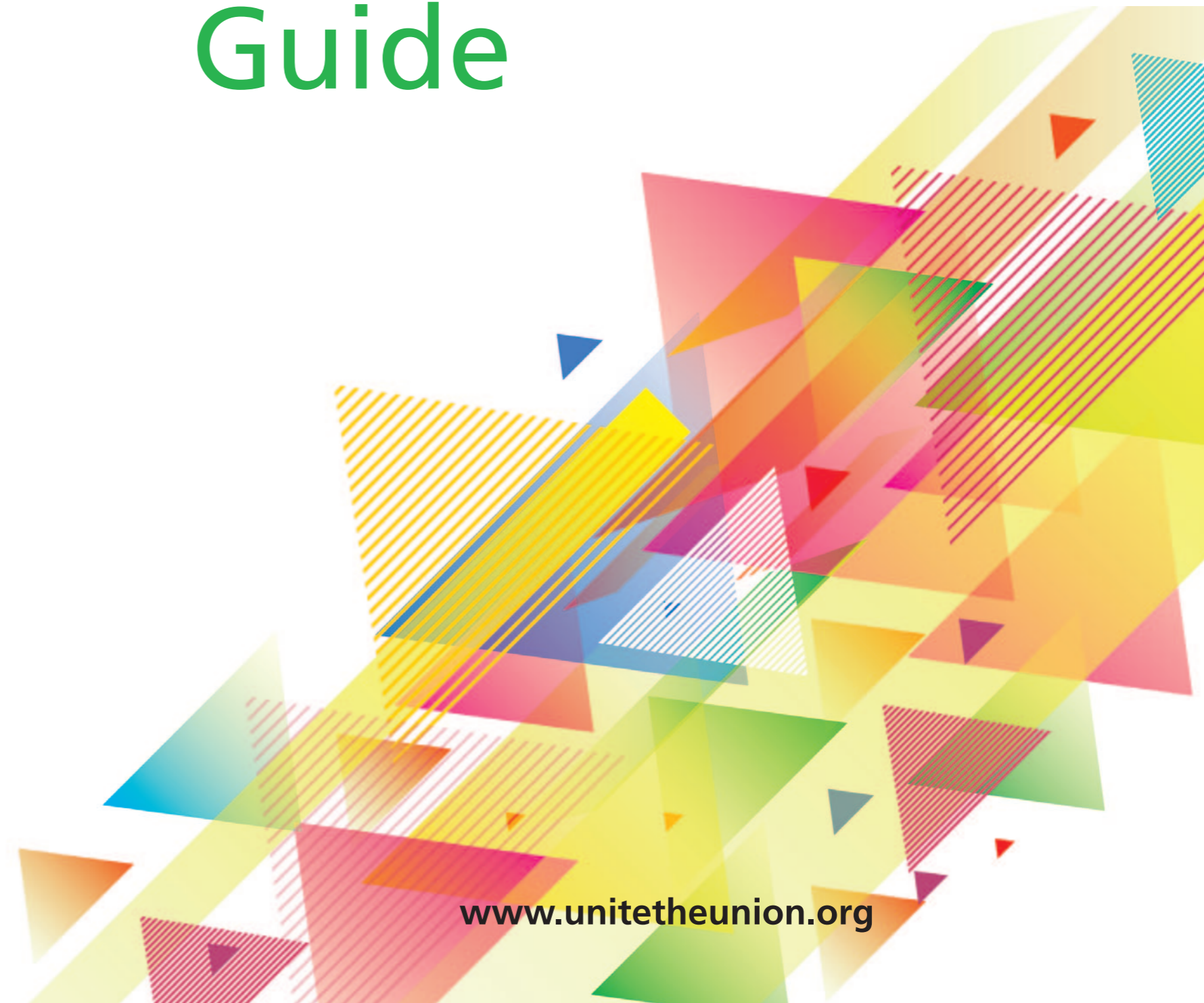




# Unite

## HEALTH AND SAFETY

# Guide



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The legislation cited is generally that which is current in England, Scotland and Wales at 1 April 2018.

We would also like to thank the Government of Gibraltar and the Health and Safety Executive Northern Ireland for help in updating their respective comparative law tables which are found at the back of this book, together with a table for the Republic of Ireland.

At the end of each chapter members will find **Signposts** to further information. New information is published virtually daily so we recommend that members sign up for the regular Unite health and safety ebulletins, TUC Risks and the update bulletins from the regulators such as the HSE, the Office of Rail and Road and the Republic of Ireland's Health and Safety Authority as appropriate.

Feedback on this guide is welcomed. Please email [healthandsafety@unitetheunion.org](mailto:healthandsafety@unitetheunion.org)

## Unite Health and Safety Guide

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## 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 don't kill, injure or make people unwell and are characterised by good pay, good conditions and non-alienating "good work". They provide 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.



"I know that if I save people from injuries or death I have done my job to the best of my ability."

Unite Safety Rep



## Chapter 1 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, democracy and equality.

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 and global trade union federations in Europe and around the world to confront the challenges of the globalised economy, Unite works closely with the United Steel Workers Union in North America (Workers Uniting).

### Structure of the union

Every member belongs to a branch, of which there are thousands up and down the country. 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 19 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 Unite 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 Regional Industrial Sector Committee (RISC), which deals with the industrial business.

Every region also has a Regional Women's Committee, a Regional BAEM Committee, a Regional Young Members' Forum, Regional Young Members' Committee, a Regional Disabled Members' Committee and a Regional Gay, Bisexual and Trans Committee.

## Unite Industrial Sectors

The union is divided into 19 industrial sectors. These are:

Aerospace & shipbuilding  
Automotive industries  
Chemicals, pharmaceuticals, process & textiles  
Civil air transport  
Community, youth workers & not for profit  
Docks, rail, ferries & waterways  
Education  
Energy and utilities  
Engineering, manufacturing and steel  
Finance and legal  
Food, drink & agriculture  
Graphical, paper, media & information technology  
Health  
Local authorities  
Government, defence, prisons and contractors  
Passenger transport  
Road transport commercial, logistics & retail distribution,  
Service industries  
Unite construction, allied trades and technicians.

There are 4 equalities sectors covering:

Women  
BAEM  
Disabled members  
LGBT

There are other membership groups:

Community members  
Gibraltar and Channel Islands (Guernsey and Jersey)  
Retired members  
Young members

## National Committees

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

The National Equalities Committees are the National Women's Committee, the National Black and Ethnic Minority Committee, the National Disabled Members' Committee, the National LGBT Committee and the National Young Members' Committee.

## 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. The membership in each region elects its regional representatives, who then report back to their Regional Committee. Representatives from the various National Industrial Sectors are elected to the EC and they also take a seat on and report to the appropriate National Industrial Sector Committee. In addition, a women's representative, a Black and Asian Ethnic Minority rep, a Disabled members rep and LGBT rep are elected nationally. There are also observers on the EC, 1 each, representing Retired Members and those members in Gibraltar.

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 Conferences, and 'appoints' full-time officers (but not the General Secretary, who is directly 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.

## 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, BAEM, Disabled members, or LGBT Sector Committee.

Questions of broad Union policy are put by the union's Branches and constitutional committees to their Unite industrial sector conference or the Unite 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 Policy Conference meets every two years, for one week. Delegates to conference are elected by their Regional Industrial Sector Committee. All delegates are lay activists drawn from all the regions and industrial sectors.



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. The agenda for the conference is made up of motions submitted for discussion by branches and constitutional committees.

### **National Industrial Sector Conferences**

These take place on alternate years to the Policy Conference. They take place at one venue with all the sectors having separate conferences. The arrangements are similar to those outlined for the Policy Conference, but these conferences deal with issues of an industrial nature specific to the sector concerned, not matters of general policy.

#### **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 or to your Industrial Sector Conference?**

As an individual you cannot put forward a motion to the conference but you can raise it through your branch, region, or sector in accordance with Unite procedures.

Don't forget that health and safety matters are not just for the Policy Conference or your Sector 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.

Your involvement is important and it counts – be active!

#### **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.

Unite employs national health and safety advisers, 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.

Regional Legal and Affiliated Services Co-ordinators include in their role promoting, encouraging and co-ordinating the on-going training for all Unite workplace reps, health and safety reps and activists. This includes organising regular Health & Safety Conferences and Activists' events in each region, covering a whole range of issues focused around health and safety and ensuring that regular updates are provided on the Union's health and safety courses which are carried out in the regions.

Training events and briefings are also regularly co-ordinated by the regions to ensure all reps are fully aware of the importance of health and safety and how it links into the Union's personal Injury legal services.

Unite members serve as TUC representatives on a number of Health and Safety Executive Advisory committees and forums.

### **Safety Reps' Signposts**

Unite structures and Rule Book

<http://www.unitetheunion.org/growing-our-union/about-us/structure/>

## Chapter 2 Unite approach to health and safety

### Beware behavioural safety

Behavioural safety is the name given to a variety of management programmes that focus on worker behaviour. These programmes are typically sold to employers by a consultant.

Behavioural safety proponents believe that 80% to almost 100% of accidents are caused by unsafe acts by workers. They believe that to prevent these unsafe acts management should target specific behaviours and aim to change them by observing and monitoring workers. All of this based on the highly questionable interpretation of an unverified theory from the 1930s, by a man called Herbert Heinrich, that 88% of accidents are caused by the workers themselves.

According to Professor Sidney Dekker, “studies that seem to show the success of behavioural interventions are exclusively published by those who have an active economic stake in promoting the practice. And none of these studies meet even the most rudimentary criteria of scientific quality: that of a control condition so that the results of the intervention can be contrasted against a part of the organization where the intervention wasn’t done, or done differently.”

### Human error is a symptom, not a cause

Things like fatigue, production pressures, lack of knowledge and poor communication are the result of organisational trade-offs and decisions, rather than causes of trouble brought to the workplace by frontline operators.

It is also important to note that workplace ill health cannot be remedied by behavioural safety programmes.

Many behavioural safety programmes are designed to undermine trade union activity on health and safety, reduce the role of joint health & safety committees and shift the blame for accidents and poor health & safety from management to workers.

Fundamental to behavioural safety programmes is the notion that the worker is the problem when it comes to unsafe work. 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. Errors are the symptom of poor organisation and poor systems, not the cause.

A behaviour-based approach blames workers themselves for job injuries and illnesses, and drives both injury reporting and hazard reporting underground. If injuries aren’t reported, the hazards contributing to those injuries go unidentified and unaddressed. To change behaviours it is necessary to target the conditions under which the so-called poor behaviour takes place. Those conditions are not likely to be the worker’s responsibility.

**“...We cannot change the human condition, but we can change the conditions under which humans work”**

**James Reason**

Unite knows from our experience dealing with safety in thousands of workplaces that hazards and unsafe conditions cause injury and illness. When the hazards are properly identified and fixed, injury and illness decrease.

### Are they doing behavioural safety?

The following are some common features of behavioural safety programmes.

- Reward schemes for no lost time accidents (vouchers, bonus payment)
- An increase in disciplinary action for involvement in an accident
- Workers observation schemes being implemented
- Reps encouraged to be involved with worker observations and not being given time off to carry out safety rep inspections
- Non reporting of accidents across the organisation
- An increased focus on the use of PPE
- The overall focus of health and safety shifting away from designing out hazards, implementing engineering controls, addressing ergonomic hazards and reducing work organisation hazards (such as understaffing, production pressures or extending working hours)

**FIX THE HAZARD  
DON'T BLAME THE WORKERS  
WORKERS AND THEIR REPS ARE THE SOLUTION TO WORKPLACE HEALTH AND SAFETY  
CONCERNS, NOT THE PROBLEM!**

### How should health and safety be done?

- Full recognition of TU safety reps and full involvement with safety management systems
- Robust risk assessment process that identifies and corrects workplace hazards and unsafe/unhealthy conditions
- Recognition of the full range of hazardous conditions to address, including biological, chemical, ergonomic, physical, psychological, work organisation and safety hazards
- Correct use of the hierarchy of controls to address hazards
- Accident/Incident/Near Miss investigation that looks for the root causes
- Workers’ rights to identify hazards without fear of retaliation
- Right to refuse to carry out unsafe work
- Full reporting and recording of all injuries, illnesses and near misses

Safety reps need to be involved in all decision making processes around health and safety so that they can bring their expertise to any discussions on what is needed to improve health and safety in their workplace. It is important that workers and unions achieve the fundamental goals of the union – achieving safer, healthier and more hazard-free jobs.

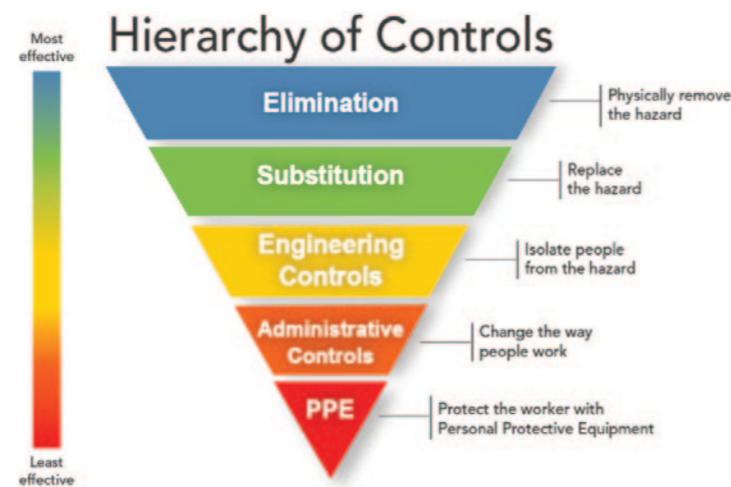
### What is the answer?

Health and safety law is very clear. Hazards must be identified through a risk assessment and any risk removed or reduced 'so far as is reasonably practicable'.

In reducing risk an employer has to go through what is called the 'Hierarchy of Controls', which ranks which part of the process they have to do first, with the most effective at the top of the list.

The Hierarchy of Controls is:

- Elimination
- Substitution
- Isolation
- Reduction
- Safe Systems of Work
- Good Housekeeping
- Information, Instruction, Training & Supervision
- Provision of Personal Protective Equipment



Behavioural safety turns the hierarchy of controls on its head as behaviour modification programmes favour PPE and training as the main ways of preventing injury.

### Ergonomics, not behavioural safety

*“Rather than expecting people to adapt to a design that forces them to work in an uncomfortable, stressful or dangerous way, ergonomists and human factors specialists seek to understand how a product, workplace or system can be designed to suit the people who need to use it.”*

*UK Chartered Institute of Ergonomics and Human Factors*

**Ergonomics is a science concerned with the ‘fit’ between people and their work. It puts workers first, taking account of their capabilities and limitations. Ergonomics aims to make sure that tasks, equipment, information and the environment fit each worker.**

To assess the fit between a person and their work, a range of factors need to be considered, including:

- The job/task being done:
- The demands on the worker (activities, workload, work pacing, shiftwork and fatigue).
- The equipment used (its design in terms of size, shape, controls, displays, and how appropriate it is for the task).
- The information used (how it is presented, accessed, and changed).
- The physical environment (temperature, humidity, lighting, noise, vibration).
- The individual’s physical and psychological characteristics:
  - o Body size and shape
  - o Fitness and strength

- o Posture
- o The senses, especially vision, hearing and touch
- o Mental abilities
- o Personality
- o Knowledge
- o Training
- o Experience

- The organisation and social environment:
- Teamwork and team structure
- Supervision and leadership
- Supportive management
- Communications
- Resources

By assessing people’s abilities and limitations, their jobs, equipment and working environment and the interaction between them, it is possible to design safe, effective and productive work systems.

### How can ergonomics and human factors improve health and safety?

Applying ergonomics to the workplace can:

- reduce the potential for accidents
- reduce the potential for injury and ill health
- improve performance and productivity

Ergonomics can reduce the potential for ill health at work, such as aches, pains and damage to the wrists, shoulders and back, noise-induced hearing loss and work-related asthma.

If employers and designers don’t follow ergonomics principles, there may be serious consequences for people and whole organisations. Many well-known accidents might have been prevented if ergonomics and human factors had been considered in designing people’s jobs and the systems they worked in.

(see HSE Ergonomics and human factors at work - A brief guide INDG90(rev3))

### Safety reps in the finance sector improve ergonomic practice

**Unite safety reps working in a leading high street bank worked with their employer to develop a special coin trolley ergonomically designed for cashiering staff, significantly reducing manual handling risk.**



## Workers are the solution, not the problem

To bring about improvements in health and safety performance the need is for everyone to work together towards a set of common goals. The need is to develop a genuine management/workforce partnership based on trust, respect, co-operation and joint problem solving.

Involvement in health and safety is simply a two-way process where employers and employee reps:

- Talk to one another
- Listen to one another's concerns
- Raise concerns and solve problems together
- Seek and share views and information
- Discuss issues in good time
- Consider what everyone has to say
- Make decisions together

No matter what the size and scope of the organisation, working together does not have to be complicated.

Unite Safety Reps should use their rights and functions to represent their members and protect workers' health and safety. Their most important union health and safety role is to represent workers' views to management, and ensure that no members are expected to do dangerous jobs.

### Say No to Unsafe Work

#### Say NO

- Say No – to taking risks
- Say No – to dangerous work
- Say No – to cutting corners
- Say No – to production before safety

#### Say YES

- Say Yes – to acting on H&S complaints and queries
- Say Yes – to working together on risk assessments/Safe Systems of Work
- Say Yes – to reporting near misses
- Say Yes – to joint incident investigation

**If you are going to say "NO", talk to your regional officer first**

Saying "No!" to unsafe work is an essential requirement of an effective workplace health and safety scheme. Workers and their representatives have a whole series of legal rights to say "No".

### Safety Representatives and Safety Committees Regulations 1977 (SRSC)

Unite safety reps have a range of rights and functions under Reg. 4 of the SRSC Regs. These include being consulted about emergency procedures and making representations to the employer on matters affecting the health and safety of the employees at the workplace.

The Approved Code of Practice to the Reg 4 states:

Para 29. In order to fulfil their functions under section 2(4) of the Act safety representatives should... "bring to their employer's notice (normally in writing) any unsafe or unhealthy working conditions, working practices or unsatisfactory arrangements for welfare at work which come to their attention..."

#### Challenging unsafe practices

**"When I was doing my monthly health and safety risk assessment rounds, I was shocked to find a machine that was overheating. The door that housed an electric motor was open and should only be accessed by engineers, but the biggest issue was that the line leader was cooling it down by putting ice in bags and surrounding the electric motor. When I confronted him he seemed shocked that this was an issue!!**

**I didn't hesitate and shut down the whole machine. I then informed him about the many health and safety rules he'd broken and the massive risks he'd put his staff in. The engineers were called and the issue was dealt with.**

**Always remember even though you may be new to health and safety you have the right to challenge anyone if you feel there is an issue, no matter if it seems trivial or not!"**

**Unite Safety Rep in the Food Sector**

### The right to Say No is protected by law

#### 1. Health and Safety at Work etc Act 1974 Section 7 – General duties of employees at work

It shall be the duty of every employee while at work –

(a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work

#### 2. The Management of Health and Safety at Work Regulations 1999, Regulation 8

##### Procedures for serious and imminent danger and for danger areas

2(b) enable the persons ... at work ... (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger;

##### Protection for safety reps and employees under employment law

**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.

### Looking for Trouble

Unite is committed to improving the working conditions of all of its members. That is why Unite is looking for trouble on workplace health and safety issues. If the union does not look for trouble, trouble will develop anyway, and potentially get worse before it is identified.

Unite is looking for trouble on health and safety so that we can find problems and fix them. Looking for trouble on health and safety in the workplace is one of the key functions of Unite Safety Representatives.

Unite expects employers to be doing this as part of their duties on health and safety at work. It is often the case that to identify problems it is necessary to go out and look for them. Having found problems, something must be done about them.

