- (b) Take into account all relevant routes of exposure.
- (c) Control exposure by measures that are proportionate to the health risk.
- (d) Choose the most effective and reliable control options which minimise the escape and spread of substances hazardous to health.
- (e) Where adequate control of exposure cannot be achieved by other means, provide, in combination with other control measures, suitable personal protective equipment.
- (f) Check and review regularly all elements of control measures for their continuing effectiveness.
- (g) Inform and train all employees on the hazards and risks from the substances with which they work and the use of control measures developed to minimise the risks.
- (h) Ensure that the introduction of control measures does not increase the overall risk to health and safety.

Use of Control Measures

Reg 8 requires employers to take all reasonable steps to ensure control measures are properly used or applied.

Employees are required to make full and proper use of control measures.

Maintenance Measures

Under Reg 9 the employer has a duty to ensure that the control measures are maintained in an efficient state, working order, good repair and in a clean condition. Local exhaust ventilation must be examined at least once every 14 months. There is a general requirement for all control measures to be examined at suitable intervals, including PPE and respiratory protective equipment. A record should be kept and made available for at least five years.

Monitoring

Under Reg 10 the employer has a duty to carry out monitoring where the risk assessment indicates that:

- a) It is requisite for ensuring the maintenance of adequate control of the exposure of employees.
- b) If it is otherwise requisite for protecting workers health.

Monitoring should be carried out at regular intervals, and when any change occurs which may affect exposure. Employers should consult HSE guidance notes such as HSG173 Monitoring Strategies for Toxic Substances.

A record should also be kept and made available to safety reps, covering:

- When the monitoring was done and the results.
- The monitoring procedures that were adopted.
- The location where the samples were taken.

Monitoring records must be kept by the employer:

- For at least 40 years where the record is representative of the personal exposures of identifiable employees.
- For at least five years in any other case.

Health Surveillance

Health surveillance is required under Reg 11 where employees are exposed to a substance linked to a particular disease or adverse health effect. This might involve examinations by a doctor or trained nurse, but trained supervisors could, for example, check employees' skin for dermatitis. A record of any health surveillance carried out must be kept and held for 40 years.

Information, Instruction and Training

Under Reg 12 employers must provide employees with suitable and sufficient information, instruction and training, including:

- Details of the hazardous substances to which they are liable to be exposed, including:
 - names and risks to health
 - any relevant exposure limits
 - access to data sheets
 - other legislative provisions that apply

- The significant findings of the risk assessment.
- Appropriate precautions and actions to be taken by the employees to safeguard themselves and others.
- The results of any monitoring, and in the case of substances assigned WELs, information forthwith if the WEL has been exceeded.
- The collective results of any health surveillance (not identifying particular persons).

Updating information

The ACOP to Reg 12 makes it clear that providing information, instruction and training is not a one-off exercise. Information, instruction and training should be reviewed and updated whenever significant changes are made to the type of work carried out, or to the work methods used. Significant changes might include the amount of substances used or produced, new control measures, new substances brought into the workplace, automation of certain processes.

Further information and training following a review of the assessment should cover why the assessment was reviewed, any changes to the way the work is to be done and the precautions employees should take to protect themselves and others.

Information to safety reps

The employer must make all relevant information available to employees or their TU safety representatives in accordance with the Safety Representatives and Safety Committees Regs 1977. In non recognised workplaces, a similar requirement exists under the Health and Safety (Consultation with Employees) Regs 1996.

Accidents, incidents and emergencies

Reg 13 states that employers must prepare procedures, which can be put into effect, in the event of accidents, incidents or emergencies related to the presence of a hazardous substance in the workplace.

COSHH Essentials

COSHH Essentials is a simple step-by-step system that helps employers assess and control health risks when using chemicals (as required by the Control of Substances Hazardous to Health (COSHH) Regulations). It contains control solutions for many standard work situations and helps firms to produce quickly and efficiently, a reliable assessment containing clear advice on what they need to do to protect their employees.

The ACOP to Reg 7 states that employers may use the advice available from COSHH Essentials for identifying appropriate control measures for a wide range of hazardous substances/task combinations. If correctly applied, these control measures should provide adequate control of exposure. However, it remains the responsibility of employers to ensure that they:

- (a) Have made a suitable and sufficient assessment in accordance with Reg 6.

- (b) Are controlling exposure adequately to substances hazardous to health in accordance with Reg 7(7)
- (c) Are protecting employees health.

Employers who use the COSHH Essentials approach may use the completed checklist from the publication, or the printout from the web-based COSHH Essentials, as part of the significant findings of the assessment that the employer may need to record in accordance with Reg 6(4).



Unite action: reducing chemical hazards at work

“I received training from the union on COSHH Essentials. As a result I managed to get a cleaning solution taken out of use on site. The chemical was used to clean ink from a printer head. I used COSHH Essentials to risk assess the chemical and analyse the process in which it was used. I found that the chemical had various hazardous classifications and I took the findings to the monthly safety meetings to prove my case. The company agreed with my findings and removed the product from our site. We still have to clean the print heads but use a substance which is less hazardous”

Unite safety rep, Graphical, Paper and Media Sector

Safety Reps' Action Points

- Ensure you are involved in the COSHH assessment, so that no substance is used without having first been fully assessed.
- Use your rights to health and safety information to request and take copies of COSHH assessments and records of monitoring, including the results of local exhaust ventilation tests.
- Check that measures which first prevent and then control exposure are introduced.
- Ensure that the employer provides information and training in the risks and alternative means of working with substances hazardous to health.
- Ask your employer whether there is a COSHH Essentials control solution for the jobs you do. If there is, make sure it is applied.

Unite Action: hazardous substances in a fish farm – Scotland

Unite members who work for a salmon farming company insisted that the employer provide laundry facilities to eliminate the risk of exposure of Unite members and their families to substances such as mineral oil and anti-fungal agents. Prior to provision of these laundry facilities these members had to take their contaminated PPE home for cleaning or just not clean it at all.

Personal Protective Equipment at Work Regulations 1992 (PPE Regulations)

What is PPE?

The Personal Protective Equipment at Work Regulations 1992 (Reg 2) define PPE as: *... all equipment (including clothing affording protection against the weather) which is intended to be worn or held by a person at work and which protects him against one or more risks to his health and safety, and any addition or accessory designed to meet that objective.*

Examples of PPE

This can be both equipment or clothing, depending on the circumstances. Examples are: eye protectors, safety shoes, Wellington boots, life jackets, high visibility waistcoats or jackets, gloves, safety helmets, safety harnesses, headwear to protect against the harmful effects of the sun, warm/waterproof clothing for work outside in cold or wet weather conditions.

Note: the PPE at Work Regulations do not apply directly to ear protectors, most respiratory protective equipment and some other types of PPE. This is because they are covered by other regulations such as the Prevention of Noise at Work Regulations 2005. But similar principles will apply eg in relation to selecting and maintaining PPE and consulting workers.

What is not PPE?

Reg 3 PPE at Work Regs 1992 excludes ordinary working clothes or uniforms which do not specifically protect the health and safety of the wearer, and offensive weapons used as self-defence or deterrence, and portable devices used for signalling risks or nuisances. PPE used while travelling on the road such as cycle and motor cycle helmets and leathers is also excluded – unless it is used elsewhere for example farm workers using it while driving farm cycles or all terrain vehicles.

When should PPE be issued?

Reg 4(1) states that every employer must provide suitable PPE where a risk assessment has shown that there are risks to health and safety that cannot be adequately controlled by other means. The employer must also assess whether the PPE they provide is suitable, and review the assessment if it is no longer valid. PPE should only be used as a last resort to protect workers from workplace hazards. In other words, the employer must first take preventive measures to control the risk: for example using safe systems of work, engineering controls and collective

measures to protect workers. PPE may be used as secondary protection in combination with other control measures if these measures do not adequately control the risk on their own. And it may also be good practice to provide PPE to give additional protection should any of the control measure fail.

Employers' duties

- ensure that PPE is provided for personal use to ensure hygiene and health.
- maintain PPE, keep it clean, replace it as necessary, keep it in good repair and in an efficient state and in efficient working order.
- provide employees with information, instruction and training on the use of the PPE.

Employees' duties

- use the PPE in accordance with the training and instructions they have received from the employer
- report any loss of PPE or if the PPE is defective.

Unite Action: Respiratory Protective Equipment (RPE) – insulation company

A Unite shop steward carried out a workplace survey of those who used RPE. All the workers who took part in the survey seized the opportunity to complain about health issues that they believed were caused by working in the areas where respirators are required. These included stinging eyes, skin rashes, nose bleeds, coughs, sickness and vomiting. The steward presented the results of the survey to his safety committee and ensured that improvements were made and monitoring was put in place.

PPE should be provided free of charge

The Health and Safety at Work Act 1974 Section 9 states that employers have a duty not to charge employees for anything they are required to provide by law. This means if an employer (including an employment agency who is an employer) has to provide PPE by law, then it must be provided free of charge.

Sharing PPE

The Health and Safety at Work etc Act 1974 states that employers must ensure their employees' health, safety and welfare at work.

Under the PPE regulations PPE should be provided for personal use unless it is only used for limited periods and can be properly cleaned to ensure there are no health risks for the next person.

Unite action: shared Wellington boots at a food factory in the Midlands

Unite has run a number of campaigns on shared PPE. At a food factory in the Midlands employing 500 workers, Unite organisers found that their main issue was having to share their work boots. The incoming shift had to take over the boots of the outgoing shift. And, as if that wasn't enough, their boots leaked, and no personal lockers were provided. As a result of Unite action including a workplace petition and lodging over 200 grievances, the employer granted recognition and agreed to issue boots for personal use. The employer then bought inferior boots. This was soon picked up by the newly elected reps and representations were made. Using cheap boots was a false economy as the employer had to replace them.

Relationship between the PPE Regulations and other health and safety regulations

The PPE Regulations do not apply where PPE is provided under six other Regulations because these regulations already require the use of some types of PPE to protect against certain risks, for example, the Noise at Work Regulations require the use of hearing protection where necessary. These six regulations are:

- Control of Lead at Work Regulations.
- Ionising Radiations Regulations.
- Control of Asbestos Regulations.
- Control of Substances Hazardous to Health Regulations.
- Construction (Head Protection) Regulations.
- Control of Noise at Work Regulations.

Consulting those who will be using the PPE is absolutely crucial and the employer should offer a choice of suitable PPE if at all possible. If workers are not consulted on PPE, and can't try it out first, this may result in it being unsuitable or uncomfortable, too heavy, or limit mobility or vision thus creating further potential hazards.

The result may also be that workers either don't use it at all or use it improperly resulting in a "blame culture". This can be avoided by meaningful consultation on selection of PPE at the outset, followed by the employer providing effective information and training.

Safety Reps' Action Points

- Use rights to consultation under the Safety Representatives and Safety Committees Regulations 1977.
- Ensure that the employer provides information and training on PPE.
- Promote equality.

Ensure that a gender-sensitive approach is taken to PPE the underlying principle being "differentiate, don't discriminate". PPE is often designed for the average sized man. As a result it may not be suitable for use by women workers or others who are not of standard male size and may also introduce hazards and discomfort for pregnant or menopausal women.

Ensure that disability issues are taken to account. Health and safety should never be used as a false excuse for not employing, or not continuing to employ, disabled people. The PPE Regulations 1992 (2002 amendment) state that employers must take account of ergonomic requirements and the state of health of the person who may wear the PPE.

- Ensure that PPE is provided free of charge.

Unite action: employer charging for PPE – North West

Polish workers at a retail distribution warehouse in the North West were being charged for personal protective equipment such as work boots. The first thing the Unite shop steward told these members was that they should not be paying for their boots. As a result of Unite action the money they had paid for their protective equipment was refunded.

Control of Noise at Work Regulations 2005

The Control of Noise at Work Regulations 2006 apply to all workers in Great Britain, and to those offshore activities within the scope of the Health and Safety at Work etc Act 1974, except the crews of sea-going ships, aircraft, or hovercraft moving under their own power.

Employers (and mine or quarry managers) are responsible for action at the workplace, and employees must cooperate with their employers programme to prevent hearing damage. Machine designers, manufacturers, importers and suppliers also have duties.

Workplace noise may be a hazard for many Unite members. According to HSE statistics, 170,000 people in the UK suffer deafness, tinnitus or other conditions as a result of excessive exposure to noise at work.

Examples of noisy workplaces may be (this list is not definitive): pubs, restaurants and clubs, transport, metal processing, engineering, driving, construction, textile processing and sewing shops, forestry, repetitive assembly work, food and drink manufacture, beer and soft drinks distribution, agriculture (including animal noise eg pig feeding), call centres, offices and quarrying.

Is there a noise problem in your workplace? There may be if:

- You have to shout or raise your voice to be heard by someone else one metre away.
- You have ringing in your ears or suffer from temporary deafness after work. This is a warning sign that your hearing may be at risk. In time, temporary deafness could turn into permanent and irreversible hearing loss, so act now.

Some health effects of exposure to loud noise

noise-induced hearing loss: this can be caused by prolonged exposure to loud noise and affects both ears.

tinnitus: whistling, ringing, hissing buzzing or roaring in the ears – this can be painful and may lead to sleep disturbance.

acoustic trauma occurs when exposed to a loud noise for a short period of time eg an explosion.

perforated eardrum

Hyperacusis can develop after sudden exposure to high sound levels – the sufferer may find certain sounds uncomfortable or painfully loud when others don't – and can be made worse by exposure to noise at work.

Exposure to noise has been linked to heart disease and high blood pressure and may contribute to **fatigue** and **stress**.

Pregnant workers exposed to high noise levels at work may experience increased blood pressure and tiredness. Noise can affect the hearing of the unborn child.

Social exclusion can arise from hearing loss for example inability to use the telephone, have conversations on social situations, feeling that others don't understand what you are going through.

Employers have a legal duty to protect their employees from the harmful effects of noise at work. Noise-induced hearing loss is **preventable**.

The Control of Noise at Work Regulations 2005 require employers to prevent or reduce risks to health and safety from exposure to noise at work.

These regulations require employers to:

- Assess the risks to employees from noise at work.
- Reduce the noise exposure which produces those risks.
- Provide hearing ear protection if the noise exposure cannot be reduced enough by using other methods.
- Consult safety representatives about the provision of ear protection.
- Make sure the legal limits on noise exposure are not exceeded.
- Provide workers with information, instruction and training.
- Carry out health surveillance where there is a risk to health.

The regulations require employers to take action at certain levels. These are:

- Lower exposure action value of a daily or weekly exposure of 80 dB.
- Upper exposure action value of a daily or weekly exposure of 85dB.

At the **lower exposure action level** the employer must provide information on the risk and what measures can be taken to protect hearing. Your employer must also provide ear protectors free of charge and ensure that these are kept in good working order. Employers must make every effort to reduce noise levels as far as possible by modifying or replacing equipment and carry out regular maintenance. Another preventive measure would be enclosing noise areas to muffle the sound.

At the **upper exposure action level** – if the daily noise level reaches 85dB(A) ear protection must be provided by your employer and it must be worn. Your employer must ensure that ear protection is worn and keep it in good condition. Your employer must also clearly mark ear protection zones, where ear protection must be worn.

Exposure limit values: these are levels of noise exposure which must not be exceeded – a maximum daily or weekly is 87 dB and the maximum peak sound pressure of is 140 dB.

These regulations became law in 2006 (and did not apply to the music and entertainment sectors until 2008) so many employers have not yet taken action to implement them at work. It is not simply a case of providing ear protection as other noise prevention measures must be considered first.

Unite safety reps take action on noise at work

We were experiencing a lot of noise from one of our printing machines. With the co-operation of the management we conducted a noise survey. It transpired that we were working over the legal limit and the noise had to be reduced. Again with the co-operation of the management, ear defenders were issued until the problem was rectified.

Safety Reps' Action Points

Ensure you are consulted about workplace noise prevention measures including ear protection.

Negotiate a policy on noise reduction measures.

SAFETY REPS' SIGNPOSTS

Unite resources – for all subjects

Unite health and safety web pages

www.unitetheunion.org/memberservices/healthandsafety/healthandsafetyresources.asp

A wide range of leaflets and posters.

Management of Health and Safety at Work

HSE

Risk Assessment

www.hse.gov.uk/risk

Managing health and safety resources

www.hse.gov.uk/pubtns/manindex.htm

Workplace health, safety and welfare

Hazards magazine website resources

Toilet break campaign at

www.hazards.org/toiletbreaks/index.htm

HSE web page on workplace health, safety and welfare

www.hse.gov.uk/smallbusiness/must/welfare.htm

TUC resources

The TUC calls for maximum workplace temperatures

www.tuc.org.uk/h_and_s/tuc-5385-f0.cfm

TUC Give us a (loo) break campaign

www.tuc.org.uk/workplace/tuc-17668-f0.cfm

Asbestos

HSE website

www.hse.gov.uk/asbestos

The HSE/TUC has published a special leaflet for safety representatives which is at

www.hse.gov.uk/asbestos

International Ban Asbestos Secretariat website

<http://ibasecretariat.org/>

COSHH

Control of Substances Hazardous to Health (5th Edition), Approved Code of Practice and Guidance L5 – HSE Books 2005 £12.50 or downloadable free from HSE website.

COSHH: a brief guide to the regulations: INDG136 – downloadable free from HSE website

www.hse.gov.uk/coshh

www.hse.gov.uk/pubns/indg136.pdf

COSHH Essentials: 'easy steps to control chemicals' – HSG193 ISBN 0-7176-2421-8 - is available from HSE Books or as a free Internet version at

www.coshh-essentials.org.uk

TUC – Occupational Cancer. A Workplace Guide

www.tuc.org.uk/extras/occupationalcancer.pdf

Noise

Unite

Noise Poster – www.unitetheunion.org

Health and Safety Executive

www.hse.gov.uk/noise

TUC: Noise at Work – a guide for health and safety representatives; and other health and safety information on their website at www.tuc.org.uk

RNID: plenty of information on preventing noise exposure at work www.rnid.org.uk

Personal Protective Equipment

HSE Guidance: Personal Protective Equipment at Work L25 (2nd Edition). Available free to download from the HSE website.

HSE frequently asked questions on PPE

www.hse.gov.uk/contact/faqs/ppe.htm

NOISE

listen up – protect yourself

Fighting to protect
YOU at work

CONTACT YOUR UNITE REP:

www.unitetheunion.org



CHAPTER 4

Inspections, investigations and surveys

“...The Reg 40 Quarries Regulations activity [inspections etc] we carry out on our sites and within our laboratories and offices has had a profound effect on management awareness throughout this establishment. It can be likened to a gentle policing, which minimises bad practice and supports the welfare of the employees. The success is measured by the lessening number and severity of issues arising as time progresses.

Without this system dangerous occurrences would have to arise to validate the need for safety measures to be put in place, as was the former practice...”

Unite safety rep working in the quarry sector in the South West

A major part of the safety rep's role is to carry out inspections.

These inspections are in two main areas;

- Carry out inspections of the workplace at least once every three months.
- Inspect any documents the employer is legally required to keep on matters of health, safety and welfare at work. Arrangements for three-monthly and more frequent inspections will need to be agreed with employers. These matters are often best dealt with at the workplace level. Issues to be discussed include:
 - The need for more frequent inspections of high risk or rapidly changing areas of work activity.
 - Notice and timing of formal inspections by safety reps and how many safety reps will be involved.
 - The possibility of breaking up workplace wide formal inspections into smaller, more manageable inspections.
 - The need for different groups of safety reps to carry out inspections in different parts of the workplace.
 - The type of inspection to be carried out, such as safety tours, sampling, surveys or mapping.
 - The enlistment by safety reps of independent technical advisers.