The main elements of the Unite agenda for good health and safety include:

- Hazard and Body Mapping
- Workplace Audits
- Risk Assessment
- Accident and Near Miss Investigation
- Designing work to fit the workers
- Promoting justice, fairness and equality
- Workers knowing how to raise concerns and feeling able to do so without fear of victimisation
- All of the main health and safety issues facing Unite members

Good workplace health and safety is made possible by:

- The activities of Unite appointed health and safety representatives
- Strong union H&S organisation
- Strong health and safety committees
- Good agreements
- Good training, much of it by workers

**"If we don't look for trouble, trouble is going to come looking for us."  
"Look for trouble, find it, fix it."**

### Involving the workforce

Although employers have a legal responsibility to ensure that workplace risks are properly assessed and controlled, it is essential that workers are also involved. Workers and their Unite Safety Representatives have the best understanding of the problems that can occur in their workplace. By sharing that knowledge with managers and employers, they can help to shape planning and implement solutions.

Worker participation requires more than just feedback from the bottom up. It needs a two-way dialogue between employers and the workforce, which involves both parties. Involving workers in developing preventive measures will also improve overall morale and ensure that the measures put in place are both appropriate and effective.

### Worker Consultation Requirements

The principal requirements for employees to be consulted are contained in:

The Safety Representatives and Safety Committees Regulations 1977 (as amended), regulation 4A(1) which apply to undertakings where trade unions are recognised for collective bargaining purposes

The Health and Safety (Consultation with Employees) Regulations 1996 (as amended), regulations 3 and 4 which apply where trade unions are not recognised and allow employers to consult the workforce directly or through an elected representative.

For more information please see Chapter 3

Other regulations require employee consultation including:

- Offshore Installations (Safety Representatives and Safety Committees Regulations 1989);
- Quarries Regulations 1999, regulation 40
- Construction (Design and Management) Regulations 2015, regulation 14

The law gives both elected and appointed safety representatives the right to represent the views of employees in consultations at the workplace with inspectors.

**"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 consequence."**

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

What does good (and bad) consultation look like? [Extract from "Safety Representatives and Safety Committees booklet, the "Brown Book"] <https://unitetheunion.org/media/1489/Safety-reps-brown-book.pdf>

## What effective cooperation looks like

- There is provision of information and training to enable staff to work in a safe and healthy manner.
- Trade union H&S representatives carry out their full range of functions either independently or, if agreed, jointly with management.
- Trade union H&S representatives are involved in risk assessment.
- Trade union H&S representatives are consulted in good time on matters relating to their health and safety and the results of risk assessments (e.g. systems of work including procedures).
- Suggestions made by trade union H&S representatives are considered before health and safety decisions are made with an explanation from management if suggestions are rejected.
- Trade union H&S representatives are comfortable and supported in reporting unsafe acts and conditions.
- The company has key performance indicators for worker involvement, progress against which is reviewed and reported.

## What it looks like when done badly or not at all

- There are no arrangements or measures to enable health and safety cooperation between the employer and workforce.
- Employees lack the right level of information or training needed to do their job in a safe and healthy manner.
- Trade union H&S representatives are not supported to carry out their functions.
- Risk assessments are made without worker engagement.
- Change and new technologies are introduced without involving trade union H&S representatives in assessing any health and safety impact.
- Health and safety controls are not practical, forcing workers to work around difficulties.
- No supervisor/line manager discussion of: - how to do a job safely - the safe use of new equipment.
- Workers do not know how to report health and safety concerns or fear making a report will disadvantage them.
- There is little or no evidence of information being cascaded through the organisation.

[Source: HSE Fit3 (Fit for Work, Fit for Life, Fit for Tomorrow) employer and employee surveys 2005/06 and Nichols T, Walters D and Tasiran AC (2007) Journal of Industrial Relations; 49: 211-225]

Effective consultation leads to:

- greater recognition and understanding of workplace risks;
- pragmatic health and safety controls (by including input and experience from those actually doing the task);
- increased commitment to implementing decisions (because employees have actively been involved in reaching them).

In the long term consultation can lead to greater co-operation, trust, joint problem solving and an improved health and safety culture."

In the guidance HSE identified some examples of potential lack of consultation with workers

- employees don't know who to go to with health, safety or welfare concerns
- changes affecting health and safety have taken place without discussion with employees
- managers have not responded to requests to rectify issues that matter to employees, including basics such as welfare and working conditions
- representatives are more concerned about their rights and the consultation processes than actual health and safety conditions.

### Safety reps are a force for good health and safety

#### New View

There is a lot of talk at the moment about so-called "Safety Differently", "New View", "Safety I and Safety II", "Human Organisational Performance" (HOP). Much of this supports what Unite has seen as "good safety" for many years.

*... Behaviour based safety really sees the worker as the problem to be fixed...  
New View sees the employee not as the problem, but as the problem solver.*

*Todd Conklin*

These ideas promote the idea of involving the people doing the job. Assessing actual work, rather than assessing what the employer thinks or imagines what the work involves. Listening to workers rather than just talking at them. Seeing workers as the answer and not the problem.

### Safety reps are the solution, not the problem

In 2017 HSE gave guidance to inspectors on consulting workers

<http://www.hse.gov.uk/foi/internalops/og/og-00083.htm>

The text below is extracted from that online guidance (accessed 9 April 2018).

Consulting workers is an important part of managing health and safety in the workplace.

Evidence suggests that accident rates in workplaces where employees genuinely feel they have a say in health and safety matters are approximately half of those in workplaces where employees are not involved.



### Communicating with your members – a global bulletin

The Unite Engineer Surveyors' Section (ESS) has been producing a bulletin for its members for 85 years. Initially published in magazine format it now takes the form of a monthly emailed bulletin. This covers general political and health and safety developments as well as those of particular concern to engineer surveyors. Features of general interest to engineer surveyors are also included as well as reports on events and social activities. Members are actively encouraged to make contributions to the bulletin. The bulletin continues to increase its circulation to members and others, not only in the UK and Ireland but also globally including South Africa, Cyprus, Spain, Australia, and Germany.

### Safety Reps' Signposts

HSE: Ergonomics and human factors at work - A brief guide INDG90(rev3)  
<http://www.hse.gov.uk/pubns/indg90.pdf>

HSE guidance to inspectors on consulting workers  
<http://www.hse.gov.uk/foi/internalops/og/og-00083.htm>



## Chapter 3 Safety Representatives and Safety Committees

### What is the legal basis for trade union safety representatives?

#### Health and Safety at Work Act 1974 (HSWA)

Section 2 (4) provides for the appointment by recognised trade unions of safety representatives from amongst the employees who

*"shall represent the employees in consultations with the employers .. and shall have such other functions as may be prescribed.."*

These functions are described in the **Safety Representatives and Safety Committees Regulations 1977**.

#### Employer's duty to consult safety representatives under the HSWA

Section 2 (6) HSWA states

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

This consultation duty is included in the Safety Representatives and Safety Committees Regulations 1977 (Reg 4A) – see below on page 29

Section 2(7) of HSWA states

*"..it shall be a duty of every employer if requested to do so by the safety representatives.. to establish a safety committee..."*

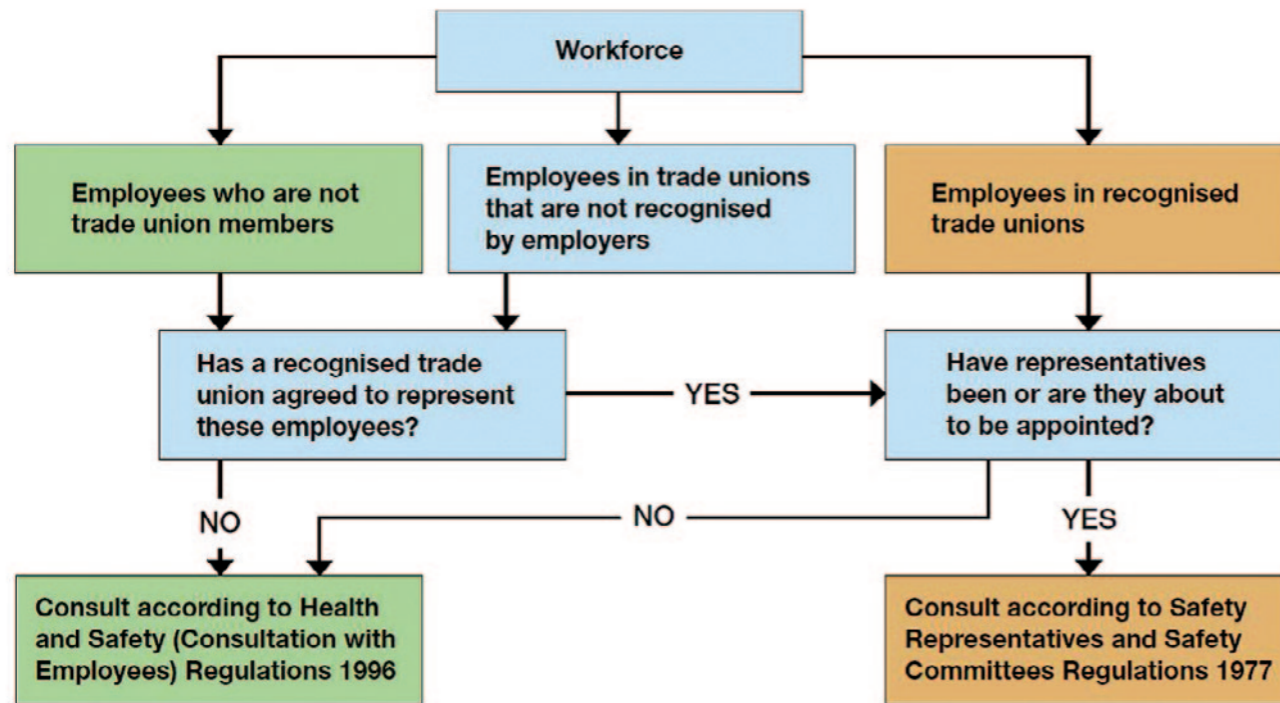
#### Which health and safety consultation regulations apply?

The law sets out how employees must be consulted in different situations and the different choices the employer has to make.

There are two sets of health and safety consultation regulations. In addition to the Safety Representatives and Safety Committees Regulations 1977, there are the Health and Safety (Consultation with Employees) Regulations 1996.

The flowchart below shows the relationship between these two sets of H&S consultation regulations and how they affect the employer and the workforce.

The law on consulting employees about health and safety  
(based on HSG263 Involving your workforce in health and safety, HSE, 2015)



It shows that where a recognised trade union has appointed safety reps and they agree to represent all workers, whether or not they are union members, the employer should consult according the SRSC Regulations 1977.

### What is a recognised trade union?

This definition is taken from Reg. 2 SRSC Regulations which is the “interpretation” section of the regulations

“recognised trade union” [. . . ](a) means an independent trade union as defined in section 30(1) of the Trade Union and Labour Relations Act 1974 (b) which the employer concerned recognises for the purpose of negotiations relating to or connected with one or more of the matters specified in section 29(1) [now section 178 of Trade Union and Labour Relations (Consolidation) Act 1992] of that Act in relation to persons employed by him or as to which the Advisory, Conciliation and Arbitration Service has made a recommendation for recognition under the Employment Protection Act (c) which is operative within the meaning of section 15 of that Act..”

### What is collective bargaining?

#### Trade Union and Labour Relations (Consolidation) Act 1992 Extract from Part IV - Industrial Relations

178. — (1) In this Act “collective agreement” means any agreement or Collective arrangement made by or on behalf of one or more trade unions and one agreements and or more employers or employers' associations and relating to one or more collective of the matters specified below; and “collective bargaining” means bargaining, negotiations relating to or connected with one or more of those matters.

(2) The matters referred to above are—

- (a) terms and conditions of employment, or the physical conditions in which any workers are required to work;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
- (c) allocation of work or the duties of employment between workers or groups of workers;
- (d) matters of discipline;
- (e) a worker's membership or non-membership of a trade union;
- (f) facilities for officials of trade unions; and
- (g) machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

(3) In this Act “recognition”, in relation to a trade union, means the recognition of the union by an employer, or two or more associated employers, to any extent, for the purpose of collective bargaining; and “recognised” and other related expressions shall be construed accordingly.

### Employers must accept their legal duties

It is for the local union to appoint/elect safety reps and tell the employer who they are and who they represent. Inevitably there will be some negotiation about this, but employers cannot simply refuse to accept their legal duties.

### 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 Unite 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, environmental 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

### 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 who are involved in all levels of H&S from Strategy, risk assessment, audits, accident investigation, 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 responsibilities.**

**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.

### Workplace campaigns and raising awareness

**A Unite safety rep who works in the public sector in Scotland has carried out a number of successful campaigns to improve health, safety and welfare at his workplace.**

**These include:**

- **Asbestos awareness training for all employees - whose workplace comprises many buildings constructed before the asbestos ban can into force in 1999.**
- **Ensuring that safety reps are involved in all health and safety audits and in accident and incident investigations**
- **Encouraging safety reps to be active on their health and safety committee.**

**In addition the rep persuaded the employer to provide picnic benches and tables out of doors so that employees can take their lunch outside in the summer months.**

## Who appoints safety representatives? (SRSC Regulation 3)

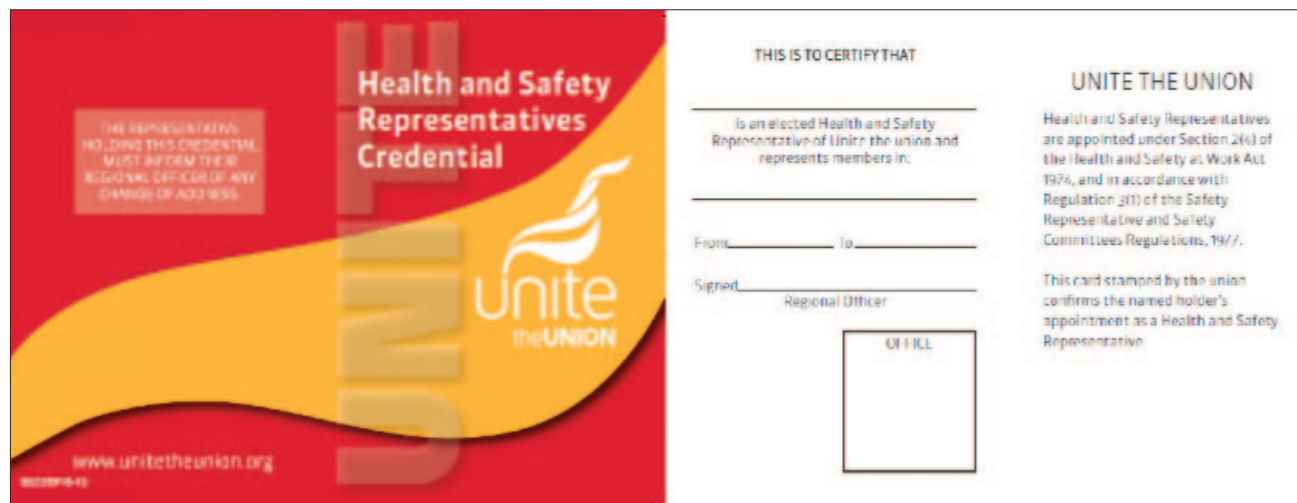
Independent trade unions recognised by the employer have the right to appoint safety reps.

**Employers cannot appoint trade union 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. In the case of Unite, according to rule (see Unite Rule 18) safety reps must be elected at least once every three years.

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 Health and Safety Checklist (**see Appendix 4**) to help ensure that all your health and safety practices and policies take account of gender equality issues.

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 any agreements with your employer.

#### 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
- 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

As mentioned above, the Health and Safety at Work Act 1974 Section 2(6) requires employers to consult trade union safety representatives.

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.

## Investigating accidents, dangerous occurrences and notifiable diseases

SRSC Regulation 6 makes it clear that safety reps have a legal right to investigate over three day injuries, ie an injury required to be recorded in accordance with the RIDDOR Regs

Of course, safety reps should expect to be involved in any incident/accident investigations in the workplace, and there should be local arrangements in place for reps to be notified immediately of any incidents.

### 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. Guidance to Regulation 4 SRSC at para 28 covers consulting safety representatives about risk assessment.

### 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 is 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 Regs 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

#### Unite action in the workplace

*Appoint one of your safety reps to look after the Union noticeboard and posters. Rotate information and posters. Members notice when things change and are more likely to read the information.*

- 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*

### No legal liability for safety representatives carrying out their functions

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

### Safety Reps' Signposts

The "Brown Book": Safety Representatives and Safety Committees

<https://unitetheunion.org/why-join/member-services/health-and-safety/>

TUC resources for safety representatives are available at

<https://www.tuc.org.uk/guides-and-reports-health-and-safety-reps>



Focus on health and safety: TUC Biennial Survey of Safety Reps 2016  
<https://www.tuc.org.uk/sites/default/files/focusonhealthsafetyreport.pdf>

Hazards magazine tools & resources for involving workers available at  
[www.hazards.org/tools/](http://www.hazards.org/tools/)  
[www.hazards.org/unioneffect/](http://www.hazards.org/unioneffect/)

HSE – ‘topic pack’ Worker consultation and involvement available at  
[www.hse.gov.uk/involvement/index.htm](http://www.hse.gov.uk/involvement/index.htm)

HSE Consulting and involving your workers [www.hse.gov.uk/workers](http://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 4 Inspections, Investigations and Surveys

### Inspections

A major part of the safety rep’s role is to carry out inspections:

- Inspect 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.

#### Daily inspection of the workplace

*A Unite safety representative from Wales who works in a very large retail warehouse takes part with his manager in daily work/safety inspections. This enables the rep to maintain visibility for the union and to spot health and safety issues immediately. This daily contact encourages employees to raise concerns, in private as appropriate, so that the union can take these up with management without delay.*

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 their inspections, safety reps can network with other safety reps and discuss remedial action with their employers.

During inspections following over three day injuries, 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. However the regulations do not preclude them or their representatives from being present in the workplace.

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 label paper 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 help you 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.

### **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.

### **Other things you can do to find out what is happening in your workplace**

Safety reps can use other methods to identify issues when exercising their powers to carry out inspections and investigations in the workplace: surveys and mapping.

### **Surveys**

A survey can range from simply talking to members and asking for a show of hands to conducting 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 and agree your action plan.
- 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**

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

This is an approach that both the TUC and overseas unions have carried out successfully in workplaces. The HSE has also developed mapping tools, for example for slips and trips and body mapping.

### **What is workplace mapping?**

- 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**

There are two 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, and hazard 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.



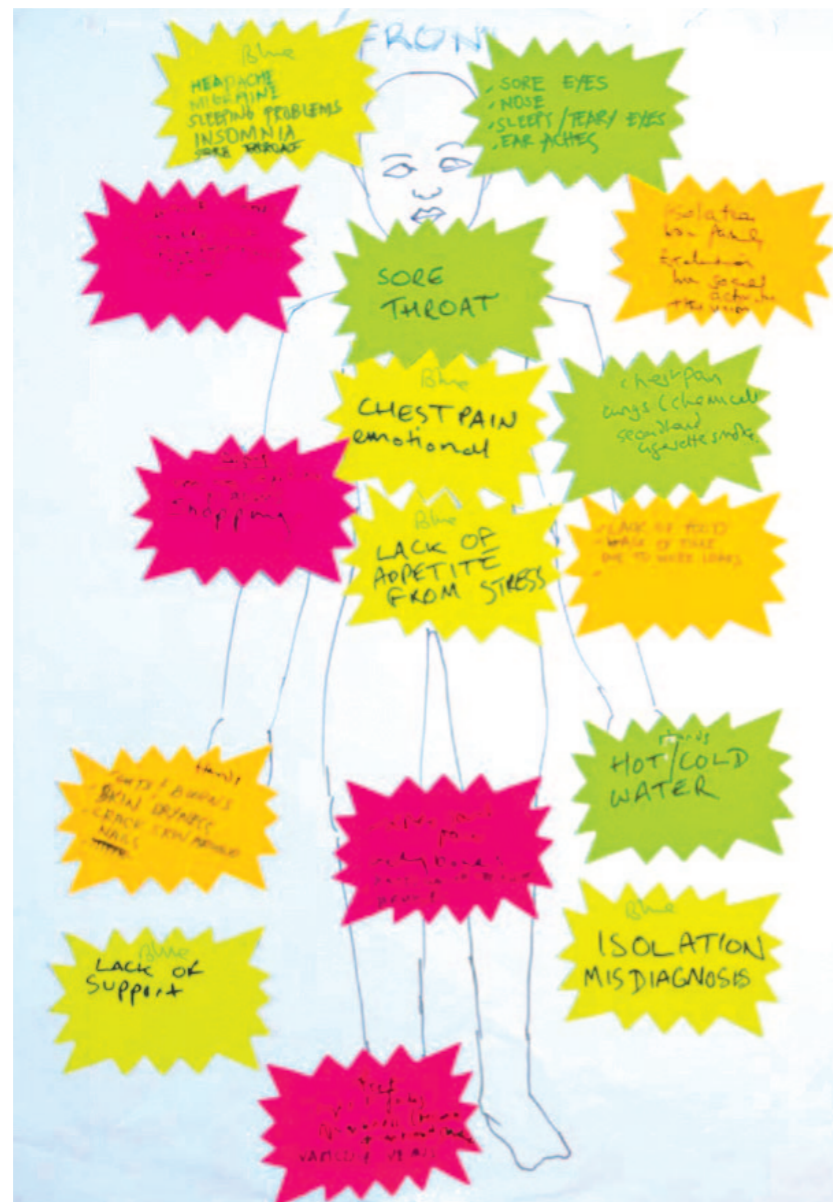
Getting together to discuss how their job is affecting them gives workers a chance to see if a problem is really a work problem. If one person has an ache, it's only an ache. But if other workers have it too, it may mean that there is a health and safety problem at work which needs to be solved.

### 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.

Here is an example from a body mapping workshop with our Domestic Worker 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.

### Body mapping and organising

Unite checkout staff had been raising concerns about their physical environment, eg poorly maintained chairs, no chairs, no footrests, lack of rotation, too much standing, cold temperatures, checkout layout, they are suffering aches and pains in various parts of their body which they believe is linked to their work. The union created a special body map survey resource for checkout staff.

The body map was included in a health and safety resource pack for safety reps which also provided instructions on how to carry out the survey, a members' guide explaining what Unite was doing and why; an HSE leaflet on ergonomics at work; and Unite health and safety information.

The survey was carried out across 22 stores and nearly 350 workers participated. The top 3 concerns identified in the survey were: back pain 76%; neck pain 54%; and wrist pain 46%.

In addition to presenting the results to the employer and discussing the action to be taken, Unite found that:

- The survey was more effective as a visual survey, rather than a conventional questionnaire, with more members participating
- The direct and personal contact from the safety representatives raised the profile of the union
- The survey raised awareness amongst the members about health and safety and their job
- This campaign encouraged them to raise health and safety concerns through the survey
- This campaign resulted in more members joining the union and more members volunteering as safety representatives

### 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.



## Getting involved in inspections and accident investigations

A senior Unite safety representative working in an NHS Trust was concerned because, though there were regular partnership meetings between the joint union staff side and the employer, health and safety and staff wellbeing was rarely discussed, health and safety inspections rarely took place and union safety representatives never got involved in accident investigations. The member presented a paper to the area health and safety committee explaining the rights of trade union safety representatives and the benefits to the employer of their activities, and proposed that regular inspections by them should take place.

Though this was met with initial resistance, it was overcome. There is now a regular inspection programme in place. Most of the joint union safety representatives work together and, to avoid repetition, share information about the findings of their inspections. The member also gained agreement for joint training of managers and union safety representatives. This improved communication includes a central depository of accident reports which is available to all reps, who are now getting involved in accident investigations

## Investigations

Under the SRSC Regs, safety reps are entitled 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.

**"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 Sector, North East**

## Safety Reps' Signposts

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

Body mapping resources available from [www.hazards.org/diyresearch/index.htm](http://www.hazards.org/diyresearch/index.htm)

Mapping in action

[www.hazards.org/diyresearch/images.htm](http://www.hazards.org/diyresearch/images.htm)

TUC guide: Workplace Health and Safety Inspections

<https://www.tuc.org.uk/workplace-issues/health-and-safety/health-safety-inspections-tuc-guide>

TUC Health and safety and organising. A guide for reps.

<https://www.tuc.org.uk/sites/default/files/TUC%2025951%20Health%20and%20Safety%20Organising%20Report%20v4%20Lo-res.pdf>



# Chapter 5 Health and Safety at Work Act and overview of Regulations

## Introduction

All workers are entitled to work in an environment where risks to their health and safety are properly controlled. Under health and safety law, the primary responsibility for this is down to employers. Employers have a duty to consult with their employees, or their representatives, on all health and safety matters affecting them at work.

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 the law, and encourage others to do so.

This chapter includes basic information on the Health and Safety at Work Act and health and safety regulations. 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 separate chapters on several sets of regulations about which safety representatives most often enquire. These include the Control of Asbestos Regulations, the Control of Noise at Work Regulations, the Control of Substances Hazardous to Health Regulations 2002, the Work at Height Regulations and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations.

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 nearly all of these have been amended since they first became law. So it is very important that if you wish to consult the regulations that you use the most up to date version.

Legislation is supported by Approved Codes of Practice and Guidance to give practical advice about what should happen in practice. 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.

At the time of writing all the EU-based legislation is still in place in the UK but change is likely post Brexit.

## 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.

## Health and Safety at Work etc Act 1974

The Act sets out the duties that employers have towards employees and members of the public, and also 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. It is only when the costs etc far outweigh the risks that taking no action can be justified.

The Act places a general duty on employers to ensure the safety, health and welfare of their employees when they are at work. To do this, employers must consult employees about the 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. The Act 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.

### Self employed: change in the law from 1 October 2015

**The Health and Safety at Work etc. Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015 brought in limited exemptions for the self-employed. The law still applies if a work activity is specifically mentioned in the regulations (agriculture including forestry, asbestos, construction, gas, genetically modified organisms and railways) or if the work activity poses a risk to the health and safety of others.**



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.

**Change in the law: removal of strict liability in health and safety regulations - amendment to Section 47 of the Health and Safety at Work Act from 1 October 2013**

**The effect of Section 69 of the Enterprise and Regulatory Reform Act 2013 is to weaken: health and safety law by removing strict liability in health and safety regulations**

**access to justice as injured people are now unable to rely on breaches of health and safety regulations when pursuing a personal injury claim and instead may only prove their claim on common law negligence**

## Health and Safety Regulations

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

### Carriage of Dangerous Goods Regulations 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.

### Chemicals – fuller information is included in the chapter on Hazardous Substances “CLP Regulation”

The European Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures – the CLP Regulation – came into force in all EU member states, including the UK, on 20 January 2010. The CLP Regulation:

- adopts in the EU the Globally Harmonised System (GHS) on the classification and labelling of chemicals;
- applies directly in all EU member states. This means that no national legislation is needed;

- is overseen by the European Chemicals Agency (ECHA);
- replaced the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 – CHIP on 1 June 2015.

### Registration, Evaluation, Authorisation & restriction of Chemicals (REACH)

REACH is a European Union regulation concerning the Registration, Evaluation, Authorisation and restriction of Chemicals. It came into force on 1st June 2007 and replaced a number of European Directives and Regulations with a single system.

### 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 2015 (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, information, instruction and training and consulting workers. The HSE has published specific guidance for workers hosted on the CITB website.

### Control of Lead at Work Regulations 2002

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 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.

### 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)**

These 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 17** (Disability and health and safety)

#### **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 amend several regulations, mainly to address disability/health and safety issues.

#### **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 all Workplace (Health, Safety and Welfare) Regulations 1992.

#### **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 and forklift trucks. 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 (para 127) 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)**

These are the key regulations for health and safety management and are covered in Chapter..

#### **Preventing injuries from manual handling**

**A Unite safety rep working in a hospital microbiology department received complaints from staff that they had to lift 20 litre packs of diagnostic fluid weighing 20 kg on to a conventional trolley and then lift them off again to place them beside their workstation.**

**The rep was worried about the potential for back injury so persuaded her employer to provide an adjustable trolley which reduces manual handling of the packs. No injuries have been reported.**

#### **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 and warehousing picking.

See also Chapter 17 Disability and Health and Safety

### Road Transport Commercial, logistics and Retail Distribution Sector: Unite action on roll cages 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 3 stewards, and 2 management reps was set up which instigated and monitored a series of remedial measures over a period of just over 2 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% to 27%.

### Personal Protective Equipment at Work Regulations 1992 (as amended)

Please refer to **Chapter 8** and see also Chapter 17 Disability and Health and Safety

### 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, eg 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, lorries and car transporters.

### Reporting of Injuries, Disease and Dangerous Occurrences Regulations 2013 (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 9** for more information.

### 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 regulations apply not only to fixed sites, but also to vehicles.

Please see **Chapter 8** for more information.

### 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).

#### Sentencing Council's Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences: Definitive Guideline - EXTRACT

When considering the seriousness of an offence under the Corporate Manslaughter and Corporate Homicide Act 2007 the guidelines invite the court to consider a number of issues including foreseeability and reinforce the need for employers to heed warnings and near misses.

#### How foreseeable was serious injury?

Usually, the more foreseeable a serious injury was, the graver the offence. Failure to heed warnings or advice from the authorities, employees or others or to respond appropriately to 'near misses' arising in similar circumstances may be factors indicating greater foreseeability of serious injury.

#### How far short of the appropriate standard did the offender fall?

Where an offender falls far short of the appropriate standard, the level of culpability is likely to be high. Lack of adherence to recognised standards in the industry or the inadequacy of training, supervision and reporting arrangements may be relevant factors to consider.

<https://www.sentencingcouncil.org.uk/wp-content/uploads/HS-offences-definitive-guideline-FINAL-web.pdf>

## Equality Act 2010

This consolidates equality legislation covering age, disability, gender reassignment, marriage and civil partnership, race, religion and belief, sex and sexual orientation.

See also **Chapter** Gender and health and safety and Chapter Disability and Health and Safety.

## Regulatory Reform (Fire Safety) Order 2005 (FSO)

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: <http://www.communities.gov.uk/fire/firesafety/firesafetylaw/>

## Social Security (Claims and Payments) Regulations 1979

For more information see **page 97**

## 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 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. 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 may 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](http://www.hse.gov.uk)

Health and Safety Executive for Northern Ireland (HSENI)

### [www.hseni.gov.uk](http://www.hseni.gov.uk)

Health and Safety Authority Republic of Ireland (HSA)

### <http://www.hsa.ie>

HSE: Guidance on reasonable practicability

### [www.hse.gov.uk/risk/theory/alarp1.htm](http://www.hse.gov.uk/risk/theory/alarp1.htm)

HSE: Workers' rights and employers' duties

### [www.hse.gov.uk/workers/index.htm](http://www.hse.gov.uk/workers/index.htm)

HSE: Links to regulations owned and enforced by HSE/local authorities

### [www.hse.gov.uk/legislation/statinstruments.htm](http://www.hse.gov.uk/legislation/statinstruments.htm)

## HSE advice and guidance

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

## HSE Sector Plans

The HSE also has a number of sector plans for different industries which can be found here:

<http://www.hse.gov.uk/aboutus/strategiesandplans/sector-plans/>



## CHAPTER 6 Hazardous Substances

### 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.

As such, these apply to almost every place where Unite members work using solvents, cleaning materials, adhesives, inks, aerosols, or where they are exposed to paper dust and various fumes such as surgical smoke, diesel engine exhaust and welding fumes; general dusts, and silica dust; and biological hazards such as animal faeces, legionella bacteria, bloodborne viruses, mould and spores.

#### Employers' duties under COSHH

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

#### Unite campaign on diesel engine exhaust emissions – diesel exhaust can kill

Exposure to diesel exhaust emissions (DEEs), commonly known as diesel fumes, is an increasing workplace health and safety issue and a public health issue which potentially affects us all.

Though increasing environmental concerns have resulted in regulatory action, including tighter emissions standards in parts of the world including the USA and Europe, considerable hazards to health still remain and this is likely to continue.

In June 2012 the International Agency for Research into Cancer classified DEEs as a Group 1 Carcinogen – causing cancer in humans. As a result the Unite policy conference held later that month passed an emergency motion calling on Unite to campaign to highlight the dangers of exposure to diesel fumes.

Bus, car and lorry maintenance engineers, professional bus drivers and lorry drivers, fork lift truck drivers and other warehouse workers, tractor drivers, miners and construction workers are just some examples of occupations that are exposed to diesel exhaust in the course of their work.

Diesel engine exhaust emissions are a complex mixture of gases, vapours, liquid aerosols and substances made up of particles, including known carcinogenic substances. They contain the products of combustion including:

Carbon (soot); Nitrogen; Water; Carbon monoxide; Aldehydes; Oxides of nitrogen; Oxides of sulphur; Polycyclic aromatic hydrocarbons.

Because of the complexity of DEEs there is no workplace exposure limit, but employers must prevent exposure under COSHH as they include carcinogens.



Exposed to DEEs at work? Report it! Sign up to the Unite Diesel Exhaust Register online: <http://www.unitetheunion.org/campaigning/diesel-exhaust-can-kill---report-it/>

#### 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.

#### Unite welding campaign

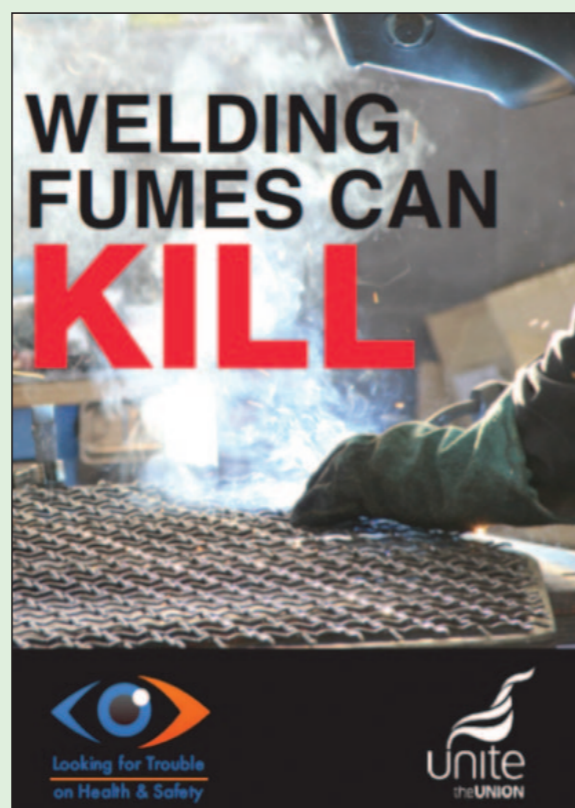
Unite is concerned about the long term health risks of being exposed to welding fume.

Your employer has a legal responsibility to make sure that any welding, or similar, work can be done safely.

This can be achieved through the use of local exhaust ventilation, or, if that is not effective, the use of respiratory protective equipment.

It is very important you are told and understand the risks, as without you taking the right action, even proper control measures might not work effectively.

The long term effects mean that you will probably not realise your health is being affected until it is already been damaged.



For further information go to:

- HSE Welding website - <http://www.hse.gov.uk/welding/>
- HSE Welding e-bulletin - <http://www.hse.gov.uk/welding/subscribe.htm>
- HSE welding Essentials - <http://www.hse.gov.uk/cosHH/industry/welding.htm>

HSE welding advice to Inspectors - <http://www.hse.gov.uk/foi/internalops/og/og-00067>

- appendix-3.pdf
- BOHS welding - <http://www.breathefreely.org.uk/breathefreelymanufacturing.html>

If you are part of a team of welders, or if there are other people at your workplace, or who you know, who carry out welding work, please pass this information to them.

#### 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 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.



### Preventing exposure to chemicals – the right type of gloves

A Unite safety representative working for a packaging company became aware that action needed to be taken to protect their colleagues from exposure to chemicals. Though the COSHH assessment had found that gloves were needed to work safely, the type provided in the glove vending machine were not suitable and were not CE marked.

He worked with management and as a result workers are supplied with the right type and standard of disposable gloves when dealing with chemicals on the site; the use of spray bottles was discontinued to ensure that certain chemicals did not become atomised; and appropriate COSHH risk assessments are carried out and attached to the relevant COSHH safety data sheets so that employees know how the chemicals are used once they are decanted from the original containers. The rep is also ensuring that the correct procedures and policies are in place to safeguard the members.

### 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 (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 5 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 for 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).

## Labelling and Packaging

The Chemical (Hazard Information and Packaging for Supply) Regulations 2009 (CHIP Regs) were revoked from 1 June 2015 and no longer have legal effect. Chemical suppliers are now required to comply with the CLP Regulation.

The CLP Regulation adopts the United Nations' Globally Harmonised System on the classification and labelling of chemicals (GHS) across all European Union countries, including the UK. As GHS is a voluntary agreement rather than a law, it has to be adopted through a suitable national or regional legal mechanism to ensure it becomes legally binding. That's what the CLP Regulation does.

As GHS was heavily influenced by the old EU system, the CLP Regulation is very similar in many ways. The duties on suppliers are broadly the same: classification, labelling and packaging.

The existing legislation on classification, labelling and packaging has been agreed at European Union level and, since 2015, has been directly applied to all EU member states, including the UK.

The rules suppliers have to follow when they are classifying have changed though, and a new set of hazard pictograms (quite similar to the old ones) are used:

## CLP hazard pictograms



Explosive (Symbol: exploding bomb)



Flammable (Symbol: flame)



Oxidising (Symbol: flame over circle)



Corrosive (Symbol: Corrosion)



Acute toxicity (Symbol: Skull and crossbones)



Hazardous to the environment (Symbol: Dead tree and fish)

You'll see that the old 'harmful/irritant' symbol is missing. This has been replaced by the exclamation mark pictogram:



Health hazard/Hazardous to the ozone layer (Symbol: Exclamation mark)

A couple of new pictograms have also been introduced:



Serious health hazard (Symbol: health hazard)



Gas under pressure (Symbol: Gas cylinder)

### Safety Data Sheets

Safety Data Sheets (SDS) are required by the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation. SDS are key documents in the safe supply, handling and use of chemicals. They should help to ensure that those who use chemicals in the workplace do so safely with risk of harm to users or the environment.

A SDS will contain the information necessary to allow employers to do a risk assessment as required by the Control of Substances Hazardous to Health Regulations (COSHH). The SDS itself is not an assessment. However it will describe the hazards helping both employers and safety reps assess the probability of those hazards arising in the workplace.

SDS are a must if a chemical is hazardous and is being supplied for use at work, whether in packages or not. SDS are also needed if the chemical is not classified as hazardous but contains small amounts of a hazardous substance(s).

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

### What information needs to be provided on a SDS?

According to Annex 2 of the REACH Regs the safety data sheet shall be dated and shall contain the following headings:

1. Identification of the substance/mixture and of the company/undertaking;
2. Hazards identification;
3. Composition/information on ingredients;
4. First-aid measures;
5. Fire-fighting measures;
6. Accidental release measures;
7. Handling and storage;
8. Exposure controls/personal protection;
9. Physical and chemical properties;
10. Stability and reactivity;
11. Toxicological information;
12. Ecological information;
13. Disposal considerations;
14. Transport information;
15. Regulatory information;
16. Other information.

### 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, Media and IT Sector



## Safety Reps' Action Points

1. Ensure you are involved in the COSHH assessment, so that no substance is used without having first been fully assessed.
2. 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.
3. Check that measures to first prevent and then control exposure are introduced.
4. Ensure that the employer provides information and training in the risks and alternative means of working with substances hazardous to health.
5. Ask your employer whether there is a COSHH Essentials control solution for the jobs you do. If there is, make sure it is applied.