Formal inspections are no substitute for daily observations. However they provide a useful opportunity to carry out a full-scale examination of all

or part of the workplace, including inspection of documents required by health and safety legislation such as certificates concerning the testing of equipment. During these inspections, safety reps can network with other safety reps and discuss remedial action with their employer.

During inspections following notifiable accidents or dangerous occurrences, employers are not legally obliged to be present while safety reps consult their members. There may of course be occasions when safety reps do not wish employers to be present. The regulations do not preclude the employer or their representatives from being present.

Safety reps should also be permitted to take samples of any substance used at work for independent analysis outside the workplace. Safety reps should take appropriate precautions when taking samples.

Following an inspection, safety reps should complete an inspection report, recording the date, time and details of an inspection. One copy of the completed form should be sent to the employer and one copy should be retained by the safety rep for their own records and for reference during the safety committee discussions.

The results can help to show employers areas where they should be prioritising. When an actual or potential hazard is identified, the employer has a legal responsibility to assess and control the hazard.

Inspection activities can also help the union and safety reps identify campaigning issues and, importantly, show members that Unite is actively taking up issues.

“At a recent meeting of the Safety Committee, I asked for a safety rep to accompany the management members who do a fortnightly site walk round, which aims to highlight any problems, including safety. We use this as a form of inspection which generally covers the entire factory. I have stressed to the reps that this does not mean that they cannot still issue a one month’s notice to inspect an area of the factory (or do the same after an accident)”

Senior safety rep at a paper label manufacturing site in the North East

Prepare for the inspection

- Inform members in advance of an inspection so that any problems they experience can be noted.
- When inspecting unfamiliar areas have a plan of the area and information on the work carried out there.
- Inspect all aspects of the working environment, working methods and conditions.
- Have a checklist to cover all relevant health and safety issues.
- Look at working areas and talk to those working there to identify if there are hazards present and the risks. Not all hazards will be obvious, for example stress – but also be aware this could be a sensitive issue.
- Make notes on any problems to write up later in a report.

Unite Action: reporting near misses in food manufacturing – Midlands

A Unite Safety Rep working in food factory in the Midlands devised a “Hazard Spotting Programme” with support from his management and initiated a recruitment campaign for volunteer safety representatives. Unite provided on-site training for these safety representatives.

Safety reps carrying out their regular inspections report hazards to their line manager and this information is recorded on a spread sheet. Remedial action can be monitored directly by the safety representatives concerned, so they feel fully involved in the process. The programme also raised awareness amongst employees who feel more able to raise health and safety concerns without fear of blame. As a result, there has been a fivefold increase in near miss reporting and 75 per cent of reported hazards issues were resolved through the ongoing programme.

This safety rep’s achievement was recognised in the food and drink manufacturing health and safety awards 2010

Inspection not risk assessment

Safety reps should not confuse workplace inspections with risk assessments. Inspections only seek to identify hazards and problems. Risk assessments are more wide ranging and identify hazards, evaluate the risks, record findings, recommend precautions and review progress. Management is legally responsible for carry out risk

assessments. Unite encourages safety reps to participate in all stages of risk assessment to ensure that procedures and improvements are implemented and working effectively.

Safety reps can use other methods to identify issues in addition to their powers to inspect and to monitor health and safety in the workplace.

Surveys

A survey can range from simply talking to members and asking for a show of hands to conducting a detailed analysis of statistics. A show of hands or a simple questionnaire is probably the easiest way to get information from members. A good survey is one that is clear, concise and easy to analyse. If it is easy to fill in you will get a better response and if it is easy to analyse you will get better and more comparable results. Remember a lengthy survey may take weeks to complete and analyse, so think about what you may need and what time you have available.

What to do

- Before you start be clear about who is to be the audience targeted and decide on the outcome you want.
- Keep it anonymous – members will be more honest and open if they believe their answers will not be tracked back to them.
- On the survey form ask for all the information you may need such as area, type of job, type of employment, shift etc – but keep it short and simple.
- Inform the workforce of the reason for the survey, how it is going to be carried out, how the results will be interpreted and who they are going to be shown to and what further action is intended once the results have been collected and analysed.
- Analyse the questionnaire or survey to identify the issues.
- Share the results with the workforce.
- Write a report to inform your management/safety committee about the issues identified.
- Work together to ensure that the issues that have been revealed by the survey are resolved.

Taking it further: Workplace mapping

The survey process can be taken a step further by using a method known as workplace mapping. Unite safety reps in hotels and supermarkets are using this method successfully. The HSE has also developed mapping tools, for example for slips and trips and body mapping.

What is workplace mapping?

Workplace mapping is a visual data gathering and reporting technique we can use to conduct our own “risk assessments”.

Mapping is a powerful organising and research tool as it:

- Encourages worker participation in improving health safety.
- Raises awareness of health and safety.
- Raises the profile of trade unions.

Workplace mapping principles

They are three types of mapping research tools which, when linked, can give a total picture of the effects that the work environment can have on our lives. They are body mapping, risk mapping and “your world” mapping.

Mapping is about getting people to discuss their workplace collectively – how it affects them and how to improve it – and provide the basis for action by the union or further research.

Getting together to discuss how their job is affecting them gives workers a chance to see if a problem is really a work problem. If one person has an ache, it's only an ache. But if other workers have it too, it may mean that there is a health and safety problem at work which needs to be solved.

Body mapping

Body mapping is a tool for getting members together to discuss how their job is affecting their health. It has been largely used for identifying musculoskeletal problems and ergonomic hazards but it is equally effective in documenting other health problems such as stress.

The effects of the working environment on our health are not always easy to work out. An inspection may reveal problems in the workplace but it may not reveal how work might be harming our bodies. Body Mapping is a way of overcoming this and identifying common patterns of health problems amongst members.

The body map is a chart showing the front and back view of a body. Using coloured pens or stickers, workers doing similar tasks on the same shift are encouraged to mark on the chart where they suffer pain or injury while they are working.

Hazard mapping

Hazard mapping is a collective effort and is designed to gather information about hazards. Members can make a drawing of their workplace and mark on it the hazards that are present, using coloured pens or stickers.

Hazard mapping can help to identify workplace hazards such as stress, chemicals, physical hazards, work design and biological hazards. It helps members to visualise their workplace and the hazards that exist. It also provides documentation that can be presented to an employer, inspector or health and safety committee.

Hazard maps can even be drawn retrospectively. So, using workers' collective memory, a map can be drawn of the workplace or department as it existed years before, and links between the workplace and health problems that have a latency period, such as cancer, may be established.

Investigations

Under the SRSC, safety reps are also allowed to investigate:

- Potential hazards.
- Dangerous occurrences.
- Causes of accidents and occupational ill-health.
- Complaints from members.

Safety reps can therefore, immediately and without formal notice of an inspection, investigate imminent risks. Following the investigation of a serious mishap, the safety rep should also complete a hazard report form, retain one copy and send another to the employer.

The employer should complete and return to the safety rep the part of the form that describes any proposed remedial action or offer an explanation. The safety committee should refer to this during their discussions of the incident.

Inspection, Investigation and report forms can be drafted to an agreed format to meet local needs. Unite has examples of forms and checklists for safety reps to use.

For some more information on investigation see Chapter 5.

“We are getting the safety reps more involved in accident and incident investigations. We are testing a new form for recording accidents or incidents which the Shift Team Leaders are tasked with filling in and the forms ask questions like whether a safety rep has been involved in the investigation. Along with the Company Health and Safety Advisor, I have set up trigger points at which point a safety rep MUST be involved, namely if an injured person is sent home or to hospital, or if there is an incident which could be classed as a near miss or dangerous occurrence. This system will be kept under review”

Senior safety rep, Manufacturing, North East

SAFETY REPS' SIGNPOSTS

Unite inspection checklists available from health and safety pages at www.unitetheunion.org

International Labour Organisation (ILO) Barefoot research available to download from www.tuc.org.uk/workplace/index.cfm?mins=127&minors=124&majorsubjectID=2

Body mapping resources available from www.hazards.org/diyresearch/index.htm

Mapping in action <http://www.tuc.org.uk/extras/insbooklet30auglowres.pdf>
www.hazards.org/diyresearch/images.htm

TUC guide: Workplace Health and Safety Inspections
www.tuc.org.uk/extras/insbooklet30auglowres.pdf



**Make sure all injuries,
illnesses and near
misses are reported
and recorded**

**Fix
the Hazards**

Workers are **NOT to blame for
injuries and ill health**

Contact Your Unite Safety Representative:

www.unitetheunion.org

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CHAPTER 5

Report! RIDDOR and the Accident Book

Introduction

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires employers, persons in control of premises or the self-employed, depending on the circumstances, to report work-related accidents, diseases and dangerous occurrences.

RIDDOR applies to all activities at work – but not all incidents are reportable.

The HSE has produced a leaflet about INDG453 how to report incidents. The HSE's Incident Contact Centre acts as a central reporting point for RIDDOR reports. Since 12 September 2011 reporting is done mainly on line. There is a telephone service for reporting fatal and major injuries only. See: www.hse.gov.uk/riddor.

Unfortunately, there is considerable under-reporting by employers (it is estimated that at least 50% of RIDDOR reportable incidents are not reported). It is particularly important for safety reps to be aware of the provisions of RIDDOR so that they can help to ensure that RIDDOR reporting requirements are met by their employer and opportunities for prevention are not missed.

Safety reps who may become involved in this issue are advised to study RIDDOR very carefully as there is insufficient space here to include all the important information about reporting.

Who is covered by RIDDOR?

Everyone present in the workplace – including employees, contractors and visitors.

What information should be recorded?

RIDDOR requires employers to record the following details of any accident, dangerous occurrence or disease at work.

- The date and time of the accident or dangerous occurrence.
- The particulars of the person affected e.g. name, occupation and nature of injury or condition.
- The place where the accident or dangerous occurrence happened.
- Brief description of the circumstances
- For diseases the following information is required:
 - The date and diagnosis of the disease
 - The occupation of the person affected
 - The name and nature of the disease.

What sort of incidents must be reported?

- The death of any person arising from a work-related activity must be notified without delay.
- All major and serious accidents and injuries must be notified without delay. These include any fracture (except to finger, thumb or toe); amputation; dislocation of shoulder, hip, knee or spine; loss of sight (temporary or permanent); a chemical or hot metal burn to the eye or any penetrating injury to the eye; any injury from electric shock or burn leading to unconsciousness or requiring resuscitation or admittance to hospital for more than 24 hrs. The full list is found in Schedule 1 of RIDDOR.
- If a person suffers from a reportable work-related disease then it must be reported immediately – examples are cancer, dermatitis, some poisonings, occupational asthma, anthrax, legionellosis, tetanus, asbestosis and mesothelioma. The full list is found in Schedule 3 of RIDDOR.
- Dangerous occurrences as defined in schedule 2 of RIDDOR should be reported without delay. These would include incidents involving explosives, relating to pipelines, collapse of scaffolding, malfunction of breathing apparatus, involving contact with overhead lines, involving a road tanker or tank container used for the carriage of dangerous goods.
- Incidents connected with work, including violence, where the person cannot do their work for seven days or more after the incident, must be reported within 15 days, but all "over three day" injuries must still be recorded.

Safety reps' rights to inspect after notifiable incident/disease or dangerous occurrence (including a near miss)

Quick and accurate investigation of accidents and near misses can ensure that they are not repeated and that any injured person obtains the appropriate compensation. It is very important to keep a written record of what you observe.

Safety Representatives and Safety Committees Regulations 1977 (SRSC)

Under the SRSC reps have the following rights both in general and in relation to accidents, diseases and dangerous occurrences:

- Investigate dangerous occurrences and causes of accidents (**Reg 4(1)(a)**).
- Make representations to the employer on behalf of members, represent members in discussions with health and safety inspectors and receive information from inspectors (**Reg 4(1)(c), (d), (f) and (g)**).

After a notifiable accident, dangerous occurrence or disease

- Inspect where there has been a notifiable accident or dangerous occurrence, or a notifiable disease has been contracted, and it is safe for an inspection to be carried out, and the interests of workers in the group or groups which safety representatives are appointed to represent might be involved. Those safety representatives may carry out an inspection of the part of the workplace concerned, and so far as is reasonably practicable to do so, they shall notify the employer of their intention to do so (**Reg 6(1)**).
- Receive help, facilities and information from the employer to enable them to carry out inspections effectively. This includes facilities for independent investigation by safety representatives and private discussions with workers (**Reg 6(2)**).
- Examine any relevant machinery, plant, equipment or substance in the workplace so that the cause can be determined and the actions to prevent recurrence can be considered (Guidance Note 26). This must not disturb or damage any evidence before an inspector from the enforcing authority has investigated (Guidance note 28).
- If the employer needs to take urgent action to safeguard against further hazards then the employer should notify the safety representative in writing of any action taken (Guidance note 27).

Access to Information

- To inspect and take copies of any document relevant to the workplace or to the employees that the safety rep represents (this can be withheld in some limited circumstances) (**Reg 7**).
- To inspect information that the employer keeps relating to the occurrence of any accident, dangerous occurrence or notifiable industrial disease and any statistical records relating to these. (**Reg 7 ACOP par 65(c)**).
- All such statistics should be studied at the safety committees so problem areas can be identified and priorities set (Guidance note 41).
- In the case of these inspections, extra expertise from outside the organisation may be needed. This may be agreed between the employer and the unions, or the safety reps may call in their own advisers with the employer's agreement.
- Any report made by a third party to the safety reps should also be given to the employer.

Remember the accident book

Every attempt should be made to record and act upon near miss information and ill health (such as upper limb disorders) and not just the "accidents" themselves. Workplace statistics derived from this source provide essential information for safety committees so they can monitor and ensure that

preventive action is taken. Information recorded in the accident book can also provide valuable evidence in the event of a compensation claim by a member.

The specific legal requirement to keep an accident book is found in the Social Security (Claims and Payments) Regulations 1979. These regulations sit alongside RIDDOR and Regulations 24 and 25 are particularly relevant:

The Social Security (Claims and Payments) Regulations 1979

Notice of Accidents – Regulation 24

Require the injured worker or person acting for them to give the employer specific details of accidents as soon as practicable either in writing or orally. These are as follows:

- Full name, address and occupation .
- Date and time of accident.
- Place where accident happened.
- Cause and nature of injury.
- Name and address and occupation of person giving notice, if other than the injured person.

Unite strongly recommends that the person who has suffered the injury checks the details recorded in the accident book (particularly if these have been entered by a third party) to make sure they are a true record of what happened. This would apply whatever recording system is used, whether it is a paper or electronic system. If members have any concerns about the process they should contact their Unite safety representative for advice especially with regard to disclosure of information and how that information may be accessed and used by their Unite safety representative.

Please see below for more information about disclosure of information.

Obligation of Employers – Regulation 25

Requires the employer to investigate the circumstances of every accident reported and record the circumstances. It also requires employers with ten or more employees to keep an accident book that is readily accessible. All accidents in the workplace must be recorded in the book and records must be kept for a minimum of three years after the last recorded entry.

The Accident Book, Data Protection and disclosure of information

A few years ago, the HSE revised the accident book to comply with the Data Protection Act 1998. The book is now designed so that individual record sheets can be removed and stored securely. As a result any individual recording an accident is unable to access the personal details of previous records. The new book also contains some basic first aid information, as well as information about employers' duties under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).



Disclosure of information from the accident book to safety representatives

HSE's web advice on this issue is as follows:

Safety representatives are legally entitled to inspect records of accidents that employers have to keep under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). The Accident Book BI510 is a valuable document that organisations can use to record accident information as part of their management of health and safety.

A tick box is included on each page of the Accident Book asking whether the injured person gives his or her consent to the disclosure of the information contained in that record to safety representatives.

The employer should:

- if the injured person has ticked the tick box (and signed the form), disclose the information contained in the accident record, so far as it relates to the injured person, to safety representatives and/or representatives of employee safety;
- anonymise the information if the injured person does not tick the tick box and disclose it to safety representatives and/or representatives of employee safety.

The arrangements to pass on this information should be discussed between employers, employees and/or their representatives. The aim should be to make the best possible use of this (and other) information to meet health and safety objectives. By following this approach you and your employer will not be infringing the Data Protection Act (DPA) or confidentiality law.

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For full information on RIDDOR see the HSE web site
www.hse.gov.uk/riddor/

HSE Releasing information to employees
www.hse.gov.uk/workers/releasing.htm

TUC workSMART guide on accidents, incidents and injuries
www.worksmart.org.uk/rights/viewasubsection.php?sun=33

News and resources on the Hazards magazine website including research and investigation tools
www.hazards.org/tools/index.htm

CHAPTER 6

Enforcement and Health and Safety Inspections

Introduction

Section 18 of the Health and Safety at Work etc Act 1974 places a duty on the Health and Safety Executive (HSE) and Local Authorities (LAs) to make adequate arrangements for health and safety enforcement. Both the HSE and LAs employ health and safety inspectors. Other authorities also employ health and safety inspectors such as the Civil Aviation Authority and the Maritime and Coastguard Agency.

Which enforcement authority covers your workplace will depend on the work activity that takes place there. The enforcement authorities will often work together if there is a cross-over of their respective responsibilities (see also below).

Unite health and safety reps may be contacted by or make contact with the enforcing authority for the health and safety of your workplace.

This might occur when:

- An inspector makes a proactive site visit to your site
- An inspector makes a reactive visit to investigate an incident or complaint
- You make contact with an inspector to report an incident, make a complaint or request assistance.

Health and Safety Executive (HSE)

The HSE is responsible for ensuring that employers maintain good health and safety standards in a wide range of workplaces (including factories, major hazards installations, local authority premises, docks, construction sites, and agriculture).

They are also responsible for ensuring that employers comply with laws on health and safety. The HSE employs inspectors to inspect workplaces, investigate incidents and take enforcement action where the law has been breached.

The work of the HSE inspectorate includes:

- Enforcement of health and safety law including all employer compliance on Employer's Liability Insurance.
- Preventive inspection of workplaces (for example regular unannounced "blitzes" of construction sites).
- Investigating serious accidents, dangerous occurrences and cases of ill health.
- Assessing Safety Cases and Reports (for example in hazardous installations).

- Informing and advising employers, safety reps and others.

HSE policy functions include:

- Developing and reforming safety legislation.
- Publication of guidance and codes of practice – most of which are found on their extensive website in a variety of formats.
- Research.
- Parliamentary and ministerial work.
- Involving "stakeholders" in their work including employers and workers.

The HSE publishes an Enforcement Policy Statement, which is on its website at www.hse.gov.uk/pubns/hse41.pdf, and other information about its enforcement activities is found at www.hse.gov.uk/enforce/index.htm.

The HSE and other enforcement agencies

The HSE has also entered into agreements with other agencies which are responsible for health and safety enforcement, for example the Civil Aviation Authority (CAA), the Vehicle and Operator Service Agency (VOSA) the Marine Accident Investigation Branch (MAIB) and the Maritime and Coastguard Agency (MCA). These Memoranda of Agreement, which set out their respective responsibilities, are posted on the HSE website.

In addition other government bodies enforce in related areas, such as the Gangmasters' Licensing Authority and the Employment Agency Standards Inspectorate. For more information see the leaflet "Enforcing Workplace Rights: A brief guide to the Government's Enforcement Bodies" available on the Unite website.

If you or your official want to contact the enforcement authority for your workplace and are not sure which one it is, you can contact your local HSE office which will advise.

Local Authority Environmental Health Officers (EHOs)

EHOs have the same legal powers as the HSE but are employed by local councils, and are responsible for enforcing health and safety law in many types of premises including offices, shops, banks, hotels, hairdressers, cinemas, catering premises and market trading. EHOs also enforce food hygiene across all types of work premises.

The HSE has published a circular LAC 23/15 which outlines the respective premises enforced by the HSE and EHOs. This is posted on the HSE website at www.hse.gov.uk/lau/lacs/23-15.htm.