## Safety reps' signposts

### COSHH

Control of Substances Hazardous to Health (5th Edition), Approved Code of Practice and Guidance L5

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

[www.hse.gov.uk/coshh](http://www.hse.gov.uk/coshh)

<http://www.hse.gov.uk/pubns/indg136.pdf>

COSHH Essentials: 'easy steps to control chemicals'

### Resources

<http://www.hse.gov.uk/coshh/essentials/index.htm>

Instructions on using COSHH Essentials

[www.coshh-essentials.org.uk](http://www.coshh-essentials.org.uk)

## CHAPTER 7 ALL ASBESTOS CAN CAUSE CANCER

Asbestos kills. All types of asbestos can cause cancer. It is the single biggest cause of premature work-related deaths in the UK – at least 5,000 a year – and a damning indictment of corporate negligence.

Though – 100 years after British Factory Inspectors first identified it was harmful to health – the use of all asbestos was banned in 1999, asbestos continues to be a serious risk to health and continues to kill people.

This is because it is still present in many buildings – for example homes, schools, hospitals, railway premises, public buildings, power stations, bus garages, shops, hotels, farm buildings, offices and factories. In any building built or refurbished before the year 2000 there is a presumption that asbestos is present. The duty holder responsible for the building under the Control of Asbestos Regulations 2012 must investigate and document any asbestos present and put in place measures to protect those who work in or visit the building.

Some employers may genuinely believe that withholding information about asbestos in the workplace is the best policy because of the fear it may bring. Unite believes that encouraging an open approach to assessing and dealing with all health and safety hazards and risks is essential, especially asbestos, and Unite safety reps have a very important part to play here.

Globally, the fight continues to ban asbestos in all countries and to ensure that all types of asbestos are covered in international treaties such as the Rotterdam Convention.

### Unite's asbestos campaign – Asbestos - Banned but not Gone!

In 2015 Unite launched a new asbestos campaign aiming to:

**Raise members' awareness of asbestos hazards at work**

**Provide advice to Unite safety representatives to help them deal with asbestos at work**

**Provide information for all Unite members about compensation issues, Unite's legal services and the Unite Asbestos Register.**

**The campaign resources include a guide for safety representatives, information about compensation claims and a leaflet about Unite's asbestos register, together with a campaign poster.**

### What is asbestos?

There are three main types of asbestos: chrysotile (white asbestos), amosite (brown asbestos) and crocidolite (blue asbestos). The type of asbestos cannot be identified by its colour.

Never believe anyone who tells you that white asbestos is safe. All asbestos can be dangerous and there is no safe exposure limit.



## Asbestos diseases

People who breathe in asbestos dust may be at risk of developing serious and often fatal diseases later in their lives – and often many decades pass before a diagnosis is made. These include mesothelioma, pleural plaques, diffuse pleural thickening, asbestosis and lung cancer. There is no cure for asbestos-related diseases.

### Who is most at risk?

An analysis of mesothelioma deaths shows that they are far more common amongst occupations such as plumbers, carpenters and electricians, but also occur amongst other workers with no history of working in the construction-related sector, but are likely to be affected through exposure in their workplace. This includes teachers (and pupils), health-care workers, telephone engineers, teachers and finance workers.

**Joint Union Asbestos Committee - JUAC**

Unite is part of this eight-union campaign whose aim is to make UK schools and colleges safe from the dangers of asbestos, both for staff and pupils.

Founded in 2010, Joint Union Asbestos Committee (JUAC) protects education workers by raising awareness of asbestos in schools and promoting improved management of asbestos in education sector buildings. The JUAC members are representatives from ASCL, GMB, NASUWT, NAHT, NEU, Voice, UNISON and Unite

## Legislation

The Control of Asbestos Regulations 2012 provide a single set of regulations for the control of asbestos and became law on 6 April 2012. They replaced the Control of Asbestos Regulations 2006.

## Key Points

A single control limit

**There is no action level.** There is a single Control Limit of 0.1f/cm<sup>3</sup> and a Short Term Exposure Limit (STEL - ACOP standard, not in the regulations) of 0.6 f/cm<sup>3</sup> 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 4 hours, in line with current practice, which is equivalent to the directive's 0.1 f/cm<sup>3</sup>, if the shift is 8 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" will be 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 sends out the wrong message about asbestos and this 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 no longer 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 cm<sup>3</sup> 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 of 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 provide 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.

### 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.

#### 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 2012 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 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 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 5 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

The 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 2 years before the start of asbestos exposure, and further examinations at no more than 2-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.



The only way to stop asbestos deaths is to get rid of the asbestos.

All-Party Parliamentary Group on Occupational Safety and Health published a report calling for stronger laws on asbestos with a clear timetable for the eradication from asbestos in every single workplace in Britain.

More information can be found in the report and on the TUC's Asbestos Eradication Campaign webpages.

## Safety Reps' Action points

Never assume your workplace is asbestos free unless you are absolutely certain. If a safety representative suspects that asbestos is present in a building they should take the following action.

- Get involved in all consultations about asbestos at your workplace with your employer including risk assessments
- Ask for asbestos management in your workplace to be included as a standing item on your health and safety committee agenda.
- Ask the employer what steps they have taken to find out if asbestos is present and what condition it is in (eg inspecting and surveying the premises).
- Ask to see the results of any inspection or survey – and the asbestos management plan and the asbestos register for your workplace.
- Check that your employer has clearly marked all asbestos-containing materials even if they are in good condition.
- Remember that minor damage to some asbestos materials does not always mean that there is serious risk, but if you see material which you have reason to believe contains asbestos, it has been damaged and you believe that there is a serious risk of exposure you should ask everyone to leave the area (so long as the evacuation is managed safely).
- Notify your employer or the occupier immediately. No further work should take place until the area is safe. That means that action must have been taken – eg repair/encapsulation or removal of the asbestos – before work can resume in the area.

### If members are concerned about possible exposure to asbestos at work they should be advised to:

- Consult their GP and ask for a note to be made in your personal record about the possible exposure, including date(s), duration, type of asbestos and likely exposure levels (if known). In some circumstances, your GP may refer you to a specialist in respiratory medicine.
- Ensure that similar information is entered in their occupational health record.
- Complete the Unite asbestos register form. Unite publishes a separate leaflet about this which is available from our website. Once completed it should be sent to the Legal and Affiliated Services Co-ordinator in your Region.

### The Unite Asbestos Register

Unite keeps an Asbestos Register which is a record of members who are exposed to asbestos. Details are recorded at the time of exposure and kept by the union against the possibility of a future claim.

For more information about the Register please contact your Regional and Affiliated Services Co-ordinator without delay.

### Personal injury claims

The union provides a comprehensive legal 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.

If you have been diagnosed with an asbestos disease you should contact Unite's legal service by calling 0800 709 007 for free, specialist legal advice and support from a Unite solicitor.

### TUC – Asbestos – Time to get rid of it. A TUC guide for union workplace representatives

<https://www.tuc.org.uk/workplace-issues/health-and-safety/asbestos/asbestos-eradication-campaign/asbestos-%E2%80%93-time-get-rid-it>

### All-Party Parliamentary Group on Occupational Safety and Health

The asbestos crisis. Why Britain needs an eradication law

<https://www.tuc.org.uk/workplace-issues/health-and-safety/asbestos/asbestos-eradication-campaign>

### Joint Union Asbestos Committee (JUAC)

Information about the campaign and resources for union safety representatives including:

Advice sheet on asbestos in schools; warning leaflets about asbestos in WW1 and WW2 gas masks and Asbestos in warm air cabinet heaters.

<http://www.juac.org.uk/>

### Health and Safety Executive (HSE)

[www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos)

HSE approved code of practice and guidance which is all free to download includes:

Managing and working with asbestos L143 - Approved Code of Practice to the Control of Asbestos Regulations 2012

<http://www.hse.gov.uk/pubns/priced/l143.pdf>

Surveyor's Guide HSG 264 <http://www.hse.gov.uk/pubns/priced/hsg264.pdf>

Asbestos Essentials guidance sheets

<http://www.hse.gov.uk/ASBESTOS/essentials/index.htm>

Asbestos image gallery of photos showing examples asbestos containing material

<http://www.hse.gov.uk/ASBESTOS/gallery.htm>

## CHAPTER 8 Health and Safety Legislation: Five more key regulations

### Introduction

In this chapter several key regulations are covered in more detail. They have been selected 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

Personal Protective Equipment at Work Regulations 1992

Control of Noise at Work Regulations

Work at Height 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 5 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 arrangement 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 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.

### **Co-operation and co-ordination (Regulation 11)**

When two or employers occupy 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.

#### **Helping to make deliveries safe**

**A Unite member who is a chemical tanker driver for a logistics company contracted to a chemicals manufacturer in the East Midlands conducts regular safety inspections both at his base site and at the sites he delivers to and is regularly involved in joint risk assessments of delivery sites with his health and safety manager as well as at the home base. His yard inspections in winter often identify the need for gritting the surface which is actioned. Other issues such as access to welfare facilities for drivers at the delivery sites are identified and addressed if necessary.**

**When he first became a safety rep he found that no record was kept by his employer of issues arising at customers' sites. He approached one of the senior managers at the company they deliver for and a system called an UNSATISFACTORY DELIVERY CONDITION REPORT (UDCR) was set up. Problems are raised at point of delivery and are reported to his employer who record them using a traffic light system. This system is still being used after about 9 years and allows drivers and their employer to identify, record and trace any problem sites or delivery points**

### **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 in the logistics sector – North West**

**A Unite safety rep 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 accidents, 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.

Requires employees to inform his employer or any other employee of that employer with specific responsibility for health and safety of the employees of any work situation which represents a serious and imminent danger to health and safety; and of any matter which represents any shortcoming in the employer's protection arrangements for health and safety.

### **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 (Regulation 19)

Requires employers who employ young persons to provide special protection for them because of their lack of experience; 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 expand on the duties under the HSWA. These Regulations 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, including workers with a disability. 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)

## Unite bus driver improves safety at the depot and on the routes

A Unite bus driver and safety rep in Scotland used his rights to work to bring about a range of workplace improvements to their garage, the buses and the routes. Issues were raised through the joint health and safety committee and through direct discussions with managers.

Improvements to the canteen included renewal of the floor (as there were holes in the lino), new seating and repairing window catches (these had been prone to blowing open without warning posing a hazard to people using the walkway outside). New lighting was installed in dark areas inside and outside the building and gutters and downpipes were renewed.

Reels were fitted to the hoses used for power washes to reduce tripping hazards. Nearside mirrors on new buses were changed because they projected too far out and were hitting tree branches and bus stops. The member also worked to ensure that potholes on the bus routes were repaired and foliage and branches were cut back.

## 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)

**A Unite safety representative who works as a HGV driver in the North West identified that the lighting outside in the yard was not adequate when carrying out his regular yard inspection.**

**He worked with his employer to improve the lighting by gradually replacing the existing lighting with brighter LED bulbs including the floodlighting in the yard. These not only improve the lighting and therefore safety in the workplace, but last longer, reducing the maintenance required and more environmentally friendly. Also some lamp posts, which were causing an obstruction in the yard, could be removed.**

## 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)

## 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 nearby. 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)

### **Unite safety rep working to prevent workplace transport injuries in the yard**

**A Unite safety rep who works as a truck driver for a food company became concerned because driver members while working in the rear of their vehicle received head injuries because items which had moved during transit fell off roll cages. The member raised this at his joint health and safety committee and the company agreed to introduce bump caps for the drivers to wear when working in the vehicle. Since the bump caps were introduced there have been no reported head injuries from workers when they were wearing their cap.**

**In addition, in their very large and long yard where as many as 50 or 60 vehicles could be circulating at one time, as well as pedestrians, there were concerns that vehicles driven by visiting contractors were travelling too fast, putting people at risk of collision and injury. The member worked with their employer to develop a proper traffic management system. This includes larger speed limit signs at the entrance to the yard and in several other places where they are visible. Speed bumps have also been installed at the entrance to the yard and at the entrance to the staff car park.**

## 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 5 people, 1 toilet and wash station; 6-25 people, 2 toilets and wash stations; 1 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).

### It's time for a toilet break - Unite campaign on access to toilets

For many years Unite has been campaign for improved facilities for all workers, particularly road delivery workers who are often denied access to facilities when they visit sites for work purposes. This campaign resulted in a change of HSE policy in Autumn 2017:

"HSE has been aware for some time of concerns around access to welfare facilities for visiting delivery drivers. We have reviewed our approach including guidance to duty holders and re-examined the Workplace (Health, Safety and Welfare) Regulations 1992, in particular Regulations 20 and 21. We will begin to update our guidance to say that drivers must have access to welfare facilities in the premises they visit as part of their work. As this is likely to take some time, key stakeholders are being informed no."

Source: HSE Logistics website <http://www.hse.gov.uk/logistics/index.htm>

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

### Unite action: staff rest room

"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. Eventually they converted a garage 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 now banned in England, Scotland, Wales, Northern Ireland, Republic of Ireland, Guernsey, Jersey and Gibraltar.

## 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 that 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.

## 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, 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.

### 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.

### 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.

### 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 other Regulations because these regulations already require the use of some types of PPE such as respiratory protective equipment (RPE) to protect against certain risks.

These five regulations are:

- Control of Lead at Work Regulations
- Ionising Radiations Regulations
- Control of Asbestos Regulations
- Control of Substances Hazardous to Health Regulations
- Control of Noise at Work Regulations

### 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, coughs, 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

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.

### Unite campaign: RPE and facial hair

RPE is often seen as the solution to preventing exposure to hazardous substance. But under health and safety law it should be the last resort with prevention being the priority. Unite received reports from members working in housing maintenance that beards were being banned in their workplace because it was necessary for workers to have a close shave in order for their RPE to fit them. Whilst Unite does not disagree with this point, the policy was being imposed without consultation in breach of the law. Also such policies could be discriminatory on religious grounds under the Equality Act 2010.

As a result the Unite guidance booklet "Beards, stubble and respiratory protective equipment" was published which includes a suitability table for RPE reproduced from HSG 53, the HSE guidance on RPE.

### Safety Reps' Action Points

- Use your rights to consultation under the Safety Representatives and Safety Committees Regulations 1977
- Get involved with risk assessments
- If the risk assessment finds that PPE is needed then engage with your employer about the type of PPE, and ensure that members are given a choice of PPE.

- Ensure that the employer provides information and training on PPE
- Promote equality:

A gender-sensitive approach must be taken, the underlying principle being "differentiate, don't discriminate". PPE is often designed for the average sized man. Women are not small men and small men are not women. As a result PPE 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. The TUC has guidance on Women and PPE (2017).

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.

Religion and belief may also be relevant.

- 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 and 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

### **Work at Height Regulations 2005**

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 only; 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.

### **Safety Reps' Signposts**

Unite Health & Safety web pages – posters, leaflets and sign up for the HS ebulletin  
<http://www.unitetheunion.org/unite-at-work/healthsafety/>

### **Management of Health and Safety at Work**

HSE

Risk Management  
[www.hse.gov.uk/risk](http://www.hse.gov.uk/risk)

Managing Health and Safety resources  
<http://www.hse.gov.uk/pubns/manindex.htm>

Workplace Health, Safety and Welfare

Hazards magazine website resources

Toilet break campaign at  
[www.hazards.org/toiletbreaks/index.htm](http://www.hazards.org/toiletbreaks/index.htm)

HSE resources on workplace health, safety and welfare  
<http://www.hse.gov.uk/pubns/indg293.pdf>

HSE Construction site welfare  
<http://www.hse.gov.uk/construction/safetytopics/welfare.htm>

TUC resources on a wide range of topics  
<https://www.tuc.org.uk/guides-and-reports-health-and-safety-reps>

Health and Safety Executive: [www.hse.gov.uk/noise](http://www.hse.gov.uk/noise)

RNID: plenty of information on preventing noise exposure at work [www.rnid.org.uk](http://www.rnid.org.uk)

### **Personal Protective Equipment**

HSE Guidance: Personal Protective Equipment at Work L25. Available free to download from the HSE website.

HSE frequently asked questions on PPE

<http://www.hse.gov.uk/contact/faqs/ppe.htm>

TUC guidance Personal Protective Equipment and Women

<https://www.tuc.org.uk/research-analysis/reports/personal-protective-equipment-and-women>

### **Work at Height**

#### **HSE guidance includes**

The Work at Height Regulations 2005 (as amended): A brief guide

Safe use of ladders and stepladders: A brief guide

Inspecting fall arrest equipment made from webbing or rope

Fragile roofs: Safe working practices

Website <http://www.hse.gov.uk/work-at-height/the-law.htm>

## Chapter 9 Report! RIDDOR, the Accident Book and Safety Representatives

### Introduction

It is essential that all incidents and near misses are reported to the employer so that they are put on notice to take preventive action to protect members' health and safety. Employers ignore this at their peril as you will have seen from the extract to the Sentencing Guidelines for the Corporate Manslaughter and Corporate Homicide Act

Particularly important to prevention are the effective use of RIDDOR and the Accident Book in conjunction with Safety Reps' rights under the SRSC. It is estimated by HSE that at least 50% of RIDDOR-reportable incidents are not reported so 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. It is a criminal offence not to report where required under RIDDOR.

The RIDDOR legislation for the GB, Northern Ireland and the Republic of Ireland differs from each other quite significantly. The text in this chapter is based on the GB regulations – RIDDOR 2013.

### Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR 2013)

RIDDOR 2013 only applies in the GB.

It puts duties on employers, the self-employed and people in control of work premises (the Responsible Person) to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses).

The information about RIDDOR included here is indicative rather than comprehensive as, for example, there are specific provisions for railways, offshore, wells, mines and quarries. Members in these type of workplaces should consult RIDDOR in detail.

#### Great Britain (England, Wales and Scotland)

**RIDDOR 2013 replaced RIDDOR 1995 in GB with effect from 6 April 2013, and there have been significant reductions in reporting requirements compared with RIDDOR 1995.**

**Major injuries" are now called "specified injuries" and the list of reportable injuries has been shortened;**

**Reduce 47 reportable industrial diseases to 8 categories of reportable work-related illness;**

**Fewer types of dangerous occurrence require reporting.**

#### Northern Ireland

##### Reporting of Injuries, Diseases and Dangerous Occurrences (Northern Ireland) Regulations 1997

The Northern Ireland government decided not to follow the GB when it adopted reduced reporting requirements. They have retained their regulations in full. They still use the supporting guidance to their regulations based on the HSE guidance for RIDDOR 1995 which provides a very useful interpretation of the regulations.

<https://www.hseni.gov.uk/sites/hseni.gov.uk/files/publications/%5Bcurrent-domain%3Amachine-name%5D/riddor-guidance-on-regulations-hsa-31.pdf>

#### Republic of Ireland

##### Safety, Health and Welfare at Work (Reporting of Accidents and Dangerous Occurrences) Regulations 2016

##### Guidance on the Safety, Health and Welfare at Work (Reporting of Accidents and Dangerous Occurrences)

##### Regulations 2016

##### Updated October

[http://www.hsa.ie/eng/Publications\\_and\\_Forms/Publications/Safety\\_and\\_Health\\_Management/Accident\\_and\\_Dangerous\\_Occurrences\\_Reporting.pdf](http://www.hsa.ie/eng/Publications_and_Forms/Publications/Safety_and_Health_Management/Accident_and_Dangerous_Occurrences_Reporting.pdf)

### What must be reported under RIDDOR 2013

#### Work-related accidents

Under RIDDOR an accident is a separate, identifiable, unintended incident that causes physical injury wherever the employees are working. This specifically includes acts of non-consensual violence to people at work. Stress is not reportable under RIDDOR.

#### Who is covered by RIDDOR?

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

#### Specified injuries which are reportable

- fractures, other than to fingers, thumbs and toes;
- amputations;
- any injury likely to lead to permanent loss of sight or reduction in sight;
- any crush injury to the head or torso causing damage to the brain or internal organs;
- serious burns (including scalding) which covers more than 10% of the body
- causes significant damage to the eyes, respiratory system or other vital organs;
- any scalping requiring hospital treatment;
- any loss of consciousness caused by head injury or asphyxia;
- any other injury arising from working in an enclosed space which leads to hypothermia or heat-induced illness;
- an injury which requires resuscitation or admittance to hospital for more than 24 hours



### Over 7 day absence

This is when a person has to absent from work for over 7 days excluding the day of the accident and is incapacitated for routine work.

#### Reg 4(2) defines "Routine work" as:

Work which a person might reasonably be expected to do, either under that person's contract of employment, or, if there is no such contract, in the normal course of that person's work.

So, for example, if a person attends work and on so-called "light duties" which are not duties carried out in the normal course of their work and the person would otherwise be off work for more than 7 days then this incident is still reportable.

If the person is off for more than 3 days but not over 7 days, it is **recordable**. The HSE advises that the Accident Book would be a suitable place in which to record over 3 day injuries

**Accidents to members of the public or others who are not at work** must be reported if they result in an injury and the person is taken directly from the scene of the accident to hospital for treatment to that injury. Examinations and diagnostic tests do not constitute 'treatment' in such circumstances.

There is no need to report incidents where people are taken to hospital purely as a precaution when no injury is apparent.

If the accident occurred at a hospital, the report needs to be made if the injury is a 'specified injury'.

### Reportable occupational diseases

Employers and self-employed people must report diagnoses of certain occupational diseases, where these are likely to have been caused or made worse by their work: These diseases include (regulations 8 and 9):

- carpal tunnel syndrome
- severe cramp of the hand or forearm
- occupational dermatitis
- hand-arm vibration syndrome
- occupational asthma
- tendonitis or tenosynovitis of the hand or forearm
- any occupational cancer
- any disease attributed to an occupational exposure to a biological agent

### Reportable dangerous occurrences

Dangerous occurrences are certain, specified near-miss events. Not all such events require reporting. There are 27 categories of dangerous occurrences that are relevant to most workplaces, for example:

the collapse, overturning or failure of load-bearing parts of lifts and lifting equipment; plant or equipment coming into contact with overhead power lines; the accidental release of any substance which could cause injury to any person.

Schedule 2 of RIDDOR provides a full list

#### When should an incident be reported?

##### For most types of incident

Without delay to enforcing authority

Online; or for deaths and specified injuries only the responsible person can phone 0345 300 9923

Must be received within 10 days of accident

##### Over 7 day incapacitation to worker

Must be received within 10 days of the incident using the appropriate online form

#### Keeping RIDDOR records

The Responsible Person (RP) must keep a record of any reportable injury, over-three day injury, disease or dangerous occurrence. They can print and/or save a copy of the online form. A copy of the form will be automatically emailed to the email address provided by them.

If RP does not keep a copy of the online form, their records must include the date and method of reporting; the date, time and place of the event; personal details of those involved; and a brief description of the nature of the event or disease.

In the case of accidents, employers who must keep an accident book (B1510) under Social security Law can use this for keeping the records of injuries although a separate method will be needed for cases of disease.

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

#### Safety Representatives and Safety Committees Regulations 1977 (SRSC)

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 and if possible take photographs.

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)).

#### **Inspection after over-three-day injuries, a notifiable accident, dangerous occurrences and diseases**

- Inspect where there has been an over-three-day injury, 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 such (Reg 7 ACOP 6c)
- 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.

#### **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.

The specific legal requirement to keep an accident book is found in the Social Security (Claims and Payments) Regulations 1979. If an employer has more than 10 employees, or owns or occupies a mine, quarry or factory, they must keep an accident book.

These regulations sit alongside RIDDOR and Regulations 24 and 25 are particularly relevant:

#### **The Social Security (Claims and Payments) Regulations 1979 (GB)**

##### **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.

This information is required in connection with claims for industrial injuries benefit. Information recorded in the accident book can also provide valuable evidence in the event of a compensation claim by a member.

##### **Check the accident book details for accuracy and ask for a copy of the entry**

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 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 advice

*Where an individual has consented to disclosing their information, you can share the following with health and safety representatives:*

*name of the person;  
date, time and place of the incident; and  
nature of the incident.*

*Accident report forms should include consent for disclosure to a third party for you to inform representatives. This is usually a signed form, perhaps with a tick box or declaration that they have given their permission to share information in the accident record. You can use HSE's Accident Book BI 510 to record accident information in your organisation.*

*If you do not have consent to share information in the accident record, you can give health and safety representatives anonymous information about the incident. In this case you should consult your employees and their representatives about arrangements to share information so that you can make the best use of the information but also meet data protection requirements*

HSE website 22 March 2018

<http://www.hse.gov.uk/involvement/accidents.htm>

### Safety Rep's Signposts

For information on RIDDOR see the HSE web site  
[www.hse.gov.uk/riddor](http://www.hse.gov.uk/riddor)

## Chapter 10 Enforcement and Health and Safety Inspectors

### 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).

In the course of your activities as a Unite health and safety rep you 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 regulates in a wide range of workplaces (including factories, major hazards installations, local authority premises, docks, construction sites, and agriculture).

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, and other information about its enforcement activity on its website.



## The HSE and other enforcement agencies

The HSE has also entered into a number of agreements with other agencies which are responsible for health and safety enforcement, for example the Civil Aviation Authority (CAA), 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

### 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 <http://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. .

### 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. HSE leaflet INDG232 Consulting employees on health and safety states that if employers do not comply with the regulations

*".....you 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."*

### 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.

They define a complaint as

*a concern, originating from outside HSE, in relation to a work activity for which HSE is the enforcing authority, that is sufficiently specific to enable identification of the issue and the dutyholder and/or location and that either: has caused or has potential to cause significant harm, or alleges the denial of basic employee welfare facilities, or*

*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 <http://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

**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.

### Employment Tribunals

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 first directed to the relevant Unite Regional Officer.

### Safety Reps' Signposts

HSE enforcement policy – and statement  
<http://www.hse.gov.uk/enforce/enforcepolicy.htm>

HSE Register of prosecutions and notices  
<http://www.hse.gov.uk/enforce/prosecutions.htm>

TUC safety rep's guide *An Inspector Calls*  
[http://www.tuc.org.uk/extras/AnInspector\\_1.pdf](http://www.tuc.org.uk/extras/AnInspector_1.pdf)

## Chapter 11 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 a Health & Safety Unit, Research Department and a Communication and Campaigns 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 & 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.

**A safety rep who had negotiated Union Inspection Notices (see below) at his workplaces posted a copy on his union notice board every time he served one. This helped to inform members and other workers of action Unite was taking on their behalf.**

### 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:

- Represent their members fairly, and know who they represent
- 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...) 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.
- Make sure you know who your local HSE/LA inspector is and 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. T&G safety reps are negotiating these as part of their agreement and are starting to use them successfully to bring about improvements (see case studies below).
- 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 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 3 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 4 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 9 Workers' Safety Advisors (WSAs) who were experienced reps trained by trade unions. The WSAs between them visited 105 volunteer workplaces across 4 sectors, visiting each of them 3 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% 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% 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)**

#### **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 much 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/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.

### **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 further information below)
- 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 environment 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 19 Environmental issues at work**

### Safety Reps' Signposts

Unite Factsheet on UINs on [www.unitetheunion.org](http://www.unitetheunion.org)

### Hazards

The campaigning "Hazards" magazine produces a wide range of materials for safety reps including Fact Sheet 76 Union Inspection Notices

See their campaigning website at [www.hazards.org](http://www.hazards.org)

[www.safetyreps.org](http://www.safetyreps.org)

[www.hazards.org/notices](http://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](http://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.

#### 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-fungicidal 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.

## Chapter 12 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.

### 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. Throughout the book we have included examples of many Unite campaigns.

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.

The first step is to 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.

Let the Unite Health and Safety Unit know. 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.



### 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 and 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](http://www.hazards.org) and Unite also publicises these events on the website.

#### European Week for Safety and Health

This takes place in late 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 is the only conference 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 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 to support you to attend.

World Environment Day: 5th June 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 Yorkshire and Humberside Region

*“In 2002 I read an article in Hazards magazine about Workers’ Memorial Day. Using my communication skills developed through union training, and working with others in the community including the regional TUC, local councillors, faithworkers, 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 Mayors planted a tree in each place and the local town clergyman or woman held a service at the memorial site. Just like the trees, these services began to grow and became bigger and better each year. The biggest events were those held in April 2010, which was also the year that the Government gave official recognition to Workers’ Memorial Day and we go from strength to strength.*

*I will continue as long as I can maintain the help and support of the Families, Companies fellow stewards, and unions. When you have been a Union safety Representative, working or not, you still care about your fellow workers and their families and you still try to make a difference in regards to health and safety at work.*

*But none of this would have happened without the help and support of so many. Some of my most loyal supporters are no longer with me but I remember them and like our fellow workers who have died at work will never forget them.”*

### Safety Reps’ Signposts

See the Unite website for information on Unite campaigns.

[www.unitetheunion.org](http://www.unitetheunion.org)

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 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 [www.hazardscampaign.org.uk/](http://www.hazardscampaign.org.uk/)

For information about the campaigning group Families Against Corporate Killers (FACK)

[www.hazardscampaign.org.uk/fack/about/](http://www.hazardscampaign.org.uk/fack/about/)

National Stress Awareness Day

<http://www.isma.org.uk/national-stress-awareness-day/>

Action Mesothelioma Day

British Lung Foundation

<https://www.blf.org.uk/support-for-you/mesothelioma/action-mesothelioma-day>

## Chapter 13 Fatigue



The Working Time Regulations, eventually brought into UK law in 1998, are the main serious attempt to regulate working hours in the UK and address the issues arising from fatigue at work and other issues stemming from long hours. The fact that these Regulations only came about as a result of an EU Directive (opposed by the UK) indicates the previous lack of attention to this in the UK as a health and safety issue.

The Working Time Directive 2003/88/EC is a Directive of the European Union. It gives EU workers:

- the right to at least 4 weeks (28 days) in paid holidays each year;
- rest breaks at work;
- rest of at least 11 hours in any 24 hours;
- restricts excessive night work;
- a day off after a week's work; and
- the right to work no more than 48 hours per week.

The stated purpose of the Directive is to protect people's health and safety, since excessive working time is cited as a major cause of stress, depression and illness.

### What is fatigue?

Fatigue is usually defined as the decline in mental and/or physical performance that results from prolonged exertion, sleep loss or disruption of the internal clock. The word "fatigue" is usually used to refer to a more chronic (long-term) condition than just sleepiness or acute fatigue (also called somnolence) which is generally caused by not enough proper, restful sleep, or a lack of stimulation.

Much of the discussion about fatigue at work is related to shiftwork and shift systems. However it should be recognised that fatigue is not just associated with shift working, and can be a product of long working hours in general.

“A systematic approach to assessing and managing the risks associated with shift work”  
 from: HSG256 Managing shiftwork - Health and safety guidance HSE 2006

Consider the risks of shift work and the benefits of effective management.	<ul style="list-style-type: none"> <li>■ What are the undesirable effects of shift work?</li> <li>■ Consider the costs and benefits of effective management of shift-working arrangements.</li> </ul>
Establish systems to manage the risks of shift work.	<ul style="list-style-type: none"> <li>■ Seek management commitment to control the risks of shift work.</li> <li>■ Identify individuals responsible for shift-working arrangements.</li> <li>■ Involve safety representatives and workers.</li> </ul>
Assess the risks associated with shift work in your workplace.	<ul style="list-style-type: none"> <li>■ Consider the risks that workers may be exposed to.</li> <li>■ Establish who might be harmed by shift work.</li> <li>■ Consult workers and their safety representatives.</li> </ul>
Take action to reduce these risks.	<ul style="list-style-type: none"> <li>■ Assess how severe the risks are and identify where improvements need to be made.</li> <li>■ Improve the shift-work schedule.</li> <li>■ Improve the workplace environment.</li> <li>■ Apply good practice guidelines.</li> </ul>
Check and review your shift-work arrangements regularly.	<ul style="list-style-type: none"> <li>■ Implement a system for early reporting of problems associated with shift work.</li> <li>■ Monitor alterations to shift-work schedules and/or work conditions.</li> <li>■ Periodically review the effectiveness of your shiftworking arrangements.</li> </ul>

“A systematic approach to assessing and managing the risks associated with shift work”  
 from: HSG256 Managing shiftwork - Health and safety guidance HSE 2006

### Long hours and accidents

In the transport sector it is estimated that 20% of road accidents are a result of fatigue, and there are similar concerns in sectors like rail, aviation and shipping. However any organisation can have an issue with fatigue and it can be a problem with any sector where there are long hours, high demands, monotonous work, shift work or where low pay forces workers to take on additional part-time work.

There is little doubt that fatigue can lead to errors and accidents, ill-health, injury and reduced productivity. It has often been found to be the root cause of major accidents. After BP’s Texas refinery blew up in March 2005 (15 people dead, \$1.5 billion damage), an enquiry found that the board operator had been working 12-hour shifts for almost a month without a day off.

### Railways

The UK Office of Rail Regulation has identified fatigue (extreme tiredness) as one of the main causes of incidents on the railways. Employers must make arrangements to ensure that workers do not carry out safety-critical tasks if they are affected by fatigue (or would be affected if they carried out the task) in a way that also affects health and safety. ORR has published guidance on “Managing Rail Staff Fatigue”. According to ORR, an effective process for managing fatigue in safety-critical workers should include the following stages. (This could apply to any industry).

- 1 **Identify the workers affected**  
Find out who carries out safety-critical tasks, and particularly consider those workers who are most at risk of being affected by fatigue when carrying out these tasks.
- 2 **Set standards and design working patterns**  
Identify, set and keep to appropriate standards and good practice for working hours and working patterns. The working-time restrictions set out by law are not enough on their own.
- 3 **Limit the times when workers go beyond the standards**  
Make sure workers only go beyond the standards in exceptional circumstances. A good way of doing this is to record the times this happens to help build a profile.
- 4 **Consult safety-critical workers**  
Involve employees and their safety representatives when developing the arrangements for managing fatigue, and consult them on the changes you plan to make. You could also consider how workers can be encouraged to report fatigue at the start of or during a shift without being penalised in any way.
- 5 **Record the arrangements**  
Make and update a record of these arrangements. Make sure the affected workers are aware of and understand the arrangements.
- 6 **Provide information**  
As well as the above, make sure that employees who carry out safety-critical work know how fatigue should be controlled and have access to all relevant information about health and safety risks caused by fatigue.
- 7 **Monitor**  
Check that the arrangements are effective (for example, by monitoring actual hours worked, levels of overtime, and how often workers go beyond the standards).
- 8 **Taking action when safety-critical workers are affected by fatigue**  
Make sure that workers who come to work while clearly affected by fatigue do not carry out safety-critical tasks. Similarly, workers who become affected by fatigue during a shift should not continue carrying out a safety-critical task. Providing enough rest is one way of controlling this risk.
- 9 **Review the arrangements**  
Update your arrangements if you have reason to doubt their effectiveness (for example, if you are concerned they are not working properly or if you make changes to working patterns).

## Causes

The main cause of fatigue is a loss of sleep, either “acute” from the night before, or “cumulative” as a result of lack of sufficient regular sleep over a longer period. It can also be caused by poor quality sleep or changes in sleep patterns.

Among the causes of fatigue that are related to work or the work environment are:

- Duration of shifts, split shifts, time off between shifts and changes to shift patterns.
- Ability to sleep on rest days, the quality of sleep, and sleeping disorders.
- Scheduling and quality of rest breaks during a shift.
- Cold starts and inadequate recovery times.
- Commuting time to and from the workplace.
- Workload and responsibilities both physical and mental including repetitive, monotonous, demanding or strenuous work
- The impact of second or multiple jobs
- Stress at work.
- A working environment which can encourage through being too warm, dark or quiet.
- Pressures from “digital life”, including the pressure to respond to emails when not at work.

## Effects

Compared with their normal state, a person who is either acutely or chronically fatigued is likely to:

- Find it hard to concentrate, make clear decisions or take in and act on information
- Have more frequent lapses of attention or memory
- React more slowly (for example, to hazards arising in the workplace)
- Make more errors
- Occasionally fall asleep at work – momentarily or for several minutes
- Have little motivation or interest in their work
- Be irritable

This means that people with fatigue are not only likely to be performing badly, they can also pose a danger to themselves and others. Over time, they also risk damaging their health. The long term effects of fatigue can be similar to stress and often people who are suffering from fatigue think they are stressed. Of course work can cause both stress and fatigue and they often go together. Among the symptoms are:

- Insomnia (often people with fatigue are simply unable to return to usual sleep patterns even if they try to)
- Depression and anxiety
- Headaches
- Confusion
- Dizziness
- Blurred vision
- Unexplained weight loss or gain
- Digestive problems

Not only can fatigue lead to death through strokes and heart attacks, but in Japan it has been recognised that fatigue, and the stress that often goes with it, can lead to suicides. The Japanese even have a word for it – Karojisatsu. They also have a word for death from overwork - Karoshi.

## Why is fatigue a problem?

Fatigue can adversely affect safety at the workplace. Fatigue reduces alertness, which may lead to errors and an increase in incidents and injuries, particularly when:

- operating fixed or mobile plant, including driving vehicles
- undertaking critical tasks that require a high level of concentration
- undertaking night or shift work when a person would ordinarily be sleeping.

## The law

There is a legal duty on employers in the UK to manage any risks from fatigue that arise from work. Fatigue needs to be managed, like any other hazard, through risk assessment and risk management. Simply complying with the Working Time Regulations alone is insufficient to manage the risks of fatigue (although it helps!). Nor can an employer claim that a person willingly worked additional hours or shifts. The employer must ensure that they are aware of the hours a person works and take action to prevent any risk to the worker or to others. In addition there is a legal requirement to consult within the workplace, either directly or through the health and safety representatives.

The HSE has produced detailed guidance for employers on complying with the law and also a ‘fatigue risk index’ which is a helpful tool that employers can use (see Useful Resources). The Fatigue and Risk Index (FRI) was designed primarily for comparing different shift schedules but can also be used to identify any particular shift, within a given schedule, which may be of concern. The HSE stress that whilst the FRI is a useful tool, which can be used to help assess the risks of fatigue and injury, it should not be relied upon as the sole or primary means of assessing these risks.

Shift work planners should always start by considering the HSE guidelines in Managing shift work: Health and Safety Guidance (HSG 256), which includes background information on the health and safety risks associated with shift work and fatigue, UK legal duties and practical guidance on how to reduce the risks. FRI outputs should also be considered in conjunction with feedback from staff on how tiring they find their work patterns.

## HSE advice

In a briefing note on fatigue, the HSE gave the following advice on how to manage fatigue:

- Working hours are not too long
- Employees get enough rest between shifts
- Employees don’t work too many night shifts in a row
- Managers negotiate with staff about overtime or double shift working
- Managers fit in with individuals’ preferences – some people prefer nights
- Employees avoid critical jobs at the ends of shifts or at ‘low points’ in the day or night e.g. 3a.m.



- Shifts rotate 'forwards' that is, mornings, then afternoons, then nights
- Employees take quality rest breaks in their work
- Anyone can report fatigue problems to management and the company will make improvements
- The environment doesn't cause drowsiness (it's light with visual interest, not too hot and there is always variation in the level of sound)
- There are contingency plans to avoid overloading one person with overtime or double shifts
- Incidents or accidents where fatigue may be responsible are thoroughly investigated

In addition to these recommendations from the HSE, Unite insists that employers ensure that they involve the workforce and their representatives in any discussions concerning fatigue.

### Role of Unite Reps

If reps think that fatigue is an issue in their workplace they can survey members to find out what the causes are and raise it with the employer. Raising awareness of the dangers of fatigue and work with employers should help to develop an environment where workers can report when they are fatigued without fear of repercussions.

In addition Unite reps can ensure that they are supporting their members who feel they are fatigued by ensuring that they get their employer to refer them to an occupational health provider for help if they are ill as a result. However in most cases the best support is to ensure that the causes of the fatigue are removed.

Unite reps can have a positive role in preventing workplace fatigue. Fatigue affects all sectors, including rail, road transport, aviation, oil and gas extraction, manufacturing, power generation and shipping. Unite seeks to work with all employers to ensure that the demands of work and shift patterns do not risk the health of workers or the public. The HSE guidance and their fatigue index calculator are a good starting point.