Inspectors' Powers

As government regulators the HSE and EHOs have extensive powers.

These include:

- Issuing Improvement and Prohibition notices.
- Prosecuting organisations and individuals.
- Inspecting any workplace at any time.
- Interviewing anyone they think necessary.
- Taking possession of documents, photographs, substances and taking any samples they deem necessary.

Enforcement Action

Inspectors can take action against anyone who breaks health and safety law. This includes employers, employees, the self employed, and contractors.

Informal

Where the breach of the law is considered to be relatively minor, the inspector may tell the employer what to do to comply and explain why they must do so. This will often be by letter to the employer and safety reps should be sent a copy of this and ensure that it is displayed on workplace notice boards. Another type of informal notification occasionally used by HSE inspectors (for example on construction sites) is an Instant Visit Report which is a form completed on the spot with the employer receiving one copy and the HSE retaining a carbon copy.

Improvement Notices

If the breach is considered to be more serious, then the inspector may issue an Improvement Notice to tell the employer that they must do something to comply with the law. The notice will state what needs to be done, why, and when the improvements must be completed.

Prohibition Notices

An Inspector can issue a Prohibition Notice if anything is happening which involves, or will involve, the risk of serious personal injury. A Prohibition Notice can require the activity to stop immediately or after a specified time period. The activity cannot re-start until the employer has taken action to make the activity safe.

If the employer breaches an Improvement Notice or Prohibition Notice they are liable to prosecution.

Prosecution

Inspectors can also start prosecution proceedings in court against anyone, including an individual, who is in breach of health and safety law. A prosecution can lead to fines and possible imprisonment.

Unite safety reps and inspectors

In your role as a Unite safety rep you should meet health and Inspectors at your workplace if they carry out a visit. Inspectors are given specific instructions to ask if there are any safety reps when they visit a workplace. They should meet with you and ask you for your views. It is therefore important that you ensure that you are well known to your management and colleagues as a Unite safety rep and also know your inspector.

If an Inspector needs to interview one of your members about an incident, you have the legal right under the Health and Safety at Work Act 1974 (section 20 (2)) to be present at that interview if your member requests it.

Inspectors' powers include enforcing the SRSC. If your employer does not comply with the regulations, they will be committing an offence. Health and safety inspectors (from HSE and local authorities) "may enforce the regulations where there is no evidence of consultation". [see HSE leaflet INDG232 page 8]

For more information on HSE's enforcement policy see their Enforcement Policy Statement.

Getting action from your Inspector – complaints

Both the HSE and Local Authority Environmental Health Departments have limited resources and cannot respond to every complaint.

The HSE publishes criteria on their website describing how they deal with complaints about a work activity for which they are the enforcing authority.

HSE responds where they can identify the duty holder and/or the location and where:

There been significant harm, or there is the potential for significant harm; or

the complaint alleges the denial of basic employee welfare facilities; or

the complaint appears to constitute a significant breach of law for which HSE is the enforcing authority.

More information about how the HSE deals with complaints is at www.hse.gov.uk/foi/internalops/og/ogprocedures/complaints/index.htm.

Before considering a complaint to their inspector safety reps should always make attempts to resolve the situation by taking the following action:

- Using all avenues and procedures within your workplace, including the Safety Committee
- Contacting and involving your Unite Regional Officer and Unite Health and Safety Adviser
- Using the HSE Infoline to obtain advice – telephone 0845 345 0055 – you do not need to give them your name. **Please note infoline is closing on 30 September 2011 as a result of government cuts.**



If you do need to contact your inspector to make a complaint Unite strongly advises you do this through your Regional Officer.

The information you will need to provide for the Inspector includes:

- A full description of the situation.
- What hazards are present and who is affected.
- What management have or have not done about it.
- What attempts you have made to negotiate solutions.
- What they need to look for and who to speak to when they visit and;
- What action you think he/she should take.

When the inspector will not take action

The HSE inspector or the EHO is unlikely to intervene if they deem a situation to be about 'industrial relations'. This applies to issues such as the recognition of safety reps and any industrial action taken over health and safety issues. Such matters are handled by Employment Tribunals (ET).

Safety representatives who have not been permitted to take paid time off to carry out their roles or be trained can apply to an ET. All cases which may involve an application to an ET should be directed to the relevant Unite Regional Officer.

NOTE:

The HSE enforces in England, Wales and Scotland. The HSENI enforces in Northern Ireland. The Health and Safety Authority (HSA) enforces in the Republic of Ireland.

SAFETY REPS' SIGNPOSTS

HSE website: About us

www.hse.gov.uk/aboutus/index.htm

HSE Public Register of Prosecutions

www.hse-databases.co.uk/prosecutions/

HSE: Public register of Enforcement notices

www.hse-databases.co.uk/notices/

HSE Enforcement policy statement

www.hse.gov.uk/pubns/hse41.pdf

HSE Topic Inspection Pack on worker consultation and involvement (2007)

www.hse.gov.uk/foi/internalops/fod/inspect/workerinvolve.pdf

TUC: Liability and corporate responsibility

www.tuc.org.uk/h_and_s/indexcfm?mins=33

TUC safety rep's guide An Inspector Calls

www.tuc.org.uk/extras/AnInspector_1.pdf

Hazards magazine – Deadly business

www.hazards.org/deadlybusiness/

Unite report: Incidents reported to the Health and Safety Executive

www.unitetheunion.org/pdf/finalreportamic27May%20v1.pdf

CHAPTER 7

How Unite is organised

Unite is Britain's largest union. It was formed by a merger between two of Britain's leading unions, the T&G and Amicus. It was created to meet the great challenges facing working people in the 21st century and Unite is a democratic and campaigning union at the heart of which is member involvement and democracy.

Unite fights back for employees in the workplace, is taking trade unionism out to the millions of unorganised workers, is a union that stands up for equality for all and advances its members' interests politically.

Unite is also active on a global scale building ever stronger links with trade unions around the world to confront the challenges of the globalised economy.

Structure of the union

Every member belongs to a branch, of which there are thousands across the union.

To run the Union's affairs the UK and Ireland are divided into 10 regional units. Every member of the union is allocated to an industrial sector suitable to their profession. There are 23 industrial sectors which are listed below. These industrial sectors are represented by committees and elected representatives at both regional and national level.

Branches

Where possible, a branch will be based at a single workplace but with the approval of the Executive Council other arrangements can be made for example for local branches and national industrial branches.

The branch is there to help collect more information, support members and negotiate better standards.

Every branch should elect health and safety representative(s) and ensure that::

- They receive proper training.
- Networking is encouraged.
- Sharing information and communication is established so their work is better informed and more co-ordinated, and best practice is shared.

Regions

There are ten regions comprising one each for Wales, Scotland and Ireland and seven in England. Each region is co-ordinated and supervised by a Regional Committee composed of lay members, who are elected from the Regional Industrial Sector Committees (RISCs). They co-ordinate the work of each branch on industrial and administrative matters. Every sector has a RISC, which deals with the industrial business.

Every region also has a Regional Women's Committee, Regional Black, Asian and Ethnic Minorities Committee, Regional Young Members' Forum, Regional Young Members' Committee, Regional Disabled Members' Committee and Regional Gay, Bisexual and Transgender Committee.

Unite Industrial Sectors

The union is divided into 23 industrial sectors. These are:

Aerospace and shipbuilding

Chemicals, pharmaceuticals, process and textiles

Civil Air Transport

Community, Youth Workers and Not for Profit

Construction

Docks, rail, ferries and waterways

Education

Electrical engineering and electronics

Energy and utilities

Finance and legal

Food, drink and tobacco

Graphical, paper and media

Health

IT and communications

Local authorities

Metals (including Foundry)

MoD and government departments

Motor components

Passenger transport

Road transport commercial, logistics and retail distribution

Rural and agricultural

Servicing and general industries

Vehicle building and automotive

National Industrial Sector Committees (NISCs)

Every industrial sector has a National Committee comprising lay members elected from each Region and an Executive Council member.

National Equalities Committees

These are the National Women's Committee, the National Black and Ethnic Minority Committee, the National Disabled Members' Committee, the National Lesbian, Bi –and Transsexual Committee and the National Young Members' Forum.

Conferences and appointing full-time officers (but not the General Secretary, who is elected by the members).

The General Secretary, as the main executive officer, supervises the work of the Union on a day-to-day basis and represents the Union in the wider labour movement nationally and internationally.



The Executive Council (EC)

This is the overall governing body of the Union. Members' regional and industrial interests are both secured in the makeup of the Council. Each region ballots its members to elect regional representatives, who then report back to their Regional Committee. Representatives from the various National Industrial Sectors are also elected to the EC and they also take a seat on and report to the appropriate National Industrial Sector Committee. In addition, national representatives for women and Black and Asian Ethnic Minority members are elected directly to the EC.

The EC looks after the Union's finances and accounts and oversees the work of every Union committee from branch to national level. It manages the Union's affairs, ruling on questions of policy between Policy

How to raise issues and make a difference

The principle of lay involvement and democracy between the branches, regions and sectors within the union works through the following system of communication and decision-making.

At branch meetings, decisions are made and referred upwards through the dual machinery of the Union. Resolutions and administrative matters are forwarded to the Regional Committee; on industrial matters to the appropriate RISC within the relevant industrial sector; and on equality matters to the Women's, Race and Equality Sector Committees.

Questions of broad Union policy are put by the union's Branches and constitutional committees to the Policy Conference and are argued out there.

A branch decision on possible alterations or additions to the Union rules goes to the Rules Conference.

Members can also raise health and safety issues through their branch and then up through the industrial structure, as with other issues.

Policy Conference

At the Policy Conference broad lines of policy are debated and laid down. The first Unite Policy Conference took place in June 2010. It meets every two years, for one week. Delegates to conference are nominated by and from branches and elected by a ballot vote of each regional trade group. All delegates are lay activists drawn from regions and industrial sectors in every area of the country. Unite Executive Officers, heads of department, National Officials and Regional Secretaries attend, as do the members of the Executive Council, and speak on matters where appropriate. EC members are not able to vote at the conference. Voting is done by lay delegates only.

Unite policy on health and safety: how policy is made

Every two years Unite holds its Policy Conference where members gather to discuss and debate union policy, including health and safety policy motions.

How do you introduce your ideas on health and safety?

Include it on the agenda for discussion at each branch, sector, regional and national committee. Where health and safety and equality issues are linked, also raise the issue through the appropriate regional or national equality committee. Ensure that your ideas are included on all strategic organisation and industrial plans and also at your workplace safety committee.

How can you put forward a motion to the Policy Conference?

As an individual you cannot put forward a motion to the conference. At present procedures for putting forward motions to the Policy Conference are being developed and will be in place in time for the second Unite Policy Conference in 2012.

Your involvement is important and it counts – be active!

Don't forget that health and safety matters are not just for the Policy Conference. You can also raise health and safety issues and campaigns through your regional industrial sector committee, national committee, your branch and your workplace safety committee.

How are health and safety issues led at national and regional level?

Health and safety is discussed within each branch, industrial sector, regional and national committees. Health and safety is co-ordinated nationally. It is led, however, within each sector group. This allows for all health and safety issues to be member-led and from the shop floor up.

Some Industrial Sectors have health and safety lay structures whilst others have informal health and safety networks. The sectors are still relatively new and are still developing structures.

Unite employs health and safety advisors, who may also specialise in different areas, to provide advice and research support for all Unite safety reps, members and officers. For more information please see the health and safety pages of the Unite website.

Each region has varying arrangements for health and safety. In all regions, it is the role of the Regional Officer to advise members on health and safety. In some regions the Regional Education Organisers may act as a point of contact in particular for safety representatives in workplaces. Such work is always conducted in liaison with the Regional Officer.

Unite members serve as TUC representatives on a number of Health and Safety Executive Advisory committees and forums, for example the Construction Industry Advisory Committee, Agriculture Industry Advisory Committee, Asbestos Liaison Group, the Food and Drink Manufacturers' Health and Safety Forum and the Advisory Committee on Toxic Substances.

SAFETY REPS' SIGNPOSTS

Unite rule book 2009

Unite website www.unitetheunion.org



European Health and Safety Week 25th - 29th October 2010

Campaign on Safe Maintenance

 European Agency for Safety and Health at Work

Healthy Workplaces.
Good For You. Good For Business

As an Unite member, you can obtain free initial advice on any non-work-related legal matter by telephoning our 24-hour helpline on 0870 240 45 45.

www.unitetheunion.org


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CHAPTER 8

Organising around health and safety and extending safety reps' rights

Unite needs an involved membership to ensure that we raise issues of concern to members. The ability to negotiate successfully depends on building effective union organisation.

A major part of the Unite representative's role concerns organising members.

This means keeping everyone informed about, involved in and committed to Unite activities.

It is important therefore, for Unite reps to develop these skills:

- **Working together** – in most workplaces you will be part of a team who will need to work effectively together to look after the interests of members
- **Building membership involvement** – Unite is a democratic union that needs membership involvement. Members need to be informed, involved and interested in their union
- **Campaigning** – Unite has health and safety officials, a Research Department and a Campaigns and Communication Department which will support you in workplace campaigns. They will also expect you to get involved in the larger national campaigns of the union.

Health and safety has been identified through surveys as the single most important issue for workers.

Surveys have found that union organised workplaces are safer workplaces. Workplaces with full recognition and joint health and safety committees are the safest of all, more than twice as safe as those with no union committee. The reason for this is that the union provides the voice, skills and workplace knowledge to raise issues and work through problems with management to ensure improvements are made.

What makes health and safety an important organising tool?

- Health and safety can be used to get people involved and working together for a better quality working environment.
- Few will argue that health and safety issues are not important.
- A workplace with reps and members who work together can mean more problems are dealt with – this collective approach will lead to more effective negotiation and representation.
- Confident and active reps become part and parcel of the union's normal workplace organisation.

- If health and safety issues can be raised and dealt with promptly injury and ill health can be avoided.

A great way to recruit members is to help people find solutions to the problems they may have at work. Unite has a range of guidance that looks at key health and safety issues in many sectors and jobs.

The involvement of Unite safety reps within the workplace, whether they are carrying out inspection, surveys and listening to and taking up workers' concerns, or being actively being involved with the safety committee, raises the profile of the Union and also demonstrates that management has a dialogue with the union.

This will often convince non members of the value of joining Unite.

UK laws are designed to improve health and safety at work. Health and safety is an important part of Union business as many industrial issues have health and safety implications, and vice versa. These examples show how they overlap:

- The organisation of a factory process
- The speed of a process
- How shifts are arranged, and their length
- Spread of hours
- Productivity targets
- The attitude of management.

Safety reps should be alert to any health and safety issues during negotiations on industrial matters and ensure that you take part in these discussions. This includes, for example, taking part in consultations on the introduction of new technology, new machines, products and processes.

Networking and communication

Safety reps will be far more effective if they feel confident in their role and in their analysis of workplace problems. To do this they will need support from members, fellow safety reps and other union representatives. To do this safety reps need to not only communicate with members but also advertise the actions they are taking and highlight problems that are in the workplace.

Organise!

Set up a network so safety reps, both new and experienced, can get together to exchange ideas, be aware of what is going on in the workplace to support

each other, share information and tactics and work collectively on issues.

Raise awareness in your workplace by:

- Leaflet and poster campaigns: use your notice boards to tell workers what the union is doing!
- Holding meetings.
- Doing surveys.
- Carrying out targeted inspections to raise awareness about particular issues.
- Talking to people individually.

For safety reps to be effective it is important that they:

- Know who they represent.
- Represent their members fairly.
- Are sensitive to equality issues such as race, gender, disability, sexual orientation, religion or belief and transgender and older and younger workers.
- Consider and act upon specific issues which may arise such as concerns about PPE, shift work and access to toilet and washing facilities.
- Understand the union structure (see pages 59-62) so you know when and how to raise issues with management. Know your regional officer, other Unite safety reps, Unite workplace reps and Unite members.
- Know who the key people are in your workplace: managers and supervisors with responsibility for H&S, first aiders and the employer's Health and Safety Officer.
- Know who the local HSE or LA inspector is and ensure that you are given time to speak with them whilst they are on site.
- Know what is in your workplace safety policy and ensure through the safety committee that it is implemented and reviewed if necessary in the light of new developments – for example changes in the law or changes in the workplace.

Organising to extend safety reps' rights

Unite has for many years been campaigning to extend safety reps' rights to give them more tools to improve worker representation and help them drive up health and safety standards in the workplace.

There are five particular rights for which Unite is actively campaigning:

- A right for trade unions to elect roving safety reps who have a right to visit and inspect workplaces whether or not Unite is recognised in these workplaces. There is a particular need for worker representation in certain types of workplace eg small businesses. This system exists successfully in some European countries, such as Sweden, Italy and

Norway. In the UK a right for roving safety reps exists only for British Actors' Equity Association and the Musicians' Union under the Safety Representatives and Safety Committees Regulations 1977.

- A right for safety reps to take steps to enforce health and safety law in the workplace for example by serving a formal notice. There is no such right in the UK, though in parts of Australia union safety representatives do have the right to serve a Provisional Improvement Notice (see below). The TUC has developed a UK, non-statutory, form of this, called a Union Inspection Notice. Unite safety reps are negotiating these as part of their agreement and are starting to use them successfully to bring about improvements (see case studies on pages 66, 67 and 70).
- Linked with the right to serve a notice is a need for a change in the law to require an employer to respond within a specified period to a complaint about health and safety from a safety rep.
- The right to "stop the job".
- The right for safety reps to act on environmental issues.

Roving safety reps (RSRs) and workers' safety advisors (WSAs)

There is often a lack of worker representation in certain types of workplaces or situations.

Examples of such situations are:

- Small and medium-sized workplaces. Often workers in small workplaces do not have access to trade unions as they may be deterred from joining a union. This is not of course true of every such workplace – for example there are many Unite members working in small agriculture, and many farms are small businesses; and Unite members work in small printing companies and other small workplaces for example in the Community, Youth Workers and Not for Profit sector.
- Workplaces where there is a small union membership.
- Work situations where there is a significant number of contractors on site (for example construction sites and farms, and increasingly many other workplaces).
- Where a Unite branch includes members from many and diverse employers.
- Where an employer has lots of dispersed work sites, or small sites, for example in the Community, Youth Workers and Not for Profit sector.
- Where workers visit many different sites in the course of their working day, for example delivery drivers.

This means that

There is often a lack of effective health and safety management. There is no pressure on employers to

ensure that there is effective representation to ensure a safe workplace for workers, as well as an often understandable reluctance of workers to take on this difficult and demanding role. Consequently there is often a lack of health and safety knowledge in the workplace – both amongst workers and employers. Sometimes there is genuine lack of resources in smaller workplaces to allow for adequate training. Lack of knowledge of their rights means that those workers are less able to demand them.

Unite action

Unite wants a legal right of entry to work areas, whether or not the union is recognised, for accredited and competent safety representatives. This will mean that information and help with health and safety will be disseminated to workplaces it has not reached before. Through this untapped resource Unite hopes to improve the health and safety of workplaces in all industries.

At every opportunity Unite has been telling government about the need for a change in the law – in particular a legal right of access to workplaces for roving safety reps.

The Union has also taken part in a number of pilot studies over the years to prove the need for and effectiveness of the roving safety reps concept.

Roving safety reps in agriculture

Unite members in agriculture took part in three separate pilot projects in the late 1980s, in 1996 and in 1999-2000. The projects involved Unite members who were trained in health and safety. They visited volunteer farms to meet with both employers and workers to discuss health and safety.

These projects were supported by and/or supervised by the HSE or ADAS and were all deemed a success.