Finally Unite reps should support members who are threatened with disciplinary action because the employer claims they have made a mistake or underperformed as a result of fatigue. Employers have a responsibility to prevent workers from getting fatigued through work and, where there is a safety critical job, they also need procedures to be in place to monitor the risk of a fatigued worker placing themselves and others at risk, even if the fatigue is a result of factors outside their work. If a mistake happens because a worker is fatigued, it is because these procedures have failed and they should not scapegoat the worker.

### Action points

1. Raise awareness of fatigue issues amongst employers and members
2. Member surveys
  - Sleep surveys
  - Tiredness surveys
  - Working Hours surveys
3. Emphasise the employer's legal duty to address and manage fatigue risks
4. Incident and accident investigations should consider fatigue as a factor
5. Encourage members to report fatigue problems

### Useful resources

TUC fatigue

<https://www.tuc.org.uk/workplace-issues/health-and-safety/fatigue-guide-health-and-safety-representatives>

HSE Human Factors Briefing Note No. 10 – Fatigue

<http://www.hse.gov.uk/humanfactors/topics/10fatigue.pdf>

HSE fatigue pages

<http://www.hse.gov.uk/humanfactors/topics/fatigue.htm>

HSE Fatigue Index Calculator

<http://www.hse.gov.uk/research/rrhtm/rr446.htm>

ORR – Managing Rail Fatigue

[http://orr.gov.uk/\\_\\_data/assets/pdf\\_file/0005/2867/managing\\_rail\\_fatigue.pdf](http://orr.gov.uk/__data/assets/pdf_file/0005/2867/managing_rail_fatigue.pdf)

[http://orr.gov.uk/\\_\\_data/assets/pdf\\_file/0013/2056/revised-orr-guidance-managing\\_rail-staff-fatigue.pdf](http://orr.gov.uk/__data/assets/pdf_file/0013/2056/revised-orr-guidance-managing_rail-staff-fatigue.pdf)





## Chapter 14 Bullying, Harassment and Violence in the workplace

Unacceptable behaviours such as bullying harassment and violence are a major problem throughout industry.

Unite is committed to achieving workplaces which are free from unacceptable behaviours of any kind and we expect employers to adopt a zero tolerance approach to bullying, harassment and violence.

### 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, can occur in a variety of situations and has been described in this way:

- 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:

- 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

### 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 which impacts on their work in many ways including their performance, and attendance at work and a breakdown in working relationships. In addition they may encounter their violent partner at work either because they visit their workplace or 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.

Here is an example of some guidelines jointly agreed between the NHS unions and NHS Employers.



### 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 5**

#### **Management of Health and Safety at Work Regulations 1999**

They impose a number of duties on employers, including a duty to carry out risk assessments relating to stress, bullying, harassment and violence and requirements to provide training and information. (for more information see **Chapter 8**).

#### **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.

#### **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, harassment and bullying. This should include consulting and discussing with workers on formulating policies on bullying, harassment, violence and stress.

#### **Reporting of Injuries, Disease and Dangerous Occurrences Regulations 2013**

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.

#### **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.

#### **Safety Reps' signposts**

Domestic violence and Abuse advice is included in the Unite negotiators' guide for women's health, safety and wellbeing

ACAS – Bullying and harassment guides

<http://m.acas.org.uk/index.aspx?articleid=1864>

TUC guidance for representatives on bullying, harassment and violence

<https://www.tuc.org.uk/union-reps/bullying-harassment-and-violence>

HSE – Work-related Violence

[www.hse.gov.uk/violence/index.htm](http://www.hse.gov.uk/violence/index.htm)

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

<http://www.hse.gov.uk/violence/preventing-workplace-harassment.pdf>



## Chapter 15 Stress and mental health – we can take action!

### Introduction

Stress is defined by the Health and Safety Executive (HSE) as “a harmful reaction people have to undue pressures and demands placed on them at work”.

Mental health problems can affect people at any time of life and in different ways.

According to the Health and Safety Executive (HSE), work related stress is one of the top causes of sickness absence. HSE’s latest health and safety at work statistics show that the total number of cases of work related stress, depression or anxiety in 2015/16 was 488,000 cases and the number of new cases was 224,000, an incidence rate of 690 per 100,000 workers.

The employer has a general duty to protect the health, safety and welfare of all their employees when they are at work, including those who may have a mental health condition which may be severe enough to require clinical input. Examples are severe anxiety, depression, bipolar disorder, dementia or schizophrenia. Their (and colleagues’) situation could be made worse if the employee does not have specific appropriate support at work.

Alongside this the employer should provide education and training to foster understanding of the condition and ways in which colleagues can support and help one another.

Employers also have to assess the risks arising from hazards at work including work-related stress. Health and safety legislation and guidance such as the Stress Management Standards seek to ensure that occupational stress does not arise, or if it does it is dealt with appropriately. In certain circumstances, members may also be protected under the Equality Act 2010.

### Moral as well as legal case to take action

The HSE, which is now starting to prioritise occupational stress, states the moral as well as the legal case to take action:

“There is now convincing evidence that prolonged periods of stress, including work-related stress, have an adverse effect on health. Research provides strong links between stress and physical effects such as heart disease, back pain, headaches, gastrointestinal disturbances or various minor illnesses; and psychological effects such as anxiety and depression.

Stress can also lead to other behaviours that are harmful to health, such as skipping meals, drinking too much caffeine or alcohol, or smoking.

Tackling the causes of stress before they lead to ill health can prevent this from happening.”

Safety reps clearly agree. The TUC’s biennial survey of trade union safety representatives, published in September 2016, found that 70% of reps cited stress as one of the top five hazards, while nearly half named bullying and harassment.

### Unite and stress

Unite members raise many concerns about stress, bullying and harassment and mental ill-health at work. Austerity, cuts to services and welfare benefits, redundancies, work overload, the “race to the bottom” in some industries, violence at work, and constant change at work can add up to a very stressful situation.

Unite’s policy conference debated this issue and noted with concern the treatment of workers with health problems such as stress related illness and other issues related to mental health.

### Unite action on stress and mental health

Unite is taking action on stress and mental health both nationally and across our Regions. For example in NEYH Region there have been briefings for officers, bespoke mental health training in several workplaces and a major programme mental health planned for 2017 at United Biscuits.

- Nationally, there is a Unite mental health taskforce.
- Mental health has been on the agenda of the National Disabled Members’ Committee for some years including a national campaign on stress and mental health
- Unite Regional Safety Reps’ conferences have focussed on mental health
- Action is being taken in various Unite sectors and including Construction, Food, drink and agriculture, the Road Transport Retail Logistics and Finance, to work with employers on supporting members’ mental health

#### Helping to prevent stress at work: joint training in the NEYH region

Unite reps became concerned because three quarters of their colleagues had been off work with mental ill health. Several employees had been diagnosed as having work-related stress and this sickness absence was becoming a significant cost issue for the employer. It was also recognised that team leaders and managers did not feel confident to handle stress and mental health issues when they affected their staff.

After discussions it was agreed that Unite would provide a tutor to deliver joint training on stress and mental health awareness for union representatives, team leaders and managers. Further to this it was agreed that action needed to be taken, and, in consultation with the union, a confidential helpline for employees was set up.

This has proved so successful that it has been rolled out to the other two factories. The union is continuing to work with the company on developing their health, safety and environment policy to include stress prevention, and reviewing and implementing their dignity at work policies.



## What next? Preventing Occupational Stress

Some employers may believe that tackling stress and mental health are simply too difficult. This may be because people do not know how to go about it, or they may want to help but are afraid “to say the wrong thing”. But, as with any other workplace health and safety issue, prevention is the priority – and a legal requirement. We can work with our employers to tackle stress at work, remove hazards such as bullying and harassment and ensure that workers with mental health issues are supported. There is plenty of guidance available to help employers understand what needs to be done.

## The HSE’s Stress Management Standards

The HSE has published guidance on managing stress at work. These are called the Stress Management Standards.

The Management standards define the characteristics, or culture, of an organisation where the risks from work-related stress are being effectively managed and controlled. They cover 6 key areas of work design that, if not properly managed, are associated with poor health and well-being, lower productivity and increased sickness absence. In other words, the six Management Standards cover the primary sources of stress at work: the risk factors which need to be assessed and managed.

These are:

- Demands – includes issues such as workload, work patterns and the work environment
- Control – how much say the person has in the way they do their work
- Support – this includes the encouragement, sponsorship and resources provided by the organisation, line management and colleagues
- Relationships – this includes promoting positive working to avoid conflict and dealing with unacceptable behaviour (such as bullying and harassment).
- Role – whether people understand their role within the organisation and whether the organisation ensures they do not have conflicting roles.
- Change – how organisational change (large or small) is managed and communicated in the organisation.

The Standards

- demonstrate good practice through a step by step risk assessment process
- allow assessment of the current situation using surveys and other techniques
- promote active discussion and working together with employees to help decide on the practical improvements that can be made – and if workers are involved this should improve morale
- help simplify risk assessment work work related stress by identifying the main risk factors
- help employers focus on the underlying causes and their prevention
- provide a yardstick by which an organisation can gauge their performance in tackling the key causes of stress.

The HSE website carries guidance on the Standards, together with a number of useful resources and leaflets including a research based stress survey (the HSE Management Standards Indicator Tool), draft stress policy, a safety rep’s tool, a manager’s tool and much more.

Unite believes that, if the Stress Management Standards are implemented properly in workplaces with the involvement of Unite safety representative, the effect could potentially be transformative.

For this reason, our own leaflet Work Related Stress, places strong emphasis on working with your employer to adopt the Management Standards approach.

The TUC has also published guidance for safety reps jointly with the HSE to encourage the use of the Management Standards.

### Stress prevention using the European Works Council

**Unite members working for a global insurance company with 160,000 employees negotiated stress guidelines based on the HSE Stress Management Standards at their European Works Council. The guidelines also cover the involvement of health and safety reps and health and safety committees. They were circulated with a letter from the CEO to all managements in the European Economic Area and Switzerland.**

**Reps at local level then worked on getting the standards implemented and the situation is being monitored through their European Works Council.**

## Taking action

The TUC report of a mental health seminar Good Practice in Mental Health held in February 2015 concluded that these steps need to be taken:

- training for union representatives and middle managers
- early referral to Occupational Health [when appropriate]
- recognising gender aspects of mental health – women are much more likely to suffer occupational stress, for example.
- recognising the business case for positive mental health
- conducting stress risk assessments [and implementing improvements]

## Equality Act 2010

Stress is not just a health and safety issue. TUC research published in Autumn 2016 - Still just a bit of Banter? - found that more than half the women polled had experienced some form of sexual harassment at work.

Under the Equality Act sexual harassment is unlawful. It is defined as unwanted conduct of a sexual nature which has the purpose or effect of violating someone’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Harassment, as well as being humiliating and demeaning and unlawful, can have a detrimental effect on a worker’s mental health.



## Disability under the Equality Act 2010

People with mental ill health are faced with discrimination at work and in society. The definition of disability under the Equality Act includes mental impairment such as long-term depression: “a physical or mental impairment which has a long-term adverse effect on your ability to carry out normal day-to-day activities”.

The Equality Act outlaws disability discrimination at all stages of the employment relationship where:

- A disabled person is treated less favourably because of their disability
- No reasonable adjustment is made for a disabled person
- No justification can be made (where it is allowed)

All disabled workers are covered from day one. They are protected from discrimination or harassment because they are perceived to have a disability. Workers who are linked or associated with a disabled person eg a carer of a disabled child or adult are also covered.

## Unite action checklist for safety reps on implementing the Stress Management Standards

- Ask your members about their concerns about stress and mental ill-health and record these. You may wish to carry out a survey.
- Raise with your employer with a view to setting up a joint working group to oversee the stress risk assessment process. For this to be effective, senior management commitment is needed so that timescales and actions can be implemented effectively as doing this properly may take some time.
- Safety Reps need to be given sufficient time to take part in this work
- All members of the group – and eventually all staff – need to be trained in the Stress Management Standards
- Collect and analyse information about the situation for example by audit or survey (eg the HSE survey and analysis tool)
- Risk assessment - If the work causes stress then all the risks must be assessed, not just the psychological risks. It is the employer’s duty to carry out the assessment, and they should always involve safety reps. The results of the risk assessment should be recorded and shared with reps to enable discussion on implantation of the findings.
- The Management Standards should be referred to – for example the Relationships standard could be considered in relation to bullying and harassment policies; and the Support standard in relation to the support people may need because of something happening in their life outside the workplace: recognition of medical conditions, flexible working, disability and caring responsibilities may all be relevant.

- Communicate to enable your members feel informed and involved at all stages.
- Monitor and review for effectiveness any measures that are put in place.

Unite reps remember:

You are not an expert in mental ill-health and you don’t have to be

Signpost your member if necessary to appropriate help and support eg their GP, occupational health (where available), family and friends or local and national support groups or charities. The member is the person who makes the decision.

Supporting and representing members facing difficult situations can be stressful for you. Remember to look after yourself too.

Ask for training and support from the union

## Safety Reps’ Signposts

TUC report Still just a bit of banter? (2016)

<https://www.tuc.org.uk/sites/default/files/SexualHarassmentreport2016.pdf>

TUC report Good Practice in Mental Health (2015)

[https://www.tuc.org.uk/sites/default/files/GoodPracticeMentalHealth\\_0.pdf](https://www.tuc.org.uk/sites/default/files/GoodPracticeMentalHealth_0.pdf)

HSE Work-related stress website

<http://www.hse.gov.uk/stress/>

Tackling workplace stress using the HSE Stress Management Standards: TUC and HSE guidance for health and safety representatives

<https://www.tuc.org.uk/workplace-issues/health-and-safety/stress/tackling-workplace-stress-using-hse-stress-management>

The UK National Work-Stress network

[www.workstress.net](http://www.workstress.net)

## Chapter 16 Gender and occupational 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!

Research shows that both sex and gender affect workers' health and safety in many ways.

In spite of increasing awareness, campaigning by trade unions, and improved research, these differences are still too often ignored, misunderstood or stigmatised, leading to failures in preventing occupational ill-health and injuries.

Many issues, such as reproductive health for both men and women, continue to be neglected and under-researched and not enough attention is paid to them in the workplace context, for example infertility, endometriosis, menstruation and the menopause.

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 linen trolleys 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 being denied access to toilet facilities when they need them
- Machinery and plant being difficult to 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 low level of awareness amongst employers of the legal requirement to carry out risk assessments for pregnant women and for the need for the risk assessment to be ongoing during a woman's pregnancy, also taking into account her general health. This puts the woman and her unborn child at increased risk.
- Employers unwilling to adjust working hours to accommodate women who are breastfeeding.
- "Hot-desking" means that display screen equipment workstation assessments are unlikely to be valid for all users.
- Discriminatory workplace dress codes which require women to wear high heeled shoes with potential long-term health effects or unsuitable or inappropriate clothing for their work.
- Difficulty experienced by both men and women in getting paid time off for medical screening appointments.

### Unite action on breastfeeding at work – Civil Aviation

**Unite took up the cases of two cabin crew members who were new mothers whose rostering was not compatible with their need to breastfeed their babies. This case confirmed working women's right to continue breastfeeding after returning to work and the obligation on employers to accommodate this.**

Gender stereotyping (women's work is safer or stress is for wimps) or stereotyping in different types of work (manual/white collar) and job segregation of men and women can lead to false assumptions about who is, and who is not, at risk. Looking at gender issues helps both men and women.

Whilst men suffer more accidents and injuries at work than women, they may feel reticent about raising issues such as stress in more "macho" environments. Men's health and safety issues also include testicular cancer, prostate cancer, and bullying as well as a greater prevalence of cancers caused by exposure to silica, asbestos and diesel engine exhaust emissions.

Women's health and safety issues include pregnancy, the menopause, domestic violence and breast and cervical cancer screening. Women report more work-related stress and are more likely to suffer physical attack at work – though violence at work is also an issue for men.

Sexual harassment at work is a major issue for women: TUC research found that more than half of all women of all ages at work had suffered some form of sexual harassment, though younger women are more likely to be targeted.. In the vast majority of cases the perpetrator was a male colleague, often a line manager.

The "double workload" of work and family which overburdens women's health continues to be reinforced by traditional stereotypes: men often being the "bread-winner" and many women doing the (unpaid) work of running the home and taking on caring responsibilities on top of a physically demanding job; the low paid social care sector, for example, is dominated by women.

In addition, the UK labour market has undergone huge change in recent years. Women now make up nearly half the workforce – and overall half the union membership. There is greater ethnic and religious diversity. Women and men are increasingly working in what some people may think 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 being forced to work in precarious employment, zero hours contracts and for employment agencies which has a negative effect on their health and on their health and safety protection at work.

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 Office, and the Health and Safety Executive have all developed guidance and tools to encourage gender and diversity is taken into account in health and safety management.

Unite runs sessions on gender health and safety on the national organising for equality training courses, and at regional health and safety representatives conferences as well as externally (for example in the railway industry).

### **Women make great health and safety representatives!**

Unite is committed to encouraging and supporting women safety representatives. We know that involvement in health and safety decision making at work helps reduce accidents and ill-health and our many women reps contribute significantly to these achievements.

The HSE's Single Equality Scheme, developed to help them comply with the Equality Duty both as employer and regulator/public body, also includes a commitment to encourage more women to take on the role of safety representatives. The HSE has published a leaflet on this subject (also supported by the Office of Rail and Road) which is available on their website.

### **TUC Gender and Occupational Safety and Health Working Group (G&OSH)**

This TUC group has been working on this for some years now and the TUC has issued revised guidance "Gender in occupational safety and health" with a gender checklist, building on this work and union campaigns. This guidance aims to help union safety representatives and others address gender/health and safety issues at work with their employer. Supporting Unite members, women and men, to get involved and represent the whole workforce, and encouraging safety reps, equality reps and learning reps to work together at the workplace to co-ordinate action are crucial to success.

Gender/health and safety issues needing attention highlighted in the the TUC guidance and checklist include:

- The need for women's health and safety concerns to be discussed at health and safety meetings
- Taking sex and gender differences into account in risk assessment, pregnancy, breastfeeding and reproductive health
- Ensuring gender based workplace violence (such as sexual harassment) is treated as a health and safety issue
- Recognising domestic violence and abuse as a health and safety issue
- Taking into account sex and gender differences when proving uniform and protective equipment
- Ensuring sickness absence policies do not discriminate e.g. in relation to menopause, miscarriage, pregnancy, menstruation
- Encouraging reporting of occupational injuries and ill health
- Collecting separate data for women and men to help identify gender specific problems
- Recognising the diversity of women
- Including women in the joint health and safety committee.

### **Unite resources on gender and health and safety**

Unite has published a Women's Health, Safety and Wellbeing Negotiator's Guide – issues covered include pregnant workers and new mothers, the menopause (with a model agreement), domestic violence and abuse (with a model agreement), cancer, stress and body mapping.

For men, Prostate Cancer: it's a man thing is available. This aims to raise awareness about this major killer in men, as well as providing advice about campaigning at work on cancer prevention.

### **Gender identity**

This chapter focuses mainly on women workers because health and safety hazards and risks affecting working women have traditionally been overlooked. Addressing all hazards in a gender-sensitive way will include transgender men and transgender women. Unite safety representatives should ensure that all health and safety policies, including bullying and harassment policies, also consider trans issues and safety risk assessments should be included as part of transitioning arrangements.

Unite has published a Trans Equality at Work guide which covers a number of important areas such as use of welfare facilities, the need for flexibility regarding dress codes, bullying and harassment and the Equality Act provisions.

### **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 and healthier 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 TUC guidance and checklist to measure against all your workplace health and safety activities so you can work with your employer to ensure that women's and men's health and safety concerns are met.

### **Ensuring appropriate facilities for pregnant workers and new mothers**

**The experience of a woman safety rep who worked as a painter and decorator for a local authority shows how the workplace is changing and health and safety needs to keep up. When she started at the depot some 15 years ago there were virtually no women. The managers were all men, the planners were all men and the operatives were all men. The only exceptions were the rep herself and another female decorator. There were a couple of women in the back office but the yard was very male dominated.**

**As time progressed more women were employed and recently there were more female office staff than men. That created challenges such as the provision of personal protective equipment (which often was designed only for use by men), and welfare facilities. Having been trained as a health and safety rep the rep knew that her role as a representative also included welfare.**

**This became a pressing issue when three of her members who worked in the back office became pregnant at the same time - it was time that facilities for pregnant women were made available. This included a place for women to rest if required and also, after they returned to work, to express milk if they wished. She met with the health and safety manager of the depot who eventually identified a location for the welfare facility and it was installed in time for the three members to make use of it.**



## Safety Reps' Signposts

### TUC

TUC Gender in occupational safety and health report

<https://www.tuc.org.uk/equality-issues/gender-equality/workplace-issues/health-and-safety/gender-occupational-safety-and>

TUC Personal Protective Equipment and women

<https://www.tuc.org.uk/workplace-issues/health-and-safety/personal-protective-equipment-ppe/personal-protective-equipment>

TUC Supporting working women through the menopause

[https://www.tuc.org.uk/sites/default/files/TUC\\_menopause\\_0.pdf](https://www.tuc.org.uk/sites/default/files/TUC_menopause_0.pdf)

### HSE

Mothers website [www.hse.gov.uk/mothers](http://www.hse.gov.uk/mothers)

Diversity website [www.hse.gov.uk/diversity](http://www.hse.gov.uk/diversity)

Gender website [www.hse.gov.uk/gender](http://www.hse.gov.uk/gender)

HSE's Single Equality scheme

[www.hse.gov.uk/diversity/single-equality-scheme.pdf](http://www.hse.gov.uk/diversity/single-equality-scheme.pdf)

HSE Equality Objectives

<http://www.hse.gov.uk/equality-duty/objectives/2012-onwards.htm>

Hazards Magazine resources include

[www.hazards.org/women/](http://www.hazards.org/women/)

[www.hazards.org/haz101/h101centre.pdf](http://www.hazards.org/haz101/h101centre.pdf)

[www.hazards.org/haz82/menopause.pdf](http://www.hazards.org/haz82/menopause.pdf)

European Agency for Safety and Health at Work

Women

<https://osha.europa.eu/en/themes/women-and-health-work>

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>

ILO – 10 keys for gender sensitive OSH practice

[http://www.ilo.org/safework/info/publications/WCMS\\_324653/lang--en/index.htm](http://www.ilo.org/safework/info/publications/WCMS_324653/lang--en/index.htm)



# Chapter 17 Disability and Health and Safety

## Introduction

According to an Equality and Human Rights Commission report **Being Disabled in Britain**, 47.6% of disabled adults are in employment in Britain.

Many Unite disabled members suffer discrimination at work because employers do not understand that health and safety and disability equality must be addressed together. In a workplace disability audit conducted by Unite, fewer than 15% believed that their workplace was safe for disabled people, the same number disagreed and the remaining 71% said that only some of the issues had been resolved.

If you have a disability or a long-term health condition you are protected by both the Health and Safety at Work Act etc 1974 and the Equality Act 2010.

Employers must not assume that disabled people cannot do certain jobs. Health and safety legislation should not prevent disabled people finding or staying in employment and should not be used as a false excuse to justify discriminating against disabled workers.

## The social model of disability

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.

## Getting health & 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.

## What is disability at work?

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, occupational stress or a work-related upper limb disorder. They may have an existing condition such as asthma, cancer, a mental health condition or multiple sclerosis.

If members are bullied or harassed because of their disability, because their workplace and their job are unsafe for them and for others this will only make matters worse. Or 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

Employers have duties not to make people ill as a result of their work nor create a situation which results in worsening of a worker’s pre-existing health condition.

## The Equality Act 2010

The Equality Act consolidates equality legislation covering age, disability, gender reassignment, marriage and civil partnership, race, religion and belief, sex and sexual orientation.

The Act defines a disabled person as an individual with a physical (including sensory) impairment or mental impairment which has a substantial or long-term adverse effect on his/her ability to carry out normal day-to-day activities.

**Substantial** means more than minor or trivial (e.g. time taken to carry out an activity or the way in which the activity is carried out, cumulative effects of the impairment(s))

**Long-term** means that the effect of the impairment has lasted or is likely to last for at least 12 months (fluctuating conditions will be covered, e.g. Rheumatoid Arthritis is a progressive condition). Some conditions are covered from the point of diagnosis e.g. HIV infection, cancer and multiple sclerosis.

**Normal day-to-day activities** include everyday things like eating, washing, walking, going shopping, and using public transport.

## What else does the Equality Act say?

Amongst other things, the Act requires employers to make reasonable adjustments to remove barriers for disabled people. This may include – depending in the circumstances - making changes to buildings or premises and workplace layout; providing extra equipment or aids; making adjustments to working hours; adjusting workplace policies and ensuring that health and safety practices including risk assessments are disability sensitive

## 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.

## Health & safety law and disabled workers

The employer has a duty to ensure the health, safety and welfare of all their employees whilst at work under the Health & Safety at Work etc Act 1974. This would include a duty to ensure the health, safety and welfare of their employees who have a disability.

## Employees’ duties

Employees’ duties under the Health & Safety at Work Act and the Management Regulations can be important for disability equality.

These include:

- Taking reasonable care of your own health and safety
- Making sure your work does not hurt other workers
- Co-operating with your employer on health and safety



Telling their employer if they see or know something that might hurt people at work.

This may mean in practice a disabled worker telling their employer about their disability so that an 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.

### **Safety Representatives**

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.

Please refer to the UNITE safety rep's checklist : "Health & Safety and Disability Equality - use your rights" on **page 173**

### **Management of Health and Safety at Work Regulations 1999**

These regulations can be applied to take the action needed to ensure disabled workers are covered.

For example

#### **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 have specific requirements for disabled workers and these are explained in the Approved Code of Practice and Guidance (L24).

The guidance (para 19) supporting Regulation 2(3) states

*These regulations aim to ensure that workplaces meet the health, safety and welfare needs of*

*each member of the workforce, which may include people with disabilities.*

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 153)
- toilet and washing facilities: provision must be made for any worker with a disability to enable them to have access to facilities which adjusted for their use if necessary (Para 189)
- 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 84)

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

**Building Regulations** contain requirements which are intended to make new buildings accessible to people with limited mobility, or impaired sight or hearing.

### **Manual Handling Operations Regulations 1992 Reg 4(3)**

These regulations 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)**

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 if 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 and individuals suffering from certain back complaints may benefit from a chair with a fixed back rest or a special chair with a back rest (para 57 guidance)
- At regular intervals the employer must provide and pay for eye tests for DSE users if they request it, carried out by a competent person, and continue to do so at regular intervals.
- The 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 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.

### **Disability Sensitive Risk Assessment**

Risk assessments are 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 for individual workers and for disabled workers in particular.

HSE risk assessment guidance states:

*Some workers may have particular requirements, eg new and young workers, migrant workers, new or expectant mothers, people with disabilities.....*

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 and the workers affected should be consulted.

Risk assessments may also be needed as part of carrying out reasonable adjustments required under the Equality

Act 2010 to support disabled workers in getting a job and staying in work.

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

If a worker’s disability changes then the risk assessment should be reviewed.

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: Such as 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 format.

### **Rehabilitation**

Employers should support employees

### **Safety Reprs’ Signposts**

Unite Health & Safety disability equality checklist (see pages 173-174)

HSE resources

[www.hse.gov.uk/disability](http://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

<https://osha.europa.eu/en/tools-and-publications/publications/factsheets/53>

Workers with disabilities – online article

[https://oshwiki.eu/wiki/Workers\\_with\\_disabilities](https://oshwiki.eu/wiki/Workers_with_disabilities)

International Labour Organisation Disability and work website

<http://www.ilo.org/global/topics/disability-and-work/lang--en/index.htm>

Managing disability in the workplace ILO Code of Practice

[http://www.ilo.org/skills/pubs/WCMS\\_103324/lang--en/index.htm](http://www.ilo.org/skills/pubs/WCMS_103324/lang--en/index.htm)

TUC resources include

Disability and work

<https://www.tuc.org.uk/sites/default/files/extras/disabilityandwork.pdf>

Supporting staff with cancer at work

<https://www.tuc.org.uk/news/tuc-issues-guidance-supporting-staff-cancer-work>

### Equality and Human Rights Commission (EHRC)

This website provides guidance and codes of practice relating to the Equality Act 2010

<http://www.equalityhumanrights.com>

### Equality Advisory and Support Service (EASS)

If you need expert information, advice and support on discrimination and human rights issues and the applicable law, especially if you need more help than advice agencies and other local organisations can provide, please contact the Equality Advisory and Support Service (EASS).

Please note: EASS is completely independent of the Commission.

Phone: 0808 800 0082

Textphone: 0808 800 0084

Website: [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

Post:

FREEPOST

EASS HELPLINE

FPN6521

Opening hours:

9am to 7pm Monday to Friday

10am to 2pm Saturday

closed on Sundays and Bank Holidays

## Chapter 18 Occupational Health

### Why the 'health' side of health and safety is so important (compared to accidents)

On average workers spend half their time while awake at work. In Finland, which is regarded to having one of the best health and safety systems in the world, about 10% of deaths in adult men have been found to be attributable to (caused by) occupational exposures.

Occupational diseases cause about 7 times the burden on society compared to occupational accidents. In 2015/16 some 1.3 million people in Great Britain were estimated to be suffering from work-related ill health (WRIH) and more than half a million new cases occur every year. Less than 20% of the costs of WRIH are borne by employers.

#### Definition of Work-Related Ill Health

Work-related ill health is measured by the HSE in their annual statistics. This term includes diseases both caused and aggravated by work exposures. As diseases can arise from many causes those caused by work are the diseases diagnosed by doctors to have a >50% likelihood of arising from work exposures; those that are have a likelihood of equal or <50% are regarded as work-related or work aggravated.

### The Purpose of an Occupational Health (OH) Service

Employers have a duty of care to employees not to harm their health in the course of their work. Causing harm to an employee's health is a criminal offence. An occupational health service's function is regarded as primarily to prevent this harm by the British Medical Association. Unfortunately, the UK is the only major European country which does not place a direct duty on either employers or the state to provide an occupational health service. In the UK this is left to the discretion of the employer, who pays for the service and furthermore decides what should be provided and who should have access to it.

### The Role of Safety Representatives

The main role of safety representatives in this area is to check the effectiveness of their employer's measures to prevent harm to health. This is through investigating potential hazards and health related complaints, obtaining relevant information and representing employees' concerns on the health and safety committee.

The effectiveness of preventive measures can only be assessed by establishing the current level and trends of WRIH arising from your workplace. This can be established:

**By using questionnaires**, asking employees anonymously what they see as the greatest causes of work-related ill health and whether they believe they have been affected .

### Where questionnaire evidence is more useful than information on individuals

As individual susceptibility can be a major factor in a person developing symptoms from exposures to work hazards, such as stress, musculoskeletal pain, sick building syndrome and computer/telephonic equipment use, for these hazards it is often helpful to do anonymised surveys of symptoms in employees working in different processes. Where more than about 25-30% of employees state they experience the relevant symptoms, it is likely that there is an unacceptable level of exposure to the hazard, which is compelling evidence that the employer has a duty to reduce the relevant exposures for the whole workforce. (However, please note that under the Equalities Act 2010, the employer has a duty to make reasonable adjustments for individuals who meet the definition of being disabled.)

Good validated questionnaires are available which do not require a special level of knowledge to administer or interpret. If concerns are reported to safety representatives in a particular workplace they should request the employer to get their competent adviser to administer the questionnaires; if this is not possible then the representative can request to do it themselves:

- Stress
- Musculoskeletal pain
- Sick building symptoms
- Display screen and telephone equipment exposure symptoms

- Skin irritants and allergens, sun exposure (cancers)\*
- Respiratory irritants, allergens and fibrogenic substances, some cancers\*
- Exposure to other toxic chemicals e.g. lead, asbestos, nanoparticles\*
- Shift work\*
- Vibration and Radiation exposures\* (if applicable)
- Infections\* (Where the potential for infectious disease transmission has been identified e.g. Tetanus, Tuberculosis or Hepatitis B & C from sharps injuries, immunisations and post-exposure relevant treatments should be provided)

Also: Any other health hazards found in your workplace

\* Likely to require health surveillance if exposure levels are significant

The employer has a duty to undertake a risk assessment of the potential for harm to health which can arise from exposure to hazards from their work processes.

Safety representatives have a right to be consulted about the suitability of risk assessments and to provide a view on whether the competent person's experience and qualifications are sufficient for their involvement in this task.

Where the assessment is anything more than straightforward common sense, the employer has a duty to involve the expertise of "competent persons".

### Who is the right competent adviser for exposure to a specific hazard?

For some work hazards such as those causing stress related illnesses, a psychologist would be competent. For musculoskeletal illnesses a health and safety adviser, ergonomist, physiotherapist or occupational therapist would be competent.

Where significant exposures to physical/chemical agents (noise, vibration, heat, cold, dusts, fumes, vapours, gases) occur, environmental health measurements should be made by occupational hygienists, to assess whether these exposures are within occupational exposure limits set by HSE.

Once the likely occupational exposure level has been established for each identified hazard, occupational health qualified nurses and doctors should be consulted on whether health surveillance is required. If the advisor is an OH nurse – he/she should have an OH nursing qualification; if a potential/likely disease has been found in the past, then a doctor should be involved who has at least a diploma in occupational medicine. If a confirmed disease has been found in the previous 5 years, it can be argued that the risk of occupational disease is foreseeable and that a specialist occupational physician should be involved who would be able to differentiate work-related from non-work-related conditions. Their specialist qualifications can be checked on the Nursing and Midwifery and General Medical Councils' website registers.

<https://www.nmc.org.uk/registration/search-the-register/>

<https://www.gmc-uk.org/registration-and-licensing/the-medical-register>

2 **Obtaining information** from the employer's occupational health service provider on what WRIH conditions have been found in employees referred to the OH service each year. The employer has a duty to monitor for new cases of occupational disease and to follow trends over time, to ascertain if their protective measures are working, as well as to provide this information to safety representatives

See box at the end of the chapter for relevant regulations

The reason both sources of information are required is because not all employees who develop WRIH are referred to see the OH provider, as the employer, who pays the OH professionals, decides who will have access and what services are provided.

Ill health risk assessments:

Ask to see the risk assessments for exposures to the hazards most often causing WRIH3

- Stress/work pressures
- Manual handling
- Use of display screen equipment\* and telephonic equipment
- Sick building syndrome
- Noise\*



Once the level of exposure to the hazard (i.e. the risk) has been identified by the competent person, Safety Representatives are entitled to receive their reports.

Further competent advice is then required from a qualified occupational health professional i.e. specialist nurses and doctors, to obtain expert advice on what type of harm could arise from these exposures and whether early signs and symptoms of harm can be detected by health surveillance.

Safety Representatives are also entitled to obtain copies of these reports.

The OH doctor or nurse should also be members of the Health and Safety Committee where they should be requested to provide at least annual anonymised group reports on the number of new cases of WRIH, which the employer has a duty to monitor and provide to safety representatives.

### Health Surveillance

Unlike the UK, all other major EU countries have a legal requirement for appropriate health surveillance for all employed persons through qualified OH doctors who report occupational diseases directly to a compensation scheme. This enables the affected worker to obtain the means to change their occupation if necessary and to avoid further harm. In addition, the doctors who report diseases are protected for doing so.

In the UK doctors are not legally required to report diseases to the employer or compensation scheme; also, they can be dismissed if the employer finds their reports unwelcomed (this does happen). Hence Safety Representatives play a crucial role in ensuring that occupational diseases in their workplace are recorded and acted on by the employer. This is to ensure removal of further harmful exposures and justice through compensation for their colleagues.

Health surveillance is provided to pick up signs and symptoms at the earliest possible stage to prevent them developing into an actual disease, which is likely to disable the worker and cause loss of productive years of life. The OH professional should inform the employee when these are found, and if the employee agrees, also the employer, so that further exposures can be prevented. There is no legal duty on doctors to inform the employer or a compensation scheme in the UK. The number of cases of WRIH reported to the employer is information that should be passed on to Safety Representatives in an anonymised form.

Employees should also be encouraged to record their conditions (along with their identity and workplace circumstances) in the Accident book, which will then act as a formal record, in case the employer denies knowledge of this condition. Safety Representatives are entitled to access accident books, which the employer is legally obliged to maintain.

When an employee has abnormal health surveillance results and there is a likelihood of an occupational disease, the employer has a duty to ensure that the affected person's condition is appropriately referred for further medical investigation by a specialist doctor to ascertain whether it has been caused by their work; i.e. the health surveillance must be 'suitable and sufficient' for its purpose of identifying the risk of harm.

Studies have shown that this rarely happens. Many workers are left in limbo having been told they have abnormal health surveillance results by an OH technician or nurse, which is likely to put them at risk of being moved out of their jobs and does not allow rectification of the hazardous exposures.

Unless a doctor informs the employer that their employee has developed an occupational disease, the employer has no duty to notify the HSE or to take the necessary action to put preventive measures in place.

Where the condition is diagnosed by a doctor to be an occupational disease, the safety representative has a right to be informed (with anonymised information) and where the condition and work process comply with the prescribed conditions under RIDDOR 201313, the affected employee's condition, along with the worker's identity, must be notified to the Health and Safety Executive and to safety representatives.

Only about 25% of work related diseases (8 conditions) are notifiable under RIDDOR. However, the employer has a duty to monitor (obtain and keep records) of all cases of potential WRIH, whether or not they are 'notifiable or reportable' under RIDDOR7. The employer also has the duty to review the risk assessment for the work process which is likely to have caused the condition and to implement further control of exposure measures to prevent new cases arising7.

### How well is your employer managing WRIH risks?

The role of the safety representative is to hold the employer to account on whether it is complying with the duty to manage risks to health at work:

In assessing whether there is adequate control, monitoring and review of the preventive and protective measures for WRIH7 you will need the following information to hold the employer to account:

- Is the pattern of WRIH reported in employee surveys reflected in the risk assessments undertaken by the employer?
- Has the level of exposure to identified hazards been adequately measured by competent persons?
- For which work processes has the competent person recommended health surveillance?

Where health surveillance has been recommended the following anonymised grouped information should be obtained at least annually:

- The number of employees in the organisation who worked in processes where there is exposure to a significant level of each type of hazard
- The number of the above group of employees who received the relevant health surveillance in the previous year
- The number of the screened employees who were found to have abnormal results
- The number of employees with abnormal results who were referred to a specialist doctor for the purpose of diagnosing whether the condition was caused by work
- The number of cases of occupational disease that were notified by a doctor to the employer
- The number that were reported to HSE under RIDDOR

In addition, the following information should be obtained

- Where likely cases of occupational disease were identified, were the relevant risk assessments reviewed and were safety representatives involved in the investigation?
- What actions were taken as a result of the investigations and reviews?

It would be very useful if Safety Representatives could make an annual report of these figures for the workplace that they represent for their members and Trades Unions.

### Other functions of OH Services

These are pre-employment and preplacement assessments, sickness absence management assessments, return to work advice (rehabilitation), ill health retirement assessments or dismissal on the grounds of incapacity assessments.

Besides preplacement assessments, to ensure that an individual worker is not likely to suffer harm in their job or be a risk to others, there is no legal requirement to undertake these activities, which are secondary functions for an OH service.

However, over the past two decades they have become the main reason for employers providing OH services. Employers are prepared to pay for the services of nurses and doctors to advise them in this area as a precaution against having employment tribunals on the grounds of breaching their duties under the Equality Act 2010, due to the high costs of defending civil litigation. The consequence has been that employers have shifted their OH budgets into this area, to the detriment of preventive measures, particularly in monitoring and taking measures to prevent WRIH. This is even though it is a criminal offence to harm a worker's health and there are serious repercussions for affected workers and society, who bear more than 80% of the costs.