They took different approaches including:

1. Joint visits by Unite and an NFU representative to a number of farms who had volunteered to participate in the project. This was supervised by the HSE.
2. Roving Safety Reps raised awareness by contact with workers in their homes, branch meetings, public meetings, health and safety surgeries responding to requests for information and assistance, regularly using the local media, mail shots through the union's District Office and the distribution of a roving safety rep leaflet. The main problems identified were the lack of a legal right of access to the workplace and how this work should be funded on a permanent and national basis.
3. The third project was initiated by the HSE. This purpose was to compare the effectiveness of RSRs with paid consultants. Six trained Unite roving safety reps each had an allocation of 40 volunteer farms all over the UK. They visited each of them four times during the project. The key priorities of the reps when visiting are: inspections, looking at

H&S documents, discussing the causes of injuries and ill health, providing information and advice to both the farmer and workers and following up and monitoring progress. The HSE report confirmed the success of the scheme, providing more evidence of the effectiveness of this method of health and safety intervention.

Workers' safety advisors – Health and Safety Commission pilot project 2002

Engineering, hospitality, construction and the voluntary sectors

The TUC appointed nine Workers' Safety Advisors (WSAs) who were experienced reps trained by trade unions. The WSAs between them visited 105 volunteer workplaces across four sectors, visiting each of them three times over about a nine month period. Several Unite members – in printing, hospitality and construction – became WSAs. The role of these advisors was to provide advice to foster the relationship between employers and workers to enable the setting up of systems for health and safety consultation.

The evaluation of the pilot showed that 97 per cent of the employers were positive about it. Seventy-five per cent of these employers could point to major changes in the occupational health and safety systems in their workplaces and 90 per cent reported an increased worker involvement in health and safety issues.

The HSE followed this with a further scheme called the Challenge Fund. Unite worked in successful partnership for two years with the Federation of Master Builders to deploy union trained union safety reps to support and train workers on health and safety in small construction companies.

These successful schemes only support the Unite view that, with more rights and proper funding, accredited roving safety reps could dramatically improve health and safety in all industries.

Union Inspection Notice (UIN) and Provisional Improvement Notice (PIN) – and

Unite wants:

- A legal requirement on employers to respond to reasonable concerns expressed by safety reps by reference to health and safety laws and/or an Approved Code of Practice (such employer action could include a clear demonstration to safety reps that health and safety law is not being breached).
- A greater willingness by inspectors to take account of safety rep concerns when deciding what enforcement action to take when a breach of health and safety law is discovered.

Provisional Improvement Notices

In parts of Australia, safety reps have a legal right to serve what is known as a Provisional Improvement

Notice (PIN). A PIN puts an employer on formal notice that the safety rep thinks the employer is breaking a health and safety law. If the employer does not comply with the action the safety rep says is necessary within a set time (normally four weeks), the rep can call in an inspector. If the inspector confirms the safety rep's view, the employer is deemed to have refused to comply with a legal notice (the equivalent of an Improvement Notice in the UK) and the inspector takes appropriate enforcement action.

Union Inspection Notices

In response to this, the idea of a UIN has been developed by unions in Britain. A UIN is a formal notice registering that an employer is not complying with health and safety legislation with respect to an identified workplace hazard. It is issued to a manager by an accredited and competent union safety rep. UINs are useful where there is an active, trained and competent safety representative structure, but where management often ignores complaints. There is currently no legal right to serve UINs, but their use can be negotiated with employers.

A legal right to serve Union Inspection Notices is needed and supported by Unite because:

- There is often poor compliance with the law, a shortage of inspectors and lack of enforcement.
- Employers are often unwilling to listen to reasonable requests to comply with health and safety law
- Employers are often unwilling to provide an adequate response or information in relation to a complaint or representation about health and safety made by a safety rep.
- Safety reps often raise issues with employers which are ignored.
- Safety committees waste months debating issues when action could prevent injuries and illness.
- We need a mechanism to force managers more interested in production targets to take health and safety seriously.
- UINs are a way of improving workplace safety quickly. We can tap safety reps' knowledge of workplace hazards and this, coupled their union training, equips them to judge when action is needed. Unite safety reps in many sectors including GPM, food and drink, passenger transport and local government have successfully negotiated the use of UINs as a means of resolving health and safety issues.

Union inspection notices: Unite Safety Rep Action – local authority in London

A Unite safety rep working in a London local authority negotiated the use of Union Inspection Notices. He used one successfully to remedy breaches of various regulations in relation to an office, where there was poor housekeeping, no risk assessments had been carried out in relation to VDUs, including regarding to pregnant workers, and the heating system was not working properly.

The notice is embedded in the authority's manager's guide to health and safety consultation with union representatives and is still very much effective. The agreement is that if any occurrence occurs that would warrant the serving of the Notice this is brought to the attention of the health and safety department before it is served, giving them the opportunity to address the problem and there are formal procedures in place if this fails to resolve the situation.

Safety Rep Action Points: negotiate RSRs and/or UINs!

- If you feel that your workplace would benefit from setting up a Roving Rep scheme or by using Union Inspection Notices, it is suggested that you:
 - Talk to your Branch and Regional Officer first. Both RSRs and UINs will need negotiations between the employer and Unite, as there have been no legislative changes yet.
 - Gather information on how other schemes have been set up from Unite, the TUC and Hazards. All have reports, publications and experience on both schemes. (see Safety Rep's Signposts).
 - Organise training, as it is very important that the members involved are competent to act as roving safety reps or to serve union inspection notices
 - Involve other organisations:

The HSE and your local inspector – their support will be crucial to your success.

Unite and the TUC – so we can advertise successes, share experiences with other unions and lobby the Government to change the law.
 - Share your success with the Unite Health and Safety Team. We can offer support and pass on your experiences to encourage members in other workplaces to set up similar schemes.

Union inspection notices: Unite Safety Rep action – food and drinks delivery

A safety rep representing members in the food and drinks industry served a UIN after complaints were ignored about delivering to a restaurant where the access was via a steep slope. Deliveries then took place via the front entrance where the access was safer.

The right to “stop the job”

Legislation is required to establish the right of elected safety representatives to “stop the job” in circumstances where an unacceptable hazard or risk of injury is identified.



There is no legal right for safety representatives to take such action at present, except where there is obvious and imminent danger. Try to negotiate for this to be included in your agreement.

The right for safety reps to act on environmental issues

The workplace environment is part of the wider environment, and many work activities contribute to environmental pollution. Communities living near sources of industrial pollution suffer adverse health and reduced life expectancy. It is therefore essential that safety representatives have the right to investigate and take-up environmental problems. The Hazards Campaign demands that safety representatives are included in consultation and negotiation over measures to reduce the impact of workplace activities that damage the wider environment.

For more information see Chapter 16.

SAFETY REPS' SIGNPOSTS

Unite Factsheet on UINs

TUC/Hazards leaflet
Union Inspection Notices – Take notice!

Hazards movement

The campaigning “Hazards” magazine (supported by the TUC) produces a wide range of materials for safety reps including Fact Sheet 76 Union Inspection Notices
See their campaigning website at www.hazards.org.

www.safetyreps.org
www.hazards.org/notices

HSE Research Reports

Worker Participation in Health and Safety: a review of Australian provisions for worker health and safety representation by S. Page (2002)
www.hse.gov.uk/workers/content/pinreport.pdf

The Role of regional health and safety representatives in agriculture: an evaluation of a trade union initiative on roving safety representatives in agriculture – CRR157 by David Walters (1997)

Health and Safety Commission Report: Pilots to explore the effectiveness of Workers' Safety Advisors. Published April 2003.

Articles in journals – both available from Unite Research Department

Article in Occupational Health Review Issue 102 (March/April 2003)
The Bridge Builders. What Now for Workers' Safety Advisors?

Article in Labour Research (February 2003.)
Why Farm Workers need Roving Safety Reps.

CHAPTER 9

Campaigning and Networking

Inspection and investigation is a crucial important part of any safety rep's role but they also have a key campaigning role to achieve positive and progressive changes in health and safety.

Health and safety is one of the main reasons that people join and stay in unions. It is an area where there is a common area of agreement – people want to work in an environment where they are safe from disease and harm. Where there is no health and safety management at work people can become ill, or get injured and some may die.

Unions have fought and campaigned hard to bring about health and safety law and employment protection. It is the participation of informed and active union members that gives the law real meaning and effect. Unions still need to engage with and listen to local reps, consider equalities issues and form new alliances and networks if they are to continue to be effective in the ever-changing world of work.

Some examples of Unite national health and safety campaigns

Directors' Duties

Companies and directors must be held accountable for deaths and injuries caused to workers due to their negligence or recklessness.

For many years Unite has been campaigning for specific health and safety duties for company directors.

Unite believes this important legal reform will have a profound impact in reducing the level of work-related death and injury, as well as ensuring companies and directors can be held to account for negligently or recklessly causing death and injury.

Corporate Manslaughter

Though we do not yet have directors' duties, joint campaigning by unions, hazards campaigners and many others resulted eventually in the Corporate Manslaughter and Corporate Homicide Act 2007. The Act introduces a new offence for prosecuting companies and other organisations for gross failures in the management of health and safety with fatal consequences.

Increase resources for enforcers (HSE and Local Authority)

Resources for enforcement are being cut. The likely result will be cuts in the number of enforcement officers and a reduction in enforcement action.

Unite is calling for the HSE and EHOs to be properly resourced. Inspectors undertake preventive inspection, investigate injuries and deaths, and prosecute organisations and individuals. It is therefore crucial that the HSE and local authorities have sufficient funds to employ and train enough inspectors to undertake these responsibilities. Prosecutions and other enforcement activity such as HSE "blitzes" on construction sites send out strong health and safety messages to employers.

Sector-specific health and safety campaigns include:

Agriculture: child safety on farms.

Community, Youth Workers and Not for Profit Sector: Stressbusters

Road Transport Commercial: Improve roadside facilities for drivers – including secure and safe parking, refreshment and welfare facilities.

Passenger Transport: Access to welfare facilities.

Civil aviation and manual handling: 23kg campaign (maximum weight for each piece of luggage).

Get Campaigning!

Health and safety is not just a local workplace issue. It is an industry and UK issue and a European and global issue.

We need to share experiences both locally and globally and look at the progress others have made to see if this could work for us too. An example is Provisional Improvement Notices used in Australia (see pages 65-67).

There are many hazards in the work place. Some are easier to spot, such as unguarded machinery or dangerous chemicals, but many hazards which may be less obvious, such as stress, bullying and RSI, are endemic in many of our workplaces. People are getting hurt and being made ill.

What do we need to prevent injury and ill health at work?

- Properly funded enforcement authorities .
- More enforcement.
- Full involvement of workers in their health and safety, particularly Unite safety reps.
- Proper attention to risk assessment and prevention.
- Better provision of information about health and safety.
- Occupational health services for all workers, which focus not only on rehabilitation/recovery but also on prevention of future injuries and ill-health.

Safety Reps' Action Points

A campaign can be large or small – a progressive step in the right direction is as important as a national or international campaign.

Identify issues around which you will campaign. This must have the support of your members.

Choose an issue that:

- Is identified as a problem or concern in your workplace. There are various ways of finding out. Examples are: doing a survey of workers, investigating sickness records and inspection results to see if a pattern is emerging, or carrying out a body mapping survey.
- Is identified by the Unite nationally – a campaign and/or existing union policy (see below). This will mean that you will have regional and national support and be able to use national materials.
- Is identified by the HSE as a priority – current or recent HSE campaigns include asbestos, slips, trips and falls, workplace transport, falls from height, stress and musculoskeletal disorders (e.g. back pain and RSI) and stress.

Use a new piece of legislation or new guidance to mount a campaign.

Any campaign that you decide upon must have the support of your local members.

Tell your Regional Officer and your regional industrial sector committee – they can help you with negotiation and resources.

Tell Unite Health and Safety officers. They can help you with information and resources and contacts with other interested organisations.

Advertise and share your success with the rest of the Union and the TUC. Other branches/regions may want to take up the campaign.

Use your notice boards and other methods for example email to publicise your campaign.

Unite safety rep in action

A Unite safety rep had negotiated the use of Union Inspection Notices. Every time he served one on his employer, he placed a copy of it on the union notice board so that members knew about the action Unite was taking on their behalf.

Key events and dates for campaigning and networking

You could organise your campaign to coincide with important events during the health and safety year. Unite and TUC will generally provide special resources to help union members mark these events. The main events are:

International Workers' Memorial Day

This is officially recognised by many countries across the world, including Britain. It takes place on 28 April every year with a different theme each year, but with the constant primary theme of "Remember the dead, fight for the living". An increasing number of events take place across the country organised by trade unions, hazards campaigners, asbestos support groups, Families Against Corporate Killers and many others – so take part in an event or organise your own either in your community or in your workplace. Hazards magazine and website tracks all the events and posts them at www.hazards.org and Unite also publicises these events on the website.

European Week for Safety and Health

This takes place in October each year – dates are fixed well in advance and there is a different theme every year. The TUC has designated the Wednesday of the week as National Inspection Day for safety representatives.

Hazards Conference

This conference is organised, by the Hazards Movement, especially for union safety representatives. Held every year at a residential university venue, with keynote speakers, campaigning meetings and workshops, it is a great opportunity to learn, network and socialise. Ask your branch or region to support you to attend.

European Work Hazards Conference

This is another regular conference, held every two years at a European venue which again combines workshops, meetings, speakers and networking. Ask your branch or region to support you to attend.

World Environment Day: 5 June every year.

International Repetitive Strain Injury (RSI) Day: 28 February every year.

Action Mesothelioma Day: first Friday in July every year.

National Stress Awareness Day: first Wednesday in November every year.

More about networking – what you can do

Raise issues, share best practice and network through Unite regional, sectoral and national committees.

Set up your own network – it could be a national network of members working for the same employer,

or a regional one, for example you can network in a number of ways, including by email, meetings and conferences

Please contact your Regional Education Organiser who can help you if you need training from Unite.

Unite Safety Rep action – Workers' Memorial Day in the North East

"In 2002 I read an article in Hazards magazine about Workers' Memorial Day. Using communications skills developed through union training and working with others in the community such as the TUC, local councillors, faith workers, local companies, the HSE, MPs and MEPs, I have established WMD events in the three towns of Immingham, Grimsby and Cleethorpes. The first events were held on 28 April 2003. Memorial stones were already in position as a result of the community campaign. The local mayor planted a tree in each place and the local town clergyman held a service at the memorial site. Just like the trees, the services began to grow and became bigger and better every year, and by far the biggest were the ones held on 28 April 2010, which was also the year the government gave official recognition to Workers' Memorial Day"

SAFETY REPS' SIGNPOSTS

See the Unite Health and Safety web page for information on Unite campaigns
www.unitetheunion.org

TUC web resource page – European Health & Safety Week
www.tuc.org.uk/h_and_s/index.cfm?mins=297

TUC Guide: Workplace health & Safety Inspections
www.tuc.org.uk/extras/insbooklet30auglowres.pdf

TUC workSMART – Work your proper hours day
www.worksmart.org.uk/workyourproperhoursday/index.php

European Agency for Safety and health at work
<http://osha.europa.eu>

International Workers Memorial Day 28 April

For information and event being held in your area check the Unite Health and Safety pages. The Hazards Campaign Group has developed a safety reps guide to WMD. Memorial ribbons and car stickers can be purchased from the group. See the web site for full details and regional events
www.hazardscampaign.org.uk/

For information about the campaigning group Families Against Corporate Killers (FACK)
www.hazardscampaign.org.uk/fack/about/

National Stress Awareness Day
www.isma.org.uk/national-stress-awareness-day/

Action Mesothelioma Day
 British Lung Foundation
http://www.lunguk.org/media-and-campaigning/action_meso/index

CHAPTER 10

Bullying, Harassment and Violence in the workplace

It is increasingly recognised that unacceptable behaviours such as bullying, harassment and violence are a major problem throughout industry.

Unite is totally committed to achieving workplaces which are free from unacceptable behaviours of any kind.

Bullying

The Health and Safety Executive (HSE) strongly condemns any form of workplace bullying and harassment. It is recognised by the HSE that bullying is a form of organisational violence and, if not dealt with properly, is a potential source of work-related stress".

Bullying is an employment issue, an equality issue and a health and safety issue. Unite members can work to ensure that a workplace bullying culture is discouraged by the introduction of meaningful policies, and support for members. Bullying takes many forms and can occur in a variety of situations. The Andrea Adams Trust, a charity which was committed to preventing workplace bullying, defined workplace bullying as follows:

- Unwarranted humiliating offensive behaviour towards an individual or groups of employees
- Such persistently negative malicious attacks on personal or professional performance are typically unpredictable, unfair, irrational and often unseen
- The abuse of power and position that can cause such anxiety that people gradually lose all belief in themselves, suffering physical ill-health and mental distress as a direct result

- The use of position or power to coerce others by fear, persecution or to oppress them by force or threat.
- Bullying can range from violence and intimidation to less obvious actions such as deliberately ignoring someone at work.

Bullying and harassment

Other examples of behaviour described as bullying may be unlawful harassment (see ACAS guide and legal proceedings section below)

- Spreading malicious rumours or insulting someone by words or behaviour (particularly on the grounds of race, sex, disability, sexual orientation, and religion or belief) – and age.
- Exclusion or victimisation.
- Unwelcome sexual advances – touching, standing too close, displaying offensive materials.
- Ridiculing or demeaning someone.
- Making threats or comments about job security without foundation.
- Preventing individuals progressing by blocking promotion or training opportunities.
- Giving individuals unrealistic targets and deadlines
- Sending unwelcome, offensive or pornographic emails or faxes.

Unite Action: Union Bullying and Harassment Advisors

The joint trade unions working in the forestry industry, and chaired by Unite, decided to act after a staff survey found that 16 per cent of staff (about 500) believed that they had experienced bullying at work in the last two years.

With the support of the employer, unions nominated members as Union Bullying and Harassment (B&H) Advisors. These advisors received formal training on how to handle bullying and harassment and support their members. They now provide a support network right across England, Wales and Scotland. They also meet up to support each other and share information – an essential part of the process.

When it is necessary to take a case to tribunal Advisors support members up to that point then hand over to the full-time union official.

To make it easier for members to report concerns the joint trade unions have circulated practical information leaflets – a Members' Guide to harassment and bullying at work and a Quick Action Guide for union reps.

The contact details of the Union B&H Advisors are included on these materials and on the joint trade unions' workplace website; the employer's intranet site has a link direct to this website.

Violence

Acts of violence may be amongst colleagues, between superiors and subordinates or by third parties such as clients customers, patients pupils etc. Many unite members may face the risk of aggressive or violent behaviour. They may be sworn at, threatened or even physically attacked.

The HSE's definition of work-related violence is: 'any incident in which a person is abused, threatened or assaulted in circumstances relating to their work'.

Violence can cause pain, distress and even disability or death. Physical attacks are obviously dangerous but serious or persistent verbal abuse or threats can also damage employees' health through anxiety and stress.

Violence can lead to poor morale and a poor image for the organisation, extra cost, with absenteeism, higher insurance premiums and compensation payment..

Domestic violence and abuse affects many Unite members on a daily basis. This may impact on their work in many ways, including their performance and attendance at work and their relationships with colleagues. In addition they may encounter their violent partner at work either because they visit their workplace or they are a colleague.

Employers are responsible for identifying and managing the risk of bullying, harassment and violence at work. Clear policies and guidelines should be in place, detailing employers' responsibilities, as well as those of their workforce, to raise awareness of related issues among the workforce, and set standards for workplace behaviour. A workplace policy on domestic violence and abuse should also be in place.

The law

Employers are responsible for preventing bullying and harassing behaviour at work. They have a "duty of care" for all their employees.

There isn't specific law covering bullying or stress. But it is possible to make a complaint to an employment tribunal under laws covering discrimination and harassment – for example under the Equality Act 2010.

The Protection from Harassment Act 1997 may also be relevant in certain circumstances.

The Fair Employment Act in Northern Ireland and the Employment Equality Act in the Irish Republic also cover legal rights to protection from harassment.

In addition there may be grounds for a claim of constructive dismissal/breach of contract if the mutual trust and confidence between employer and employee has broken down.

Members may also have grounds to pursue a personal injury claim if they suffer physical and/or psychological injury as a result of bullying and/or harassment. Such

claims are not always easy to win. Members should be referred to Union solicitors for advice as soon as possible as there are strict time limits to pursue all legal claims.

Health and Safety at Work etc Act 1974

Employers are responsible for the health, safety and welfare of all employees at work. This includes protecting them from the harmful effects of unacceptable behaviours and stress. So if employers fail to carry out their duties they may be liable not only for breach of contract, but also criminal prosecution. Employees also have a duty to work safely. For more information see Chapter 2.

Management of Health and Safety at Work Regulations 1999

These impose a number of duties on employers, including a duties to carry out risk assessments relating to stress, bullying, harassment and violence and requirements to provide training and information. For more information see Chapter 3.

Health and Safety Executive Stress Management Standards

These include promoting positive working to avoid conflict and dealing with unacceptable behaviour (eg bullying at work). You can work with your employer to negotiate anti-bullying measures as part of the your stress management policies. For more information see Chapter 12.

The Safety Representatives and Safety Committees Regulations 1977

Require employers to consult with Unite safety representatives on all matters relating to health and safety at work including stress, violence, harassment and bullying. This should include consulting and discussing with workers on formulating policies on bullying, harassment, violence and stress. For more information see the Introduction and Chapter 1

Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1999


These state that employers must notify their enforcing authority in the event of an accident at work resulting in death, major injury or incapacity for normal work. This would include any act of physical violence done to a person at work. For more information see Chapter 5

The Sexual Offences Act 2003

Covers all physical forms of sexual abuse, specifically non-consensual sexual activity

Safety Reps' Action Points:

- Is bullying, harassment or violence a problem in your workplace? If you think so, do a confidential survey.
- If a member contacts you treat their complaint sympathetically and be supportive. Ask them what they would like to do about their complaint – and respect confidentiality.
- Encourage the member to keep written notes of what has happened.
- Make sure the employer recognises the seriousness of unacceptable behaviours and the negative effects on both employees and the organisation itself.
- Has your employer considered health and safety issues in relation to harassment, bullying, violence and stress – including risk assessments?
- Negotiate a policy that can deal with all forms of unacceptable behaviours – this could form part of the health and safety policy – including domestic violence and abuse.
- Make sure that the policy contains a clear and specific statement that bullying and harassment of any kind are unacceptable and will not be tolerated.
- Your procedures should ensure that employee relationships are based on good behaviour and trust to avoid problems relating to discipline, grievances and bullying.
- Set up clear procedures for reporting, recording and dealing with bullying, harassment and violence.
- Ensure that all staff are trained to recognise unacceptable behaviours – and organise a support network.
- Make sure that other aspects of your agreements are working properly.



ZERO TOLERANCE...

...to bullying and harassment at work

YOUR UNITE CONTACT IS:
ELAINE DOUGALL
 Regional Women's & Equalities Organiser

Unite the Union, John Smith House,
 145-165 West Regent Street, Glasgow G2 4RZ
 Telephone: 0845 604 4384

unite
 the **UNION**
www.unitetheunion.org

DP/3555/3/11

SAFETY REPS' SIGNPOSTS

Unite web pages

www.unitetheunion.org

The resources page has several related guides available to download:

Dignity at Work

Equality pack

Bullying Briefing

Stress booklet

Domestic violence and Abuse Factsheet – available from Unite Equalities Sector

ACAS – Bullying and harassment guides

www.acas.org.uk/index.aspx?articleid=797

TUC resources

Bullying at Work – A Representatives Guide

www.tuc.org.uk/workplace/tuc-13809-f0.cfm

TUC Bullied at work? Don't suffer in silence

www.tuc.org.uk/tuc/rights_bullyatwork.cfm

Hazards magazine

www.hazards.org/bullying.pdf

HSE – Work-related Violence

www.hse.gov.uk/violence/index.htm

European Social Partner Agreement guide: 'Preventing Workplace Harassment and Violence'

www.workplaceharassment.org.uk

International Labour Organisation resources on violence, bullying and harassment

www.ilo.org/public/english/protection/safework/violence/

The Andrea Adams Trust – committed to preventing workplace bullying

www.andreaadamstrust.org. Though this charity has now ceased, the website carries useful information.

The UK National Work-Stress network

www.workstress.net

CHAPTER 11

Work-related stress

Unite (along with the TUC and other unions) recognises that stress in the workplace is today one of the largest cause of work related sickness/absenteeism. It is a growing problem and will have major social and economic consequences. The problem needs to be tackled urgently by employers and trade unions.

The reaction to unacceptable pressures and demands not only can cause misery, anxiety, depression and physical ill health to an individual but it can also affect the whole workplace with low morale, lack of innovation and poor safety performance.

The problem that needs to be addressed is not only one of how to best achieve rehabilitation for sufferers but also how to recognise the stressors in the workplace and relate them to the organisation's safety policy and culture, and therefore prevent stress related illness in individuals from the start.

Work place stressors have been categorised by the HSE as the following;

- The demands of the job;
- Lack of control;
- Work-life balance and support at work;
- Work relationships;
- Change;
- Conflicting roles.

One or any combination of the stressors can cause stress-related illness to an individual, and cause problems for the workplace structure and organisation.

By looking at each of these stressors and addressing them in the employer's safety management system – including workplace inspections, surveys and risk assessment – more can be done to solve the problem collectively, at the same time recognising that individuals may also need specific help.

To put this in place the emphasis must be on training for the management directly involved, consultation to be carried out with Unite safety reps and guaranteed confidentiality of information provided by workers on stress.

An effective stress policy can be a useful mechanism to reduce and prevent occupational stress. It is essential that such policies are developed and monitored jointly by management and Unite safety reps.

The objectives of the policy should be to prevent stress by identifying the causes and eliminating them, to deal with problems as they arise, to promote openness and guarantee a 'blame free' culture, and provide rehabilitation of employees suffering from stress for example through confidential independent counselling.

Employers with good workplace safety records are already incorporating stress into their hazard identification process and voluntarily putting measures in place but unfortunately this is not the general trend. Unite believes that unless existing legal obligations are strengthened and enforced the problem of stress at work will not be taken seriously, and measures will not be put in place to deal with this growing problem. As with many other health and safety issues some employers will only comply if they have to do so by law.

If stress is successfully tackled in the workplace, the organisation can enjoy a healthier workforce, lower absence due to sickness, improved performance and service, lower accident rates and better internal and external relationships.

SAFETY REPS' SIGNPOSTS

Unite's guide to work-related stress is available in hard copy or download from the Unite website.

European Agency for Safety and Health at Work
Factsheet 31: Practical Advice for Workers on Tackling Work-Related Stress
<http://osha.europa.eu/en/publications/factsheets/31>

Hazards magazine website

Work to Death web sources
www.hazards.org/workedtodeath/

Get a Life web resources
www.hazards.org/getalife/

HSE resources

HSE work-related stress website – The HSE has a specific web page which draws together HSE information on work-related stress in one place at
www.hse.gov.uk/stress/index.htm

HSE stress management standards
www.hse.gov.uk/stress/standards/index.htm

HSE stress toolkit
www.hse.gov.uk/stress/standards/downloads.htm

HSE model stress policy
www.hse.gov.uk/stress/pdfs/examplepolicy.pdf

The UK National Work-Stress Network

News, networking and resources
www.workstress.net

CHAPTER 12

Fix the hazard – Don't blame the worker! Beware BBS (Behaviour Based Safety)

Introduction

Many behavioural safety programmes are designed to undermine trade union activity on health and safety, reduce the role of joint health and safety committees and shift the blame for accidents and poor health and safety from management to workers.

Unite opposes the use of any scheme that looks to 'blame the worker'. The main cause of injury and illness in the workplace is in the failings of the management of health and safety, not in the failings of workers.

Unite knows from our experience dealing with safety in thousands of workplaces that hazards and unsafe conditions cause injury and illness.

It is important to note that workplace ill health cannot be remedied by behavioural safety programmes.

When the hazards are properly identified and fixed, injury and illness decrease.

This chapter will outline firstly the thinking behind BBS and then the trade union arguments on how to resist it.

BBS summary

- Almost all accidents result from unsafe acts.
- For every accident, there are many unsafe behaviours.
- Consultant-employer relationship.

Worker buy-in

- Identify key unsafe behaviours.
- Train workers/management to observe workers.
- Perform observations.
- Provide feedback to move away from unsafe behaviour.
- Record and use data from observations.

What is BBS?

The term BBS is used to describe a variety of management programmes that focus on worker behaviour as the cause for almost all workplace accidents. Simply stated, BBS proponents believe that between 80 per cent to almost 100 per cent of accidents are caused by unsafe acts. This belief is highlighted by the results of a 10-year DuPont study (summarized in the adjacent box) that found unsafe acts causing or contributing to nearly all injuries.

Human error is a consequence not a cause

- Errors are shaped and provoked by upstream workplace and organisational factors.
- The solutions to most problems are technical rather than psychological!
- "You cannot change the human condition, but you can change the conditions under which people work".

James Reason

This type of data is used to claim that not only are unsafe acts the cause of almost all workplace accidents, but that for every accident that occurs, there are many more unsafe behaviours that aren't accounted for.

These programmes are typically sold to employers by a consultant. The process is similar to what has been seen over the years with many total quality management programmes. The ultimate objective of the relationship between the consultant and the client is to help achieve management goals such as cost savings and a reduction in accident rates. After this consultant-client relationship is established for BBS, union or worker buy-in is sometimes sought.

These programmes identify key unsafe behaviours that are believed to contribute to the facility accidents. This often uses information from accident reports from the past few years. Then these programmes typically enlist floor level supervision or workers as observers, behavioural inspectors, or unsafe act "police". The observer's role is to perform a subjective review of workers performing their job and identify unsafe acts performed by the worker. The functions of the observation are to obtain a regular sampling of the safety program, and provide feedback to workers.

Feedback typically occurs just after the observation. Workers and the observer discuss what the observer saw. Typically observers have been trained to use positive feedback to reinforce the safe behaviours observed, but the observer also draws the worker's attention to the unsafe behaviours observed. This is done in an attempt to achieve the main goal of BBS and change worker behaviour from unsafe to safe. Data collected during the inspections is tabulated and utilized to determine priorities for additional worker training.

An example of what is wrong about many BBS systems.

“An even safer place to work”

80-90 per cent of accidents are due to human failure. Most of an organisation's time, efforts and money is dedicated to correcting unsafe conditions – 10-20 per cent of the real problem.

Where do BBS schemes come from?

Fifty years ago, H.W. Heinrich popularized the view that the vast majority of injuries and illnesses are the result of unsafe acts by workers. Heinrich was an Assistant Superintendent of the Engineering and Inspection Division of Travelers Insurance Company during the 1930's and 1940's. He concluded that 88 per cent of all industrial accidents were primarily caused by unsafe acts. But Heinrich's conclusion was based on poorly investigated supervisor accident reports, which then, as now, blamed injuries on workers.

Heinrich's Five-step Accident Sequence

1. Ancestry and social environment.
2. Worker fault.
3. Unsafe act together with mechanical and physical hazard .
4. Accident.
5. Damage or injury
 - Step 1, Racist
 - Step 2, Blame the worker
 - Key step 3, No evidence whatsoever

Why is Unite concerned about BBS?

Unite and Unite safety reps take accident investigation very seriously. When we investigate accidents, we search for root causes. What we find is very different from the unsafe acts that BBS proponents say cause accidents. We do not find unsafe acts as a prevalent root cause of accidents. What we almost always find is that multiple root causes that are related to hazards and unsafe conditions, not multiple unsafe behaviours, cause the accident.

BBS programmes attempt to change worker behaviour. What we have found is that the workplaces using these programmes are much more likely not to address the hazards that are in fact the root causes of worker injury, illness and death. At a behavioural safety workplace hazards often do not get identified; and even when identified, do not get fixed. Workers receive feedback from observers that encourages them to work more safely around a hazard, but the hazard itself does not get eliminated or controlled. As long as the hazard remains, the potential for injury or illness remains.

Unite Comprehensive H&S Program Components

- Union and Management Commitment.
- Adequate resources.
- Workers right to identify hazards without fear of retaliation.
- Rapid process of identifying and correcting hazards.
- Right to refuse unsafe work.
- Union access to information.
- Union involved with incident investigations.
- Training for safety and health committee.
- Collaboration in the design and oversight of all aspects of safety and health programmes.
- Full recognition of TU safety reps and their rights.

Unite has identified numerous concerns with BBS programmes. BBS programmes can't take the place of comprehensive health and safety programmes that:

- Involve workers and their unions,
- Identify and correct workplace hazards and unsafe conditions,
- Use the hierarchy of controls to address hazards and make workplaces safer.

Many BBS systems are designed to undermine trade union activity on health and safety, reduce the role of joint H&S Committees and shift the blame for accidents and poor H&S from management to workers.

The danger is that companies using BBS are not addressing health and safety hazards and unsafe conditions with a comprehensive health and safety program. Resources are dedicated to compiling a list of the primary unsafe behaviours from a workplace. This time is spent by a combination of workers, management and consultants reviewing piles of accident investigation reports. While good intentions can go into this process, the lists developed in diverse workplaces with diverse hazards end up being nearly identical, including:

- Use of personal protective equipment by the worker.
- Body position or the position of the worker.
- Actions of workers.
- Workers following procedures.
- Housekeeping or orderliness.
- The use of tools and equipment.

Observing the behaviours on these lists does not result in a focus back on health and safety hazards and hazard elimination using the hierarchy of controls. In fact, our experience is that, despite the recent lip service given by behaviour-based safety consultants to

the importance of the hierarchy of controls, workplaces that concentrate on identifying unsafe worker behaviours move their overall health and safety program further from addressing unsafe working conditions and health and safety hazards. Essentially, behaviour-based safety “turns the hierarchy of controls upside down, contradicting one of the most widely accepted concepts in injury and illness prevention.”

Where do we go from here?

Behavioural safety is based on the theory that almost all accidents result from an unsafe act. And for every accident, there are many unsafe behaviours. Unite knows from our experience dealing with health and safety in thousands of workplaces, that this is wrong. Hazards and unsafe conditions cause injuries and illnesses. When the hazards are properly identified and fixed, the injuries and illnesses decrease.

Establishing effective comprehensive health and safety programmes is our goal. These programmes enlist participation from workers and their unions to address hazards and conditions and get these problems fixed.

BBS is not a required piece of a comprehensive health and safety programme. We do recognise the possibility of human error on the job. Our goal is to see that workplaces, jobs and equipment are designed in ways that recognize that possibility and assure that dire

consequences will not result from inevitable human error. The emphasis on workplace and job design must be the same as the emphasis we seek for ergonomic hazards: fix the job, not the worker!

Behaviour-based safety consultants establish a relationship with employers to meet the consultants’ goals (to sell their programmes) and employers’ goals to cut costs. Then workers are invited into the mix, with consultants and employers seeking their buy-in. Workers are needed to achieve management’s goals; thus many behaviour-based safety programmes get referred to by consultants and management as “worker driven” or “floor driven.”

The company buys in a vehicle they believe will achieve their health and safety goals. Then they claim to involve workers by allowing them to choose the floor mats and maybe pick out the colour of the vehicle.

Safety reps need to be genuinely involved much sooner in the decision making process so that they can bring their expertise to the discussions to determine what is needed to improve workplace health and safety. It is important that workers and unions achieve the fundamental goals of the union – achieving safer, healthier and more hazard-free jobs. Workers and their reps are the solution to workplace health and safety concerns, not the problem.

SAFETY REPS' SIGNPOSTS

TUC

A briefing for workplace representatives –
www.tuc.org.uk/workplace/tuc-17940-f0.cfm

Hazards

Behaviour safety schemes warning
www.hazards.org/bs/

The United Steel Workers (USW)

Information on blame the worker safety programs
legacy.usw.org/usw/program/content/1611.php

HSE

Thinking about behavioural safety
www.hse.gov.uk/humanfactors/resources/articles/behavioural-safety.htm

CHAPTER 13

Gender Sensitive Health and Safety

How gender sensitive is your workplace health and safety?

Health and safety at work is increasingly considered a part of the equality agenda by the TUC and by Unite. Everyone has an equal right to protection from harm at work but that doesn't mean treating everyone as if they were all the same!

Recent research has shown that both sex and gender affect workers' health and safety in many ways.

These differences are too often ignored or misunderstood, leading to failures in preventing occupational ill-health and injuries. Many issues, such as reproductive health for both men and women, have been neglected and under-researched.

Unite has received numerous reports of workplace gender insensitivity in health and safety management.

- Members being issued with standard protective overalls with no thought being given to differences in the physical characteristics of men and women.
- Workplace equipment being provided which has been designed with the average European man in mind – for example kitchen work tops; or a linen trolley used by hotel room cleaners. Work surfaces may be too high (or too low) causing musculoskeletal problems.
- Inadequate and unclean sanitary and washing facilities for men and women – and women and men with health problems or pregnant women being denied access to toilet facilities.
- Machinery and plant being difficult access or operate because people are of different height or size.
- Menopausal women being accused of poor hygiene and being victimised in relation to sickness absence
- A very low level of awareness amongst employers of the legal requirement to carry out risk assessments for women of childbearing age – which should be ongoing during a woman's pregnancy – putting women and their unborn child at increased risk
- "Hot-desking" means that display screen equipment workstation assessments are unlikely to be valid for all users.
- Difficulty experienced by both men and women in getting paid time off for medical screening appointments.

Gender stereotyping ("women's work is light work" or "stress is for wimps") or stereotyping of different types of work (manual/white collar) and job segregation can lead to false assumptions about who is, and who is not, at risk.

Whilst more accidents and injuries at work are recorded for men compared to women, men may feel reticent about raising issues such as stress in more "macho" environments. Men's health and safety issues may also include testicular cancer, prostate health, and bullying. The health hazards associated with work traditionally done by women are not always recognised nor is the fact that women undertake the majority of home responsibilities and the difficulties created where their hours of work may be uncertain.

Women's health issues which may be relevant to occupational health and safety include pregnancy, the menopause, periods, sexual harassment, domestic violence and breast and cervical cancer screening. Women report more work-related stress and are more likely to suffer physical attack at work – violence at work also being an issue for men. Many Unite members also raise concerns about being unable to get access to toilet facilities at work.

In addition, the UK labour market has undergone huge change in recent years. Women now make up nearly half the workforce – and half the union membership – and there is greater ethnic and religious diversity. Women and men are increasingly working in what some people may have thought of as "non-traditional" employment: for example nurses and secretaries are now often male, and women work as drivers and construction workers. The nature of employment has changed too, with many more people, including Unite members, working in the social care sector (eg home care and residential care) and for agencies.

As a result what has been largely a "gender neutral" approach – treating men and women as though we are the same when it comes to health and safety management – is now increasingly recognised as being out of step with good practice. The European Union, the International Labour Organisation, the World Health Organisation and the Health and Safety Executive are all developing policies and taking action to ensure that gender is taken into account in health and safety management.

HSE's Single Equality Scheme

This has been developed to help them comply with the Equality Duty both as employer and regulator/public body. **It includes a commitment to encourage more women to take on the role of safety representative.**

The HSE is also developing a range of web-based materials on diversity and gender.

TUC Gender and Occupational Safety and Health Working Group (G&OSH)

G&OSH has drawn up a "Gender Sensitivity" checklist to help safety reps and others check whether their workplace is gender sensitive. This should include checking on Unite's own structures with a view to encouraging and supporting Unite safety reps to represent the whole workforce. Women and men may prefer to discuss issues with a safety representative of the same gender.

The TUC "gender sensitivity" checklist can be used to:

- Identify gaps in workplace agreements, policies and procedures.
- Highlight ways to improve investigation, risk assessment and training.
- Improve the information gathered about men's and women's experiences of work and any ill effects.
- Review and improve health and safety monitoring and data collection/information gathering.
- Improve recognition and understanding of the issues and risks faced by women and men at your workplace.
- Address neglected issues such as reproductive health.
- Involve more women in health and safety decisions in the workplace and in the union.
- Involve more women in health and safety consultation and decisions.
- Ensure that all health and safety agreements, policies and procedures are gender sensitive.
- Make work fit for all workers – no more "one size fits all" in relation to jobs and equipment.

The checklist is included in this book on pages 109-111 and is on the TUC website at www.tuc.org.uk/h_and_s/tuc-14179-f0.pdf

Safety Reps' Action Points

- Unite wants to encourage a gender-sensitive approach to health and safety. This is central to establishing equal rights to protection, and a safer workplace for all.
- Always bear in mind the equality considerations when signing up to any workplace agreement, including your health and safety policy.
- Use health and safety legislation such as the Management of Health and Safety at Work Regulations 1999 to ensure that risk assessments are carried out for pregnant workers and are also gender sensitive for men and women
- Work with Unite Equality Reps and Learning Reps to co-ordinate your strategy.
- Use the GOSH checklist to measure against all your workplace health and safety activities and to ensure that women's and men's health and safety concerns are met.
- Encourage both women and men to become safety reps.

Unite Action in the forestry industry

"We have women workers who are not office based. They work in areas and woodlands which are located beyond walking distance from toilet and washing facilities. So that no one is inconvenienced we have identified local facilities which workers can use at any time during the working day. The system is made easier now because we have several public recreation sites. Line managers together with staff are well aware of the nearest facilities to the workplace and it is agreed that staff may use our employer's official transport if and when these facilities are needed"

Safety rep, South West

SAFETY REPS' SIGNPOSTS

Unite resources

Women's Health, Safety and Well-being at Work

Unite's equality toolkit is also available, providing wide-ranging guidance for equality reps and other members.

TUC

G&OSH checklist and guidance is also on the TUC website at

www.tuc.org.uk/h_and_s/tuc-14179-f0.pdf

HSE

Mothers website www.hse.gov.uk/mothers

Diversity website www.hse.gov.uk/diversity

Gender website www.hse.gov.uk/gender

HSE's Single Equality scheme

www.hse.gov.uk/diversity/single-equality-scheme.pdf

Hazards Magazine resources include:

www.hazards.org/women/

www.hazards.org/haz101/h101centre.pdf

www.hazards.org/haz82/menopause.pdf

European Agency for Safety and Health at Work

<http://osha.europa.eu/en/front-page>

Fact sheet 42 – Gender issues in safety and health

<http://osha.europa.eu/en/publications/factsheets/42>

Fact sheet 43 – Including gender issues in risk assessment

<http://osha.europa.eu/en/publications/factsheets/43>

Equality and Human Rights Commission

Provides a wide range of guidance on their website.

For contact numbers please see the list at the end of Chapter 14

Labour Research Department

Discrimination at Work: a guide to the Equality Act 2010 (2010) £6.05



Don't Break
BRITAIN
www.uniteunion.org/dontbreak

www.uniteunion.org

WOM

CHAPTER 14

Disability and Health and Safety

Introduction

According to Government sources one in five people of working age are disabled in terms of disability legislation.

But is their workplace accessible and safe for disabled people?

In a workplace disability audit conducted by the union fewer than 15 per cent agreed, the same number disagreed and the remaining 71 per cent said that only some of the issues had been resolved.

Many disabled members of Unite the Union suffer discrimination at work because employers do not understand that health and safety and disability equality must be addressed together. If members have a disability or a long-term health condition they are protected by both the Health and Safety at Work Act etc 1974 and the Equality Act 2010.

Getting health and safety right for all prevents injury and impairment

Exposing a group of workers to the same hazards may amount to discrimination if a worker is likely, because of their impairment, to be more adversely affected by those hazards than their co-workers.

Health and safety should not be used as a tool for discrimination by employers against disabled workers.

What is “disability” at work?

Unite supports the “social model” of disability which includes everyone in the activities of society and suggests that it is not a person’s impairment or condition which disables, it is society’s reaction to it that limits disabled people’s lives and opportunities.

Disability can arise for many reasons. It may not always be visible to others. Unite members may have been injured at work as a result of an accident or have contracted a disease or condition as a result of their work, such as occupational asthma, a work-related upper limb disorder, or a mental health problem. They may have an existing condition, or an impairment, which has been made worse as a result of their work.

The situation may then be exacerbated if members are bullied or harassed because of their disability, because their workplace and their job are unsafe for them and for others.

Or it may be because they are agency workers and the respective employers (employment agency and client) are not co-operating in relation to their health and safety arrangements – which they are required to do by law.

How do health and safety and disability rights interact?

The law tells employers what they must do to protect their employees, and others, to ensure that they are not injured as a result of the employer’s activities and that they are not discriminated against because of a disability.

Unite says that health and safety grounds should not be used as a false excuse to discriminate against disabled workers.

Key Legal Provisions:

Health and safety law and disabled workers

1. **The employer has a duty** to ensure the health, safety and welfare of all their employees whilst at work under the Health and Safety at Work etc Act 1974. This obviously includes a duty to ensure the health, safety and welfare of workers with a disability.
2. **The Management of Health and Safety at Work Regulations 1999** are covered in Chapter 3 including risk assessment requirements – see below for Disability Sensitive Risk Assessment.

Risk assessments may often be very general. This may be useful as a starting point to manage the risks for everyone but there is much more to it than this for individual workers and for disabled workers in particular. Guidance states that employers should:

- Adapt work to the requirements of the individual and
- Consult those who are affected.

So risk assessments must reflect the needs of individual disabled workers who may, depending on the job and their disability, be more vulnerable to dangers at work. Risk assessments may also be needed as part of carrying out reasonable adjustments required under equality law to support disabled workers to get a job and stay in work. For more information on Disability Sensitive Risk Assessment, see below. See also Chapter 15.

3. As discussed in Chapter 2, employees have duties, too, under the Health & Safety at Work Act, which can be important for disability equality. These include:
 - To take reasonable care of your own health and safety and of anyone who may be affected by what you are doing at work.
 - To co-operate with your employer on health and safety.
 - To inform your employer or manager if you see something that might be a danger to you or someone else – this is underlined in the Management of Health and Safety at Work Regulations 1999.

This may mean in practice a disabled worker telling their employer about their disability so that a more individual risk assessment can be carried out and reasonable adjustments can be made if necessary. But disabled people have a right to confidentiality and their employer must not disclose confidential details about them without their explicit consent.

4. **Safety Representatives and Safety Committees** have a vital role to play. Under the **Safety Representatives and Safety Committees Regulations 1977**, safety reps can use their representational and other rights so that positive steps are taken to ensure disabled workers are treated equally. The UNITE safety rep's checklist: "Health & Safety and Disability Equality rights" on pages 112-3.

Management of Health and Safety at Work Regulations 1999

The requirements under these regulations (see Chapter 3) can be applied to take the action needed to ensure disabled workers are covered. For example:

Employer's duty to carry out risk assessments:

Disability sensitive risk assessment

Risk assessments may often be very general. This may be useful as a starting point to manage the risks for everyone but there is much more to it than this for individual workers and for disabled workers in particular.

HSE Guidance to Reg. 4, Schedule 1 states that employers should:

"adapt work to the requirements of the individual; and consult those who are affected".

The **Approved Code of Practice (ACOP) to the Management of Health and Safety at Work Regulations** requires employers to take positive action.

Regulation 3 – ACOP para 15

The risk assessment must be practical and take account of the views of employees and their safety representatives who have practical knowledge to contribute

Regulation 3 – ACOP Para 21

The employer, when identifying who might be harmed and how, ... should identify groups of workers who might be particularly at risk ... including disabled staff.

So risk assessments must reflect the needs of individual disabled workers who may, depending on the job and their disability, be more vulnerable to dangers at work. Risk assessments may also be needed as part of carrying out reasonable adjustments required under disability law to support disabled workers to get a job and stay in work.

Advice on risk assessment from the Equality & Human Rights Commission (formerly the Disability Rights Commission)

The assessment should:

- Focus on the individual – and involve the individual.
- Not make assumptions.
- Consider the facts.
- Consider the essential elements of the job.
- Identify the length of time or frequency of any hazardous situations.
- Get individual specific medical advice if necessary.
- Consult the individual about how reasonable adjustments can be made.
- Look at any reasonable adjustment to reduce the risk.

The **European Agency for Safety and Health** suggests that **disability sensitive risk assessments** should cover these issues:

The task: For example, the design of the job, work activities.

The individual: For example any specific requirements or adjustments relating to the disability.

Work equipment: For example providing assistive technologies; whether workstations are adjusted to individual requirements.

Work organisation: For example how work is organised and schedules.

Physical hazards: Such as dangerous substances.

Psycho-social hazards: Such as stress and bullying.

Information and training needs: For example providing safety training and information in different media, including accessible formats.

Employer's duty to provide information to employees about the risks to their health and safety at work

This duty extends not only to their own employees but also to employers of other employers on their site, to visiting employees for example agency workers and contractors, and the self-employed. The employer will need to ensure that such information is provided as appropriate in a range of accessible formats for example use large print or for visually impaired workers or pictures or other visual aids as appropriate to convey messages to workers who may have learning disabilities.

Employer's duty to obtain competent advice

Employers have a duty to ensure that specialist advice is taken if necessary to ensure that risk assessments are carried out properly with a view to identifying and implementing appropriate reasonable adjustments required by disabled workers as required under the Equality Act.

Employer's duty to provide health and safety training

Employers must provide health and safety training for all employees. Under the Equality Act 2010 they will need to ensure that this training is accessible to all workers.

General principles of prevention to control the risks

These are at Schedule 1 of the Management of the Health and Safety at Work Regulations 1999.

Workplace (Health Safety and Welfare) Regulations 1992

These are covered in more detail in Chapter 3. They have specific requirements for disabled workers.

Under Regulation 2(3) and Guidance (Para 4) workplaces must meet the needs of all those who work in them, including workers with a disability. Several of the regulations – for example those on traffic routes, washing facilities and workstations require the arrangements to be “suitable” and this means that they must be suitable for disabled people to use:

The Approved Code of Practice to these regulations stipulates as follows:

- traffic routes used by wheelchair users should be wide enough to allow unimpeded access and ramps should be provided if necessary (Para 161).
- washing facilities: special provision should be made if necessary for any worker with a disability to have access to facilities which are suitable for his or her use (Para 194).
- workstations including seating and access to workstations, should be suitable for any special needs of the individual worker, including workers with disabilities (Para 82).
- light switches should be positioned so that they may be found and used easily without risk (Para 59)

In addition, since 2002 these regulations have included extra legal requirements as follows:

- The parts of the workplace used or occupied by disabled people must be organised to take account of their needs (including doorways, passageways, stairs, showers, washbasins, lavatories and workstations).
- Facilities for changing clothes should be easily accessible and be provided with seating.
- Rest rooms at the workplace should be provided with sufficient and suitable seating for disabled people.

For more information see Chapter 3.

Manual Handling Operations Regulations 1992 (Reg 4(3))

These regulations, revised in 2002, require employers to carry out a risk assessment of manual handling tasks. Employers must have regard in their risk assessments to the physical suitability of the employee to carry out the task when deciding on the steps to reduce risk.

Personal Protective Equipment at Work Regulations 1992 (Reg 4(4))

Since 2002 employers must take account of ergonomic requirements and the state of health of the person who may wear the Personal Protective Equipment.

Health & Safety (Display Screen Equipment) Regulations 1992

These regulations cover work with VDUs. Work with VDUs is known to cause upper limb disorders if the workstation is not assessed properly and tailored to the user, or users are not properly trained, or not given adequate breaks.

Regulation 4 “Daily work routine of users” says:

Every employer shall so plan the activities of users at work in his undertaking that their daily work on display screen equipment is periodically interrupted by such breaks or changes of activity as reduce their workload at that equipment.

So long as a worker is covered by the definition of “user” the regulations will apply to them.

Ergonomic principles must be taken into account in the design, selection, installation and use of the equipment, the design of the workplace and the organisation of the task. The guidance to the regulations goes into considerable detail on assessing workstations, including issues such as postural and visual problems relating to work with VDUs, as well as fatigue and stress.

Other relevant issues covered in the regulations or supporting guidance include:

- Wheelchair users may have special requirements in relation to seating, height of workstation etc (para 57 guidance).
- At regular intervals the employer must provide and pay for eye tests for users, carried out by a competent person.
- Employer must pay for spectacles if the user requires these specifically for DSE work (Reg 5). Reg 5 also says that Employers' liabilities for the cost of [spectacles for DSE use] is restricted to payment of the cost of a basic appliance, ie of a type and quality adequate for the user's work.

Control of Substances Hazardous to Health Regulations 2002

These important regulations require employers to control and prevent exposure of employees and others to substances hazardous to health – including dust, chemicals and biological agents. Exposure to hazardous substances can cause a range of injuries, allergies and diseases (for example dermatitis, asthma and cancer). Use these regulations to prevent/minimise workers' exposure to substances that can harm their health. For more information see Chapter 3

Key legal provisions: Disability discrimination law

The Equality Act 2010

This Act consolidates equality legislation covering age, disability, gender reassignment, marriage and civil partnership, race, religion and belief, sex and sexual orientation.

Key concepts in the Equality Act are “protected characteristics” and “prohibited conduct”.

Protected characteristics

Disability is a protected characteristic under the Act. HIV infection is defined as a disability under the Act.

Prohibited conduct

The Act makes it unlawful to discriminate against a person because of their disability whether directly or indirectly.

Duty to make reasonable adjustments

The Act requires employers to make reasonable adjustments to remove barriers and help overcome practical difficulties that people with disabilities may face.

The requirements of this duty are threefold and may involve:

- Doing things differently eg changes policies or practices so as to accommodate a person's disability, altering working hours, re-allocating duties or tasks etc.
- Altering the physical environment eg re-arranging office interiors/layout providing access to a building.
- Providing equipment or services eg providing specialist IT equipment or additional training.

A failure to comply with one of the reasonable adjustment requirements will amount to discrimination against the disabled person.

Harassment

Prohibited conduct also includes harassment. Harassment involves unwanted conduct relating to disability which has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the recipient or otherwise violates their dignity.

Pre-employment health and disability enquiries

The Act prohibits prospective employers asking health questions of applicants (including whether the applicant has a disability) until the applicant has been able to pass an interview, or some other assessment, successfully to show that they meet some of the non-health requirements of the job.

SAFETY REPS' SIGNPOSTS

Unite health and safety disability equality checklist (see pages 112-113)

Unite Disability Equality at work – negotiator's guide

Unite Negotiator's Pack on tackling HIV/AIDS discrimination at work

HSE resources

www.hse.gov.uk/disability

European Agency for safety and Health at Work

Fact sheet 53 –Ensuring the health and safety of workers with Disabilities –
osha.europa.eu/publications/factsheets/53/

International Labour Organisation

The right to decent work of persons with disabilities

www.ilo.org/public/english/region/ampro/cinterfor/news/rightto.htm

Managing disability in the workplace ILO Code of Practice

www.ilo.org/skills/what/pubs/lang--en/docName--WCMS_103324/index.htm

TUC resources

The TUC rehabilitation web page

www.tuc.org.uk/h_and_s/index.cfm?mins=260

The TUC disability issues web page

www.tuc.org.uk/equality/index.cfm?mins=17

Equality and Human Rights Commission

This website provides guidance and codes of practice relating to the Equality Act 2010

www.equalityhumanrights.com

Advice lines:

England 0845 604 6610

Scotland 0845 604 5510

Wales 0845 604 8810

Fix The Hazard Don't Blame The Workers



Beware Behavioural Safety

Please contact your Unite Representative:

As an Unite member, you can obtain free initial advice on any non-work-related legal matter by telephoning our 24-hour helpline on 0870 240 45 45.

www.unitetheunion.org

(JN????) HB221111


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CHAPTER 15

Occupational health and rehabilitation

Introduction

Health is what keeps you going. It's what enables you to work and if you don't have good health you cannot work productively.

Work-related ill health or occupational ill health is any illness an employee suffers because of the hazards they have been exposed to at work. There are many health risks which can cause a variety of illnesses.

The key is of course prevention and the use of risk assessment and worker consultation to help achieve this. But unfortunately this is not working.

The problem

The TUC Biennial Safety Reps' Survey 2010 found stress to be the main health concern of safety reps, closely followed by bullying and harassment, back strains, slips trips and falls and overwork

HSE's annual figures for 2009/10 show the toll of occupational illness and occupational injury.

- **1.3 million** people who worked during the last year were suffering from an illness (long standing as well as new cases) they believed was caused or made worse by their current or past work. **555 000** of these were new cases.
- **152** workers were killed at work, a rate of 0.5 per 100 000 workers.
- **121 430** other injuries to employees were reported under RIDDOR, a rate of 473 per 100 000 employees.
- **233 000** reportable injuries occurred, according to the Labour Force Survey, a rate of 840 per 100 000 workers.
- **28.5 million** days were lost overall (1.2 days per worker), 23.4 million due to work-related ill health and 5.1 million due to workplace injury.

The most commonly reported forms of work-related ill health (either self-reported or by doctors) are:

- Musculoskeletal problems including back, upper limbs or neck.
- Mental ill health including stress, depression or anxiety.
- Breathing or lung problems.
- Infectious diseases.
- Skin disease.

Occupational health services

An HSE report published in 2000 about improving access to occupational health services suggested that these should embrace the following:

- The effect of work on health, whether through sudden injury or through long-term exposure to agents with latent effects on health, and the prevention of occupational disease through techniques such as health, surveillance, ergonomics and effective human resource management systems
- The effect of health on work, bearing in mind that good OHS practice should address the fitness of the task for the worker, not the fitness of the task alone
- Rehabilitation and recovery programmes
- Helping disabled workers secure and retain work
- Managing work-related aspects of illness and helping workers make informed choices about lifestyle issues.

Safety reps in the finance sector negotiate on occupational health

Since 2002 Unite has had an agreement with a leading high street bank whereby six full time trained Unite health and safety reps act as "roving reps" across the bank's UK operations. The reps are allocated distinct geographical areas in Great Britain, Northern Ireland, Isle of Man and the Channel Islands.

They have a Unite poster which includes their photographs and contact details which they use to display when they undertake a visit.

Significant successes to date include:

A special coin trolley ergonomically designed for cashiering staff, significantly reducing manual handling risk.

Implementation of full occupational health support including full ergonomic support for WRULD type injuries through a "Reasonable Adjustment" programme.

Pre-design input into the new Head Office and the new style bank branches.

What safety reps say about occupational health services

The TUC safety reps' survey 2010 found that nine out of ten safety reps had access to some sort of occupational health service but the extent of the services varied hugely between sectors and size of employer.

Workers in larger workplaces are much more likely to have access to services and provision in industrial sectors and regions of the country also varied.

Only just over half of the reps reported provision of first aid services at their workplace, but on the other hand reps reported significant improvements to access to rehabilitation and advice on prevention issues.

Pre-employment medical screening is rising and sickness monitoring and disciplinary assessments are major features of occupational health services.

But the fact remains that many British workers do not have access to occupational health services. A national occupational health service does not exist in spite of the 1989 European Framework Directive on occupational health and safety requirements for services designed to prevent ill health.

Recent developments on occupational health

The last government took a number of initiatives as part of its Health, Work and Well Being Strategy including commissioning a report from Dame Carol Black which was published in 2008 and entitled Working for a Healthier Tomorrow. This report recognised the role that trade unions and safety representatives can play in a new approach to work and health and made a number of other useful findings including a recognition that "healthy workplaces, designed to protect and promote health and wellbeing are key to preventing illness arising in the first place. It is important that employers provide and maintain them".

However, Unite safety reps should be alert to the over-use of the term "well being" which is currently eclipsing initiatives to reduce ill health at work. Prevention of occupational diseases is the priority and Unite and other trade unions will continue to campaign for and negotiate good quality occupational health provision and rehabilitation.

The "Fit Note"

One of the recommendations of the Black report was taken forward relatively quickly. This was the reform of the Sick Note or GP's medical statement, which came into effect on 6 April 2010. Previously a sick note simply stated whether a doctor believed that a person should or should not be in work. The new medical

statement can either indicate that a person is not fit for work or that they might be fit for work in certain circumstances. The doctor can also suggest changes that would assist a return to work. But the latter is not obligatory, and most sick notes still state only whether the person is or is not fit for work.

For more information please see Unite/TUC advice on the fit note which is available on the Unite website. The Department for Work and Pensions has issued guidance for patients/employees, GPs, occupational health professionals and employers which is on their website.

What should occupational health services provide?

Each workplace needs to be considered individually to see what the needs are. Medical services can range from on site doctor and nurse provision, with access to a range of other health services, to arrangements for GP referral. As with any medical service, individual records and advice should be confidential to employees.

An occupational health service may provide a range of services dealing with:

Prevention at source of injury and ill health including working closely with the health and safety officers and safety reps.

Health surveillance and screening including medical checkups, monitoring accident and injury reports as required under the Management of Health and Safety at Work Regulations 1999 and health assessments for night workers as required by the Working Time Regulations 1998.

Direct involvement in the workplace processes on such issues as manual handling, ergonomics, VDUs, workloads, air quality and the effects of using PPE.

Employing specialists to assist in preventing ill-health, for example using occupational hygienists to identify and advise on issues such as dust, fibres, noise and vibration, temperature, ventilation.

First aid

Occupational health staff, particularly in larger workplaces, will usually have responsibility for training first aiders and will generally provide a limited service in the event of an injury in the workplace.

Health education

An occupational health service can help workers by providing information on a range of issues such as diet, hygiene, smoking, exercise and alcohol.

Counselling

Providing counselling services, such as for stress, may be useful, but is no substitute for preventing stress in the first place.

Rehabilitation

Supporting sick and injured workers and working with rehabilitation services as appropriate.

Other recent developments

New standards have been developed (with input from Unite and other unions) which safety reps should be aware of.

Occupational Health Services – Standards for Accreditation

These are published by the Faculty of Occupational Medicine and cover a range of issues including relationships with workers. They are being used as the basis for accrediting occupational health providers.

Rehabilitation Standards

These are published by the United Kingdom Rehabilitation Council which has representatives from the TUC, rehabilitation providers, the insurance industry and personal injury lawyers.

There are three standards which are:

- Choosing a rehabilitation provider (consumer's guide which is aimed at those needing the rehabilitation).
- Selecting rehabilitation services – a purchasers guide to the standards expected of a rehabilitation provider

- Rehabilitation standards – the hallmarks of a good provider.

Safety Reps should also consult other sources of guidance on rehabilitation such as the TUC website.

Safety Reps' Action Points

Safety reps can use their rights to consultation, inspection, information and representation to ensure that the best and most appropriate support is provided for members.

Consultation

Are safety reps consulted on the services to be provided and how they are to be provided and the qualifications of staff?

How do the medical staff and health and safety staff work together on monitoring hazards and prevention and are safety reps involved in this process?

Is occupational health a regular item on the health and safety committee agenda?

Are safety reps consulted on the procedures for health assessments?

Inspection and investigation

How do the medical staff and health and safety staff work together on monitoring hazards and prevention?

Are safety reps involved in this process?

Are risk assessments used to:

- Identify issues that can cause workplace ill health.
- Decide on action to be taken to prevent it.
- Take action to control and prevent ill health.
- Monitor and review the measures.
- Consider the principles of prevention including collective measures and individual protection for example when considering equality issues gender and disability

Workers should co-operate with any measures that the employer takes to protect their health.

Information

- Are safety reps given regular progress reports from the occupational health department, for example on prevention issues?

Representation

- Is occupational health a regular item on the health and safety committee agenda both to ensure regular report backs and discussion on occupational health and for representation of workers' views?
- Are health and safety targets discussed and agreed jointly with unions and management?

SAFETY REPS' SIGNPOSTS

Unite

Briefing on the “fit note” and leaflet on health surveillance
www.unitetheunion.org

HSE

HSE leaflet Working Together to prevent sickness absence becoming job loss
<http://www.hse.gov.uk/pubns/web02.pdf>

DWP leaflets on the “fit note”

www.dwp.gov.uk/docs/fitnote-employer-guide.pdf
www.dwp.gov.uk/docs/fitnote-employee-guide.pdf
www.dwp.gov.uk/docs/fitnote-gp-guide.pdf
www.dwp.gov.uk/docs/fitnote-occupational-health-guide.pdf

British Occupational Hygiene Society

www.bohs.org

British Psychological Society

www.bps.org.uk

Chartered Institute of Environmental Health

www.cieh.org

Chartered Society of Physiotherapy

www.csp.org.uk

European Trade Union Institute for Research, Education and Health and Safety.

Occupational Health – Eight Priorities for Community Action.

<http://hesa.etui-rehs.org>

Hazards magazine and website

Resources on rehabilitation and OH services

www.hazards.org/rehab/index.htm

Institution of Occupational Safety and health

www.iosh.co.uk

International Labour Organisation

www.ilo.org

The Scottish Centre for Health Working Lives

www.healthyworkinglives.com

TUC resources

www.tuc.org.uk/h_and_s/index.cfm?mins=260

TUC workSMART guide on workplace OH services

www.worksmart.org.uk/health/viewsubsection.php?sun=17

United Kingdom Rehabilitation Council

www.rehabcouncil.org.uk

Faculty of Occupational Medicine

www.facocmed.ac.uk/



CHAPTER 16

Environmental issues at work

Concerns about our environment are now widely acknowledged, whether it is through climate change conferences held internationally, with governments, including our own, developing strategies, or local communities taking action within their own neighbourhoods.

A natural extension of health and safety in the workplace is the environmental impact of the work we carry out for our employers. This is particularly true where there is the use of chemicals, other harmful materials or actions. While we all accept that the chemicals and other substances that we work with can adversely affect workers' health these can also adversely affect the environment in which we and our neighbours live. Asbestos and noise are two examples of these.

The more enlightened employer is now starting to acknowledge the impact that their organisations can have on the environment. They are also aware that, by identifying particular materials they use or activities they undertake, there may be scope for alternative ways of doing things, which can not only have less impact on the environment but can also save them money.

Environmental impact has become an issue that is discussed from the shareholder/stakeholders to the employees. Many shareholders are now looking for environmental impact reports as part of the annual report.

The role of the safety rep in tackling environmental issues

Safety representatives can play an important role in persuading their employer to look at the materials and the amount of energy they are using and consider ways in which changes can be made that are both beneficial to the environment and at the same time save money for the organisation.

Often companies who employ health and safety managers extend the remit, to cover environmental issues as well, thereby acknowledging that environmental issues are an extension of the health and safety issues that they are more traditionally involved in.

Many safety reps will already be working with these managers, discussing the health, safety and welfare of the workforce. It is therefore a short step to expand the discussions to include the environmental risks posed by the actions or materials used by those same workers.

Environmental Policies

Having a written environmental policy and reporting regularly on what's being done on site to protect the environment – at least once a year, to all interested parties – can indicate that an organisation is taking environmental issues seriously.

Both are important aspects of any effective environmental management system. Words, however, are no substitute for action. So make sure that, if your employer has them, they are a trigger for and record of action taken rather than a collection of fine words and phrases kept in a filing cabinet.

In the same way that safety reps get involved in drawing up the health and safety policy, safety reps should wherever possible, get involved in drawing up the environmental policy. Often it's possible to work 'in partnership' with an employer when discussing ways to lessen the impact of the environmental consequences of the organisation.

Remember reducing the environmental impact can produce savings in consumption; reduce the cost of waste management; and in some organisations provide revenue from by-products.

Employers taking an enlightened approach can often also be persuaded by the safety reps that the organisation can gain very useful commercial advantage over their competitors, as companies begin to question the environmental credentials of their supply and feeder organisations.

Risk Assessments for the environment

Most safety reps are familiar with the importance of risk assessments being carried out in the workplace. Risk assessments can be equally important when carried out in as part of an environmental impact assessment. Thereby determining to what extent the activities and materials used and actions carried out by the organisation are having a harmful effect on the environment.

The main difference between a health and safety risk assessment and a environmental risk assessment is 'The need to assess the risks of environmental impacts rather than workplace hazards'.

Workplace hazards always have the potential to cause harm.

Environmental impacts may be positive or negative and affect land, air, water and/or people, flora and fauna once the emissions have left the workplace.

However an important point that must not be overlooked:

Decisions made to change substances etc on environment grounds must always be risk assessed to ensure that they don't pose a greater health risk to the people working with them.

For example: When the solvent and degreaser genklene or trichlorethane was banned because of concerns about damage to the ozone layer, a switch to trike or trichloroethylene was advised. This may be a bit kinder in the environment, but it is highly toxic, a carcinogen and a much greater risk to those working with it. A green and safer alternative is to go over to an alternative method of degreasing, for example using hot soapy water.

Impact on profitability

One of the positive consequences of safety reps getting involved in the environmental aspect of the organisation is the opportunity to work together with the employer on an issue that should not be divisive and that can make financial savings, at a time when all organisations, whether private or public; profit making or not for profit, are struggling with costs.

When an organisation wastes energy, water and materials it reduces a company's profitability, puts pressure on workforce wages and puts the environment at risk for us all. By working with the management to look at all aspects of the organisation and the materials that are used, it should be possible to discuss alternative approaches. If these alternatives are implemented and result in cost savings, there should be scope to use some of those savings to offset pay freezes or job cuts.

For all of the issues both positive and negative that have been outlined above, it is important for safety reps to get involved in the environmental aspects of the organisation for which they work.

Unite is represented on the Trade Union Sustainable Development Advisory Committee (TUSDAC) with DEFRA, to promote environmentally conscious action in the workplace. For more information please visit the TUSDAC pages on the DEFRA website.

Remember there are also organisations that can help your employer to improve their environment impact: see the links on the next page.

SAFETY REPS' SIGNPOSTS

TUC environment reports and surveys

In 2005, the TUC's Greening the Workplace Report highlighted a handful of union examples of action in the workplace. By 2009 over 1300 union reps replying to the LRD survey gave practical examples of how they are tackling climate change in their workplaces. The survey found over 200 examples of health and safety committees discussing climate related issues, over 150 working parties on the environment or climate change and 80 examples of joint management-union environmental committees. Available from www.tuc.org.uk or Trades Union Congress (TUC) Publications, Congress House, Great Russell Street, London WC1B 3LS (telephone 020 7467 1294).

Environment Agency

www.environment-agency.gov.uk

They are responsible for enforcing the majority of environmental legislation in England and Wales. They also provide advice on environmental best practice and produce free guidance leaflets.

General enquiry line: 08708 506 506

Free 24-hour hotline for reporting environmental incidents, telephone number: 0800 807 060

Scottish Environment Protection Agency SEPA

www.sepa.org.uk

They are responsible for enforcing environmental legislation in Scotland. They also provide advice for employers on environmental matters and produces guidance publications.

Telephone number: 01786 457 700. Fax: 01786 446 885

Free 24-hour hotline for reporting environmental incidents, telephone

Pollution Hotline 0800 807060

Floodline service 0845 988 1188

Envirowise

<http://envirowise.wrap.org.uk/>

Free confidential consultancy advice to commerce and industry on best practice either by telephone or site visit depending on the circumstance – to help companies tackle environmental and energy management issues. Also provide free guidance publications on waste minimisation and energy efficiency. Telephone 0800 585794

More useful websites for environment issues:

Department for Environment, Food and Rural Affairs:

www.defra.gov.uk

Energy Efficiency Best Practice Programme UK:

www.energy-efficiency.gov.uk

www.netregs.org.uk

The Carbon Trust: www.thecarbontrust.co.uk



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CHAPTER 17

Resources and further information

This chapter comprises:

Resources

1. Model letter to employer requesting the establishment of a health and safety committee.
2. Letter to employer notifying a safety rep's health and safety inspection.
3. Safety Rep's Inspection Checklist.
4. TUC Gender Occupational Safety and Health "gender sensitivity" checklist.
5. Safety Rep's and Equality Rep's health and safety and disability equality checklist.

Useful addresses and contacts list

Health and safety legislation in other jurisdictions

1. Northern Ireland.
2. Republic of Ireland.
3. Gibraltar.

Model letter requesting the establishment of a Health and Safety Committee

Date

To (Name)
(Management position)
(Company)

Dear (Name)

We, the undersigned Unite the Union health and safety representatives, request that consultation takes place with ourselves (and any other recognised trade union) with a view to establishing a health and safety committee within three months (in accordance with Regulation 9 of the Safety Representatives and Safety Committees Regulations 1977 and Section 2(7) of the Health and Safety at Work etc Act 1974).

The role and objectives of the committee to include:

- Analysis of accident and ill health data
- Examination of safety inspection reports, information from inspectors, unions and employer.
- Developing safe systems of work, including reviewing new processes
- Reviewing safety training and the effectiveness of health and safety information and methods of communication and publicity.
- Rehabilitation and recovery of injured workers

We also request that a notice is posted in the work area stating the composition of the committee and the work areas it covers.

Yours sincerely

Name _____
Unite the Union
Health and Safety representative

Name _____
Unite the Union
Health and Safety Representative

Model letter notifying a three monthly health and safety inspection

To: Name _____
Manager or Health and Safety Officer

Location/Department _____

From Name _____
Unite the Union Health and Safety Representative

Location/Department _____

Date _____

Dear _____

Re: Notification of health and safety inspection

I write to inform you that I will be conducting a health and safety inspection of (insert location/department) on (insert date) at (insert time) and will be conducting further inspections on a regular 3 monthly basis starting from this date.

This inspection is taking place in accordance with Reg. 5(1) of the Safety Representatives and Safety Committees Regulations 1977.

I also intend to post a notice to the staff advising them of the inspection and requesting that they raise any health and safety issues with me prior to the inspection.

Yours sincerely

Name _____
Unite the union
Health and Safety Representative

Unite Safety Representative's Checklist

Work Area _____

Name of safety rep _____

Date _____ Date of last inspection _____

Please note that this is not an exhaustive checklist: It may need to be expanded or reduced depending upon the workplace.

Section 1 Consultation

- Have there been any changes in the work area since the last inspection? ☐
- Has the safety rep been consulted in good time on any changes, such as risk assessments, changes in work practice, new machines / substances? ☐
- If you have a Safety Committee have agreed actions been completed? If there is no Safety Committee, do workers want one? ☐
- Is there adequate number of Unite trained safety reps? ☐
- Do safety reps have access to adequate facilities, resources and information? ☐
- Is the health and safety poster visible and completed e.g. is a safety rep and local inspector listed in the contact details? ☐

Section 2 Training

- Do all workers receive sufficient training to do their job safely? ☐
- Is refresher training given frequently enough? ☐
- Are young and inexperienced workers adequately trained and supervised? Have safety reps received up to date trade union training in health and safety? ☐

Section 3 Accidents

- Have all accidents and near misses been recorded in the Accident Book? Have all illnesses caused by work being reported and investigated? ☐
- Have accidents and near misses been investigated; were safety reps involved? ☐
- If there have been an accident, near miss or illness reported, were the risk assessments reviewed? ☐

Section 4 Chemical and biological hazards

- Are there harmful substances in the work area? ☐
- Is yes, have risk assessments (COSHH) been carried out and safety precautions put in place? ☐
- Have workers received information and training on the safe use of hazardous substances? ☐
- Are chemicals clearly labelled and stored safely? ☐
- Are emergency procedures in place in case of dangerous occurrence e.g. spillage? ☐
- Is health surveillance carried out where required? ☐

Section 5 Manual handling and RSI

- Are workers expected to move loads or do repetitive tasks that could cause injury? ☐
- Have risk assessments been carried out on manual handling activities and repetitive work? ☐
- Have workers received information and training on safe manual handling techniques? ☐
- Are mechanically lifting aids regularly used, inspected and maintained? ☐
- Have reports of aches and pains been recorded in the accident book and investigated? ☐

Section 6 The Working Environment Temperature, lighting and housekeeping

- Is the temperature comfortable; are thermometers positioned at work areas? If the temperature must be high or low, has an assessment been carried out? Is lighting adequate? ☐
- Are stairs and escape routes adequately lit? ☐
- Are all work surfaces, walls and floors kept clean and tidy? ☐
- Are all floors and walkways non-slip and free of trip/slip hazards. ☐

Ventilation and noise

- Are ventilation systems regularly maintained and inspected? Is there an adequate supply of fresh air with no draughts? ☐
- Are noise levels safe? ☐
(You should not need to shout to be heard 2 metres away)

Section 7 Facilities

Toilet and washing facilities

- Are there enough clean toilets for men and women in good repair? ☐
- Are washing facilities provided? ☐
(hot water, soap, towels, and sanitary disposal)

Rest Rooms

- Is there a rest room away from the working area with adequate seating where workers can eat and drink? ☐
- Are there rest room facilities for pregnant workers or breastfeeding mothers? ☐

First Aid

- Are there enough trained first aiders and appointed persons in the work area? Do workers know how to contact first aiders and where the First Aid box is located? ☐
- Is there a fully equipped First Aid box? ☐

Section 8 Work and Electrical equipment

- Is there dangerous machinery in the work area? ☐
- If so are the safety guards and mechanisms in place and working at all times? ☐
- Are machinery, work equipment and electrical appliances regularly maintained and inspected? ☐
- Have all staff been trained to use, clean and adjust equipment safely? ☐
- Are there procedures for reporting faulty equipment and removing it from use? Is access to live electrical equipment restricted to authorised persons? ☐

Section 9 Workplace transport safety

Is it safe for pedestrians and drivers in the location; has this been assessed? Are walkways and roads adequately segregated, maintained and repaired? Are speed limits in force? ☐

Are workers adequately trained and certified to operate moving equipment? ☐

Section 10 Fire Safety

Are fire exits kept clear at all times? ☐

Do staff know what to do in the event of a fire; are fire drills held every 6 months? ☐

Are fire alarms regularly tested and can they be heard in all parts of the building? ☐

Are there adequate and appropriate fire extinguishers present? ☐

Section 11 Stress, violence and bullying

Are risk assessments carried out for stress, violence and bullying? ☐

Are the issues being addressed to reduce the risk, e.g. is there a policy for each of the above? ☐

Do workers have access to independent support if they experience the above? ☐

Section 12 Risk assessments

Are there up to date risk assessments for all work? ☐

Other issues which may require assessment

Working with vibrating hand tools – is the level of vibration safe, are there control measures? Pregnant workers – are there substances / activities that could harm the unborn child?

Display Screen Equipment – is it properly designed and comfortable?

Personal Protective Equipment – is it free, effective and stored correctly?

Staff Security – Are there lone workers, are there areas where workers are vulnerable? Asbestos – Is it present; has there been a survey?

Confined spaces – Is there an adequate supply of oxygen?

Have you identified problems? If so, think about what can be done and who can do it.

REMEMBER

You are not alone: contact Unite Health and Safety Officers or your Regional Officer.

They can help you with information, training and negotiation.

TUC Gender and Occupational Safety and Health 'Gender-sensitivity' Checklist

Checklist : How gender-sensitive is your workplace?

1. Your employer's workplace agreement or policy

- Does the employer's health and safety policy or workplace agreement recognise that there are sex and gender differences in occupational safety and health (OSH)?
- Has gender-sensitive health and safety been discussed with the union?
- Does the agreement or policy commit the employer to addressing diversity in OSH?
- Does the workplace agreement / policy commit the employer to consulting with all workers and their representatives – male and female, full-time and part-time, permanent and temporary, about OSH issues including risk assessments?

2. Your union policy

- Does your union policy recognise that there are sex and gender differences in occupational safety and health?
- Have you discussed gender-sensitive health and safety at your Branch meetings or at meetings of safety reps or equality reps?
- Has the union discussed gender-sensitive health and safety with the employer?
- Does your union policy commit the union to consulting all members- male and female, full-time and part-time, permanent and temporary, about OSH issues including risk assessments?

3. Health and safety management

- Are women as well as men involved in health and safety management in the workplace?
- Is there an appropriate gender balance on the Joint Health and Safety Committee (JHSC) or other consultative structures?
- Are all sections of the workforce represented on the JHSC or other consultative structures?
- Are health and safety issues and priorities of concern to women regularly discussed at the JHSC or other consultative structures and are they taken seriously?
- Are the employer's occupational health and safety advisors / managers aware of sex and gender differences affecting men's and women's health and safety at work?
- Does the employer include gender awareness for all staff as part of their health and safety training and in other training, such as inductions?

4. Safety reps and equality reps

- Do all sections of the workforce, including predominantly female occupational groups, have access to a union safety rep?
- Does this include part-time workers and temporary staff?
- Do union safety reps regularly consult with women members as well as men about their health and safety concerns?
- Are women members' concerns and priorities adequately reflected in the workplace health and safety agenda?

- Are there any women safety reps in the workplace?
- Do women safety reps attend JHSC/consultative meetings?
- Does the union / branch have a policy of encouraging more women members to become safety reps and equality reps?
- Do equality reps (if you have them) also discuss health and safety-related issues such as work-life balance, maternity protection, harassment or stress with the employer? If so, are these also discussed jointly with safety reps and union negotiators?
- Does your union include gender awareness in their safety rep training?
- Does your union offer health and safety courses for women representatives?

5. Risk assessment and prevention

- Are risk assessments carried out and implemented by the employer?
- If so, do risk assessments take account of sex and gender differences?
- Are women as well as men consulted about risk assessments?
- Are reproductive health risks to both men and women adequately assessed?
- Are risk assessments relating to expectant, new and nursing mothers (and the unborn or breastfeeding child) carried out properly and in good time?
- Do employers provide a private space for breastfeeding mothers to express milk, and also provide a safe and hygienic place for the milk to be stored?
- Are any special reproductive health concerns of women and men such as work-related issues relating to fertility, prostate cancer, menstruation, menopause, breast cancer or hysterectomy adequately addressed?
- Are risks of violence – including concerns about working alone on site or late into the evening, and access to safe parking – or work-related stress to women and men adequately addressed through risk assessment?
- Are sex and gender differences taken into account in COSHH and manual handling risk assessments and in assessments of postural problems including prolonged standing or sitting?

6. Sickness absence management and investigation

- Does the employer have a sickness absence management policy or workplace agreement?
- Does the policy and practice ensure that any work-related health problems are properly investigated with a review of risk assessments where necessary?
- Are members and union safety reps involved in any investigations?
- Are members satisfied that the sickness absence management workplace agreement or policy is fair and non-discriminatory?

7. Reporting and monitoring procedures

- Are all accidents and incidents regularly reported and reviewed, including near misses and work-related health problems (and those that may be made worse by work)?
- Are all accident and ill health statistics systematically reviewed at JHSC/consultative meetings?
- Is sex-disaggregated data (showing men and women separately) on accidents and ill health routinely collected?
- Does the data differentiate not only between women and men but also between different jobs and job levels and between different shift patterns?
- Are trends in the ill-health statistics analysed as well as trends in accidents and near misses?
- Are all workers aware of the importance of reporting work-related ill health and health problems made worse by work, as well as accidents and near misses?

- Does the union carry out any confidential surveys of members' health and safety concerns, and if so, are all members consulted?
- Do union surveys allow the union to differentiate between men's and women's responses in the questionnaire design, analysis and findings?
- Are the findings of any surveys reported and discussed with management, with feedback to all members?
- Are women's and men's health and safety concerns and priorities treated equally seriously by the union and by management in these discussions?
- Does the Union's bargaining agenda reflect member's gender-specific concerns?
- Do the employer and trade union have the necessary negotiating machinery in place to consult and negotiate on health and safety changes and gender equality?

8. Any other issues identified specific to your workplace?

Unite safety reps and union equality reps Action Checklist

Health and Safety and Disability Equality: use your rights

General

1. Work with other union representatives to conduct a Workplace Disability Equality Audit
2. Review your employer's health and safety arrangements and policies to ensure that they co-ordinate sickness, disability, retention, rehabilitation and health and safety issues
3. Review your health and safety policy to ensure that disability issues are included and recognise that health and safety and disability law are compatible
4. Negotiate with your employer to adopt a Policy on Disability (Obtain a copy of the Unite Model Agreement)
5. Ensure that all workers and management receive disability equality and awareness training
6. Talk to all workers, including disabled workers, and find out what works best for them – you could use tools such as surveys, body and risk mapping
Establish a disabled members' health & safety group
7. Get involved at the design stage of new premises or when the employer is altering premises to ensure that disability issues are taken into account
8. Get to know your health and safety inspector. Ask them how their authority (whether local authority or HSE) is applying the disability equality duty to their regulatory activity and workplace – and represent members' views
9. Negotiate policies on specific issues if appropriate such as HIV/AIDS

Representation

1. Ensure that sickness absence and rehabilitation issues are a standing item on the health and safety committee agenda, to check relevant disability equality issues
2. Encourage disabled workers to put themselves forward for election as safety representatives
3. Ensure that consultation on health and safety issues in the workplace includes disabled workers' needs
4. Ensure that disabled workers are represented at safety committee meetings
5. Make sure that individual workers are actively involved in risk assessments and are offered representation and support from the union
6. Ensure that the union's elected safety reps and union equality reps are able to liaise and share information and are provided appropriate facilities

Inspection

1. Carry out a special inspection on disability and work with other union representatives to conduct a Workplace Disability Equality Audit. Get a copy of the Audit checklist from the union – it can be adapted to suit your workplace
2. Work with your members and your employer to ensure that workstations and equipment been suitably adapted to disabled workers (see European Agency Checklist which can be adapted to your own workplace situation)
3. Ensure that appropriate steps are taken to ensure prevention of exposure to hazardous substances
4. Consider issues such as traffic routes, washing and sanitary facilities, lighting, ventilation, temperature, workstations and seating, design of work tasks, working patterns and hours of work
5. Ensure – in consultation with your members – that policies and actions are in place to ensure that mental health issues are addressed including bullying and stress

Information and training

Ensure that all health and safety information and training is communicated in a range of different formats so that it is accessible to everyone

Risk assessments

1. Get involved with your employer's risk assessments
2. Make sure that all workers are involved in risk assessments relevant to them
3. Ensure that risk assessments take account of individual workers' requirements eg seating, access, visual aids, working hours.
4. Ensure that risk assessments are based on the principle "fit the job to the worker".

Rehabilitation and retention

Ensure that your health and safety policy addresses rehabilitation and retention and action is taken.

Useful Addresses and Contacts

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Irish Congress of Trade Unions
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Tel: +353 1889 7777
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333 Woodland Road
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Trades Union Congress (TUC)
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healthandsafety@tuc.org.uk
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Enforcement Bodies

Health and Safety Authority (HSA)
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Fax: 01 614 7020
Email: wcu@hsa.ie

Health and Safety Executive (HSE)
Health and Safety Executive
Redgrave Court, Merton Road, Bootle
Merseysidem L20 7HS

HSE publications and information
Tel: 01787 881165
<http://books.hse.gov.uk>
www.hse.gov.uk

HSE Incident Contact Centre
Tel: 0845 300 9923
www.hse.gov.uk/riddor

Health and Safety Executive Northern Ireland (HSENI)
Freephone – Confidential advice on workplace health and safety 0800 0320 121
83 Ladas Drive
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Fax: 028 9023 5383
Email: hseni@detini.gov.uk
www.hseni.gov.uk

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Health and Safety at Work Inspectorate
Ground Floor, Murray House, Mount Havelock,
Douglas, Isle of Man
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Email: worksafe.doi@gov.im
Website: www.gov.im/transport/msd/healthandsafety/

Campaigning organisations

Asbestos Victims Support Groups Forum – UK
c/o CMAVSG
Windrush Millennium Centre, 70 Alexandra Road,
Manchester, M17 7WD
Tel: 0161 636 7557
www.asbestosforum.org

British Asbestos Newsletter (BAN)
c/o Laurie Allen
9 Tintagel Drive, Stanmore,
Middlesex HJA7 4SR
ban@lkaz.demon.co.uk
www.ikaz.demon.co.uk

Hazards Campaign
c/o Greater Manchester Hazards Centre
Windrush Millennium Centre, 70 Alexandra Road,
Manchester, M17 7WD
Tel: 0161 636 7557
mail@gmhazards.org.uk
www.hazardscampaign.org.uk

Hazards magazine and website
PO Box 4042, Sheffield, S8 2DG
Tel: 0114 201 4265
editor@hazards.org
www.hazards.org

Families Against Corporate Killers (FACK)
c/o Hazards Campaign
Greater Manchester Hazards Centre
Windrush Millennium Centre, 70 Alexandra Road,
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mail@gmhazards.org.uk
www.fack.org.uk

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Professional bodies

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Institution of Occupational Safety and Health (IOSH)
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www.iosh.co.uk

Health and safety legislation in other jurisdictions

Northern Ireland

COMPARISON TABLE: GB AND NORTHERN IRELAND LEGISLATION

GB legislation	NI equivalent
Health and Safety at Work etc Act 1974	Health and Safety at Work (Northern Ireland) Order 1978
Management of Health and Safety at Work Regulations 1999	Management of Health and Safety at Work Regulations (Northern Ireland) 2000
Carriage of Dangerous Goods Regulations and Use of Transportable Pressure Equipment Regulations 2009	Carriage of Dangerous Goods Regulations and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010
Control of Asbestos Regulations 2012	Control of Asbestos Regulations (Northern Ireland) 2007
Control of Substances Hazardous to Health Regulations 2002	Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003
Control of Vibration at Work Regulations 2005	Control of Vibration at Work Regulations (Northern Ireland) 2005
Chemical (Hazard Information and Packaging for Supply) Regulations 2009	Chemical (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2009
Construction (Design and Management) Regulations 2007	Construction (Design and Management) Regulations (Northern Ireland) 2007
Control of Major Accident Hazards Regulations 1999	Control of Major Accident Hazards Regulations (Northern Ireland) 2000
Control of Noise at Work Regulations 2006	Control of Noise at Work Regulations (Northern Ireland) 2006
Dangerous Substances and Explosive Atmosphere Regulations 2002	Dangerous Substances and Explosive Atmosphere Regulations (Northern Ireland) 2003
Control of Lead at Work Regulations 2002	Control of Lead at Work Regulations (Northern Ireland) 2003
Electricity at Work Regulations 1989	Electricity at Work Regulations (Northern Ireland) 1991 Health and Safety (Display Screen Equipment) Regulations (Northern Ireland) 1992
Health and Safety (First Aid) Regulations 1981	Health and Safety (First Aid) Regulations (Northern Ireland) 1982
Health and Safety (Safety Signs and Signals) Regulations 1996	Health and Safety (Safety Signs and Signals) Regulations (Northern Ireland) 1996
Lifting Operations and Lifting Equipment Regulations 1998	Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999

Manual Handling Operations Regulations 1992	Manual Handling Operations Regulations (Northern Ireland) 1992
Personal Protective Equipment at Work Regulations 1992	Personal Protective Equipment at Work Regulations (Northern Ireland) 1993
Provision and Use of Work Equipment Regulations 1998	Provision and Use of Work Equipment Regulations (Northern Ireland) 1999
Regulatory Reform (Fire Safety) Order 2005	Fire and Rescue Services (Northern Ireland) Order 2006
	The Fire Safety Regulations (Northern Ireland) 2010
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997
Safety Representatives and Safety Committees Regulations 1977	Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979
Social Security (Claims and Payments) Regulations 1979 Work at Height Regulations 2005	Social Security (Claims and Payments) Regulations (Northern Ireland) 1977
Working Time Regulations 1998	Work at Height Regulations (Northern Ireland) 2005
Workplace (Health, Safety and Welfare) Regulations 1992	Working Time Regulations (Northern Ireland) 1998. These and subsequent amendments are made by the Department for Employment and Learning
	Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993

Ireland

COMPARISON TABLE: GB AND REPUBLIC OF IRELAND LEGISLATION

GB legislation	Republic of Ireland equivalent
Health and Safety at Work etc Act 1974	The Safety Health and Welfare at Work Act 2005
Management of Health and Safety at Work Regulations 1999	Safety, Health and Welfare at Work (General Application) Regulations 2007
Carriage of Dangerous Goods Regulations and Use of Transportable Pressure Equipment Regulations 2009	Carriage of Dangerous Goods by Road Act 1998 and The Transportable Pressure Equipment Directive (TPED) and ADR 2009
Control of Asbestos Regulations 2012	Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations 2006
Control of Substances Hazardous to Health Regulations 2002	Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001
Control of Vibration at Work Regulations 2005	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 2 Part 5 – Control of Vibration at Work
Chemical (Hazard Information and Packaging for Supply) Regulations 2009	Chemicals Act 2008 (No. 13 of 2008) and Chemicals (Amendment) Act 2010
Construction (Design and Management) Regulations 2007	Safety, Health and Welfare at Work (Construction) Regulations 2006 and Safety, Health and Welfare at Work (Construction)(Amendment) Regulations 2008
Control of Major Accident Hazards Regulations 1999	European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006
Control of Noise at Work Regulations 2006	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 1 Part 5 – Control of Noise at Work
Dangerous Substances and Explosive Atmosphere Regulations 2002	Dangerous Substances Act 1972 and Dangerous Substances (Amendment) Act 1979
Control of Lead at Work Regulations 2002	No Irish equivalent regulations. Lead is covered by the 2010 Code of Practice for the Safety, Health and Welfare at work (Chemical Agents) Regulations.
Electricity at Work Regulations 1989	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Part 3 – Electricity
Health and Safety (Display Screen Equipment) Regulations 1992	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 5 Part 2 – Display Screen Equipment
Health and Safety (First Aid) Regulations 1981	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 2 Part 7 – First Aid

Health and Safety (Safety Signs and Signals) Regulations 1996	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 1 Part 7 – Safety Signs at Places of Work
Lifting Operations and Lifting Equipment Regulations 1998	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 2 Part 2 – Use of Work Equipment
Manual Handling Operations Regulations 1992 Personal Protective Equipment at Work Regulations 1992	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 4 Part 2 – Manual Handling of Loads
Provision and Use of Work Equipment Regulations 1998	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 3 Part 2 – Personal Protective Equipment
Regulatory Reform (Fire Safety) Order 2005	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 2 Part 2 – Use of Work Equipment
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995	The Safety Health and Welfare at Work Act 2005 Part X of the Safety, Health and Welfare at Work (General Application) Regulations, 1993
Safety Representatives and Safety Committees Regulations 1977	The Safety Health and Welfare at Work Act 2005
Social Security (Claims and Payments) Regulations 1979	NO EQUIVALENT
Work at Height Regulations 2005	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Part 4 – Work at Height
Working Time Regulations 1998	Organisation of Working Time Act 1997
Workplace (Health, Safety and Welfare) Regulations 1992	Safety, Health and Welfare at Work (General Application) Regulations 2007

Republic of Ireland information

Health and Safety Authority (Republic of Ireland)

Workplace health and safety legislation and regulations that are currently in force in Ireland are on the Health and Safety Authority's website at:

www.hsa.ie/eng/Legislation/

www.hsa.ie/eng/Legislation/Acts/

www.hsa.ie/eng/Legislation/Acts/Safety_Health_and_Welfare_at_Work/General_Application_Regulations_2007/General_Application_Regulations_2007_SI_2007_Unofficial_Copy.pdf

www.hsa.ie/eng/Legislation/List_of_Legislation/

Irish Fire Services

www.irishfireservices.ie/pages/downloads.htm

Channel Island

Jersey

Legislation:

www.jerseylaw.je/Law/LawsInForce/Default.aspx

Guernsey

Legislation

www.guernseylegalresources.gg/ccm/portal/

Isle of Man

Health and Safety Legislation

www.gov.im/transport/msd/healthandsafety/legislation.xml

Gibraltar**COMPARISON TABLE: GB AND GIBRALTAR LEGISLATION**

GB legislation	Gibraltar equivalent
Health and Safety at Work etc Act 1974	No equivalent
Management of Health and Safety at Work Regulations 1999	Management of Health and Safety at Work Regulations 1996
Carriage of Dangerous Goods Regulations and Use of Transportable Pressure Equipment Regulations 2009	Carriage of Dangerous Goods Regulations and Use of Transportable Pressure Equipment Regulations 2003 (Not under our jurisdiction)
Control of Asbestos Regulations 2012	Control of Asbestos Regulations 2007
Control of Substances Hazardous to Health Regulations 2002	Factories (Control of Chemical Agents at Work) Regulations 2003 Factories (Control of carcinogens and mutagens at work regulations) Factories (Protection of Workers from Risks Related to Exposure to Biological Agents at Work) Regulations 2006 See also Control of Asbestos Regulations 2007
Control of Vibration at Work Regulations 2005	Factories (Control of Vibrations at Work) Regulations 2006
Dangerous Substances and Explosive Atmosphere Regulations 2002	Factories (Explosive Atmosphere) Regulations 2004
Control of Lead at Work Regulations 2002	No equivalent
Electricity at Work Regulations 1989	Factories (First Aid) Regulations 1956
Health and Safety (Display Screen Equipment) Regulations 1992	Display Screen Equipment Regulations 1996
Health and Safety (First Aid) Regulations 1981	Factories (First Aid) Regulations 1956
Health and Safety (Safety Signs and Signals) Regulations 1996	Health and Safety (Safety, Signs, and Signals) Regulations 1996
Lifting Operations and Lifting Equipment Regulations 1998	Factories (Lifting Operations and Lifting Equipment) Regulations 1999
Manual Handling Operations Regulations 1992	Manual Handling Operations Regulations 1996
Personal Protective Equipment at Work Regulations 1992	Personal Protective Equipment at Work, Regulations 1996

Provision and Use of Work Equipment Regulations 1998	Factories (Provision and Use of Work Equipment) Regulations 1999.
Regulatory Reform (Fire Safety) Order 2005	None existent
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995	Factories Act 1956.(section 71)
Safety Representatives and Safety Committees Regulations 1977	None existent
Social Security (Claims and Payments) Regulations 1979	Social Security Act
Work at Height Regulations 2005	Factories (Work at Heights) Regulations 2006.
Working Time Regulations 1998	Working Time Act 2000
Workplace (Health, Safety and Welfare) Regulations 1992	Workplace (Health, Safety and Welfare) Regulations 1996

Gibraltar information

Government of Gibraltar www.gibraltar.gov.gi/

Gibraltar legislation
www.gibraltarlaws.gov.gi/

List of legislation
www.gibraltarlaws.gov.gi/full_index.php

Unite acknowledges with thanks the assistance of the Gibraltar Government in compiling the comparative table above.

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