OH services have also been increasingly involved in providing 'health and wellbeing promotion' activities, for the purpose of improving employee productivity. Although there is evidence that these interventions can reduce symptoms in the short to medium term, the evidence that they improve productivity in the long term is not clear. Again, wellbeing programmes have tended to replace WRIH prevention activities, which should be challenged if this is happening, as there is no legal duty on employers to provide this service.

Regulations which require employers to monitor for cases of WRIH and to provide anonymised collective ill health reports to safety representatives

The Management of Health and Safety at Work Regulations 1999: Reg 5 (1) notes that employers shall provide effective planning, organisation, control, monitoring and review of the preventive and protective measures. This also applies to hazards that are not mentioned in specific regulations such as stress and manual handling.

Reg. 6 of the Management regulations notes that the employer shall provide "such health surveillance as is appropriate". The current guidance on this in HSG65 notes that not only should health surveillance be provided under COSHH, but "Health surveillance should also be introduced where the assessment shows all the following criteria apply:

- there is an identifiable disease or adverse health condition related to the work concerned;
- valid techniques are available to detect indications of the disease or condition;
- there is a reasonable likelihood that the disease or condition may occur under the particular conditions of the work;
- surveillance is likely to help protect the health and safety of the employees to be covered."

Under The Safety Representatives and Safety Committees Regulations 1977 Reg. 7 (2) the above results of monitoring should be passed to safety representatives. The duty on employers to likewise pass on the results of monitoring for WRIH under all regulations is summarised in the table below.

### Specific Regulations Requiring Employers to Provide Anonymised Grouped Ill Health Information to Safety Representatives

Hazard	Regulation	Subsections
Hazardous substances: infectious agents and carcinogens/mutagens	The Control of Substances Hazardous to Health Regulations 2002	Reg 12 (2) (e)
Noise	The Control of Noise at Work Regulations 2005	Reg 11 (2) (i)
Vibration	The Control of Vibration at Work Regulations 2005	Reg 8 (2) (g)
Lead	The Control of Lead at Work Regulations 2002	Reg 11 (2) (e)
Hazards from use of display screen equipment	The Health and Safety (Display Screen Equipment) Regulations 1992	Reg 2 (1)-(4) Reg 7 (1)-(7) for disclosure to safety reps.
All other hazards including stress and manual handling	The Management of Health and Safety at Work Regulations 1999:  The Safety Representatives and Safety Committees Regulations 1977	Reg 5 (1) Reg 6  Reg. 4(1) (a) to (e) Reg. 7(2)

## Chapter 19 Environment

The World's climate is changing brought about by the actions of man since the dawn of the industrial revolution. Several years ago people thought that statement to be pure fantasy as we are talking about altering nature on an enormous scale and man has been burning fossil fuels and other materials for thousands of years. The effects of climate change are upon us and are very real. Even if we stopped emitting all greenhouse gasses today the inertia built up from all the emissions released since the industrial revolution will continue to change our world's climate for the worst.

The effects of these changes will cause deserts to increase in size, annual rains to fail in tropical regions and the ice packs all over the world to decline. Population is solely reliant on ice melt from the glaciers of the high Himalayas which is in sharp decline year on year; Atlantic conveyor (part of the Gulf Stream) is slowing as a result of the ice melt from Greenland which is resulting in more erratic and extreme weather patterns hitting Europe and sea levels. We all need to think before we carry on as before.

Rising sea levels are widely considered to be the greatest threat posed by climate change. They threaten low-lying countries with inundation, forcing inhabitants to migrate. Coastal cities and ports could be flooded, as could cities sited near tidal estuaries, like London. Many nuclear installations are built by the sea so they can use sea water for cooling.

The potential for sea level rise is enormous. This is because the ice caps - Greenland and Antarctic - contain huge amounts of fresh water - around 70% of all the freshwater on Earth. Estimates suggest that if the Greenland ice sheet was to melt away to nothing, sea levels would rise around 6 metres. To put that a different way, a loss of just one per cent of the Greenland ice cap would result in a sea level rise of 6cm. If the West Antarctic Ice Sheet (WAIS) were to melt, this would add around 6 metres to sea levels. If the East Antarctic Ice Sheet (EAIS) were to melt as well, seas would rise by around 70 metres. And ice and snow reflects 90% of the sun's energy, open water absorbs 90% of that energy so the loss of snow and ice increases the speed of global warming.

Sceptics point to the ice cube in a glass of water to claim that this is all rubbish as when ice in a glass melts the level of liquid does not change. This is true if we were only to consider the ice already in the sea such as that at the North Pole. But the Antarctic Ice Sheet is on land as are the glaciers of Greenland. The weight of all the ice on Antarctica and Greenland also suppresses the land mass causing it to sit lower, than it would if there were no ice, as can be shown by the rebounding of land masses that is still going on today following the last ice age in places like Scotland. As a result the land itself, in these areas, will over time rebound as well increasing sea levels still further.

The increasing risk of flooding, sea level changes and the reduction in fertile land can have only one result, increased migration of people from areas that are no longer productive into areas that can provide food and fresh clean water. The increase in population caused by not just migration but by general population increases will in time overwhelm the capacity of that land leading to famine and yet more migration. The net effect then causes increased tensions and wars over resources and the break down in civil society around the world. A sea level increase of 7 metres would mean that Cambridge, Peterborough and Doncaster would be on the coast, Glastonbury would be surrounded on three sides by water and Portsmouth would have been swept away by the sea.

This is why the vast 195 of the world 198 nations around the world agreed to sign up to the United Nations

Framework Convention on Climate Change (UNFCCC) dealing with greenhouse gas emissions mitigation, adaptation and finance in 2015. This historic agreement showed that these nations felt that the amount of scientific evidence was now so overwhelming that they needed to make a change.

### Every Little helps

Even a very small change can make a huge difference and in the world of work can be the difference between your employer making a profit or a loss, impacting on your job security. Working with employers we can make a difference and one which could also benefit employees financially. For if you and your colleagues are instrumental in reducing your employer's bills then we would want to see at least some of that money utilised in rewarding staff for their efforts. It has also been shown that where you pick up money saving tips at work, they are carried over into the home.

But where to start? The first step is to consider what is being used and what is being thrown away and if there is a way to reduce waste. By meeting with your employer you may be able to discover the current size of their energy and water bills. This will give you a foundation to see how successful you are.

In a transport company, for example, a change in driving style will reduce the fuel bill for example. Even ensuring a vehicle has the correct tyre pressure can have a significant effect. Scientific studies, have determined that for every 1 bar of pressure of under inflation a vehicle will lose around 5.5% of its ultimate performance while over inflation will damage the tyre and will only make very marginal savings. A vehicle is designed to be at its most fuel efficient at between 45 mph and 55 mph (72.4 km/h to 88.5 km/h) and swift acceleration and breaking reduces fuel economy even further. The answer is simple keep the speed down, the tyres up and drive smoothly.

In an office: - switching off the lights in unoccupied rooms and using often the ambient light from outside is enough to work normally in an office environment. Where lighting is needed, then utilising LED's instead of filament bulbs or even fluorescent tubes can make even greater savings. Reusing scraps of paper where ever possible and then recycling them can make an enormous difference as can the recycling of many other materials. Paper comprises 20-25% of municipal waste generated in Europe and once in landfill degrades producing methane a greenhouse gas estimated to be 25 – 30 times more powerful as a greenhouse gas than carbon dioxide. One ton of recycled office paper saves 4,100 Kwh of energy, 54 million Btu's of energy, 27.2 kgs of air pollutants from being released, 26,500 litres of water, and 2.5 m3 of landfill space.

### Environmental Reps

Some safety rep will also be environmental reps. Environmental reps have no legal powers, but should use their safety rep rights to pursue environmental issues in the workplace and should negotiate an agreement that they will be recognised by their employer. It will often be the case that environmental issues and health and safety issues coincide.

Unite recognises the importance of environmental reps, with the position of environmental rep identified in the Unite rule book

"18.1 At each workplace, the members employed at that workplace, shall elect from amongst themselves, at least every 3 years, 1 or more of the following representatives:...

18.1.5 Environment representatives"



## Safety Reps' Signposts

TUC Resources on this can be found at :-

<https://www.tuc.org.uk/research-analysis/reports/greening-workplace-%E2%80%93-environmental-rights-work>

Background on TUSDAC

<https://publications.parliament.uk/pa/cm200405/cmselect/cmenvaud/84/84we43.htm>

This is the TUC page on TUSDAC

<https://www.tuc.org.uk/research-analysis/reports/trade-unions-and-sustainable-development>

ITUC Climate Change News and resources:- <https://www.ituc-csi.org/climate-change>

TUDCN Strategy on the 2030 Agenda for Sustainable Development:-

[https://www.ituc-csi.org/IMG/pdf/tudcn\\_agenda\\_2030\\_strategy\\_nov\\_2017\\_en.pdf](https://www.ituc-csi.org/IMG/pdf/tudcn_agenda_2030_strategy_nov_2017_en.pdf)

## Appendix 1 Health and safety legislation in other jurisdictions

**COMPARISON TABLE: GB AND NORTHERN IRELAND LEGISLATION**

<b>GB Legislation</b>	<b>NI equivalent</b>
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) 2012
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
Construction (Design and Management) Regulations 2015	Construction (Design and Management) Regulations (Northern Ireland) 2016
Control of Major Accident Hazards Regulations 1999	Control of Major Accident Hazards Regulations (Northern Ireland) 2015
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 1992	Health and Safety (Display Screen Equipment) Regulations (Northern Ireland) 1992
Health and Safety (First Aid) Regulations 1981 (Ireland) 1982	Health and Safety (First Aid) Regulations (Northern Ireland) 1982

<b>GB Legislation</b>	<b>NI equivalent</b>
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 2013	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	Social Security (Claims and Payments) Regulations (Northern Ireland) 1977
Work at Height Regulations 2005	Work at Height Regulations (Northern Ireland) 2005
Working Time Regulations 1998	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 1992	Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993

**COMPARISON TABLE: GB AND NORTHERN IRELAND LEGISLATION**

<b>GB Legislation</b>	<b>NI equivalent</b>
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	The European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 to 2017
Control of Asbestos Regulations 2012	Safety, Health and Welfare at Work (Exposure to Asbestos) (Amendment) Regulations 2010. (S.I. No. 589 of 2010)
Control of Substances Hazardous to Health Regulations 2002	Safety, Health and Welfare at Work (Chemical Agents) Regulations 2001 (S.I. No. 619 of 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
CLP	Chemicals Act 2008 (No. 13 of 2008) and Chemicals (Amendment) Act 2010
Construction (Design and Management) Regulations 2015	Safety, Health and Welfare at Work (Construction) Regulations 2006 and Safety, Health and Welfare at Work (Construction) Regulations 2013. (S.I. No. 291 of 2013)
Control of Major Accident Hazards Regulations 1999	Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015. S.I. No. 209 of 2015
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	Safety, Health and Welfare (Chemical Agent) Regulations 2001
Electricity at Work Regulations 1989	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Part 3 – Electricity

<b>GB Legislation</b>	<b>NI equivalent</b>
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	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 4 Part 2 – Manual Handling of Loads
Personal Protective Equipment at Work Regulations 1992	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 3 Part 2 – Personal Protective Equipment
Provision and Use of Work Equipment Regulations 1998	Safety, Health and Welfare at Work (General Application) Regulations 2007 – Chapter 2 Part 2 – Use of Work Equipment
Regulatory Reform (Fire Safety) Order 2005	The Safety Health and Welfare at Work Act 2005
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013	Safety, Health and Welfare at Work (Reporting of Accidents and Dangerous Occurrences) Regulations 2016 (S.I. No. 370 of 2016).
Safety Representatives and Safety Committees	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



## Health and Safety Authority

Workplace health and safety legislation and regulations that are currently in force in Ireland are on the Health and Safety Authority's website at:

<http://www.hsa.ie/eng/Legislation/>

<http://www.hsa.ie/eng/Legislation/Acts/>

[http://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](http://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)

[http://www.hsa.ie/eng/Legislation/List\\_of\\_Legislation/](http://www.hsa.ie/eng/Legislation/List_of_Legislation/)

## COMPARISON TABLE: GB AND GIBRALTAR LEGISLATION

GB Legislation	Gibraltar equivalent
Health and Safety at Work etc Act 1974	No equivalent
The CLP Regulation [Chemicals: classification, labelling and packaging of substances and mixtures]	No equivalent
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 their jurisdiction)
Control of Asbestos Regulations 2012	Control of Asbestos Regulations 2007
Control of Substances Hazardous to Health Regulations 2002	No equivalent
Control of Vibration at Work Regulations 2005	Factories (Control of Vibrations at Work) Regulations 2006.
Construction (Design and Management) Regulations 2015	Construction (Design, Management, Health, Safety & Welfare) Regulations 1998
Control of Major Accident Hazards Regulations 1999	Public Health Act (part 11A) (Not under their jurisdiction)
Control of Noise at Work Regulations 2006	Control of Noise 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 (Electricity) 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.

**COMPARISON TABLE: GB AND GIBRALTAR LEGISLATION**

<b>GB Legislation</b>	<b>Gibraltar equivalent</b>
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	No equivalent
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013	Factories Act 1956.(section 71)
Safety Representatives and Safety Committees Regulations 1977	No equivalent
Social Security (Claims and Payments) Regulations 1979	Social Security Act (Not under our jurisdiction)
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.

## Appendix 2 Model Letters

1. Letter to employer requesting the establishment of a safety committee
2. Letter to employer notifying safety rep's health and safety inspection

### Gibraltar information

Government of Gibraltar <http://www.gibraltar.gov.gi/>

Gibraltar legislation  
<http://www.gibraltarlaws.gov.gi/>

List of legislation  
[http://www.gibraltarlaws.gov.gi/full\\_index.php](http://www.gibraltarlaws.gov.gi/full_index.php)

## 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 3 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



## Appendix 3 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 the Health and Safety Unit or your Regional Officer. They can help you with information, training and negotiation.**

## Appendix 4 TUC gender checklist

### TUC gender checklist on occupational safety and health

#### Introduction

People come in all shapes and when it comes to health and safety the “one size fits all” approach just does not apply. Nowhere is that clearer than when we are looking at gender.

Considering gender in health and safety is a very real and important issue in every workplace.

The TUC gender checklist provides a prompt to encourage union representatives to pursue issues around gender in the workplace and bring together equalities work and health and safety work. By ensuring that employers take action on the issues, you can make a real difference to the health, safety and welfare of women.

There are other union techniques that will help, such as body-mapping, surveys and risk-mapping. These are successful tools that many unions have used to help address gender issues in health and safety and you can get more information on these on the TUC and Hazards Magazine websites. You should also check with your own union to get any guidance on gender issues and health and safety that they have produced.

This checklist is not intended to be a comprehensive list of specific issues relating to gender, but instead some suggestions of what union health and safety representatives should look at to make sure that the relevant issues in the workplace are identified and addressed in a gender sensitive way.

It should be used in combination with the guidance that is found in the TUC booklet “Gender in occupational safety and health”.

#### Part 1 - Working with the employer

##### Consultation

Is there a Joint Health and Safety Committee or other consultative structure and does it cover everyone including part-time, contracted and temporary workers?

Are health and safety issues and priorities of concern to women regularly discussed at the Joint Health and Safety Committee or other consultative structures, and if items are identified are they dealt with?

##### Risk management

Are risk assessments carried out and implemented by the employer?

Do risk assessments take account of sex and gender differences?

Have all people involved in risk assessment and risk management been trained to be aware of sex and gender differences affecting men’s and women’s health and safety at work?

Are sex and gender differences taken into account in COSHH risk assessments, including the greater likelihood that women will be exposed to chemicals at home?

Are sex and gender differences taken into account in manual handling risk assessments and in assessments of postural problems including prolonged standing or sitting?

Are gender differences taken into account with all relevant types of work equipment and work stations use?

Are sex and gender differences taken into account when dealing with staff uniform, official workwear or personal protective equipment (PPE) issues at the workplace?

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 an appropriate 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, menstruation (including providing female sanitary hygiene disposal facilities), menopause, breast cancer or hysterectomy adequately and sensitively addressed?

Are risks of violence assessed, including concerns about working alone on site or away, or late into the evening, and access to safe parking or transport home?

Are harassment (including sexual harassment) and bullying treated as health and safety issues?

Does the employer allow for flexibility with working time, overtime and shift work to accommodate employees’ life demands from outside of work, such as family, medical etc.?

Does the employer recognise stress as a workplace issue and that it may affect different people in different ways?

Does the employer recognise that domestic violence can become an issue at the workplace and treat the matter as a safety, health and welfare issue which needs to be dealt with sympathetically and practically?

#### Sickness absence management and investigation

Does the employer have a sickness absence management policy or workplace agreement that was negotiated with the union?

Is the policy applied fairly in practice and not used just to cut sickness absence but to fairly address any underlying issues and help recovery with an appropriate return to work?

Is the sickness absence management policy or workplace agreement fair and non-discriminatory and does it ensure that women are not disadvantaged because of issues relating to menstruation, pregnancy, miscarriage, disability, or the menopause by ensuring that they can be treated separately from other sickness absence?

Does the policy and practice ensure that any work-related health problems are properly investigated with a review of risk assessments where necessary?

Do health and safety representatives get regular reports from management on sickness absence, including a gender breakdown?

#### Reporting and monitoring procedures

Does the employer ensure all workers are made aware of the importance of reporting injuries, incidents, work-related ill health and health problems made worse by work, in an environment where employees feel they will not be victimised for reporting them?

Are all injuries, incidents (including near misses) and work-related health problems reported?  
 Does data on injuries and ill health include gender and does it 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 and sickness absence statistics analysed as well as trends in injuries and near misses?  
 Are all injury and ill health statistics systematically reviewed at joint safety committee meetings?  
 Where any issue of concern is found from the meetings' deliberations are health concerns given the same priority as safety concerns?

## Part 2 - Involving members

In addition to ensuring that your employer protects the health safety and welfare of all the workers, health and safety representatives can look at how they involve and inform members to make sure that their concerns are raised and addressed.

### Here are a few ideas:

Ask members. You could carry out a confidential survey of members' health and safety concerns, but make sure that you can differentiate between men's and women's responses when the responses are analysed. Review how you communicate with members. Do all sections of the workforce have access to a health and safety representative, including shift workers, part-time and temporary workers? Are they all consulted about their health and safety concerns?  
 Make sure that there are enough women health and safety representatives. Women may have more confidence that their issues are being addressed if there are women representatives and they are included in any joint safety committee.  
 Talk about the issue. Make sure that branch meetings or workplace meetings include specific discussions on practical issues that are of concern to women members, or even hold a special meeting on a problem that women workers are facing.  
 Work with others. You should make sure that you are reporting regularly to your branch. It is also important to work with other representatives such as stewards, equality women's and learning representatives. If there is more than one union in your workplace then it benefits everyone to work together. And where you have any successes, make sure that your union, and your members know about them.

# Appendix 5

## UNITE safety reps and equality reps disability action checklist

### Health & 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

## Appendix 6: Useful Addresses and Contacts

### Unite

Website: [www.unitetheunion.org](http://www.unitetheunion.org)

Health and Safety Unit (based at Unite House, Theobalds Road London WC1X 8TN)

Email: [healthandsafety@unitetheunion.org](mailto:healthandsafety@unitetheunion.org)

Health and safety resources and sign up to e bulletin

<http://www.unitetheunion.org/unite-at-work/healthsafety/>

Education

<http://www.unitetheunion.org/growing-our-union/education/contact-us/>

Legal Services

<https://www.unitelegalservices.org/>

Free legal helpline

0800 709 007

Education Organisers

<http://www.unitetheunion.org/growing-our-union/education/contact-us/>

EAST MIDLANDS

Keith Cockcroft, T: 01332 548400 F: 01332 548440

Unite the Union, Unit 2, Pride Point Drive, Pride Park, Derby DE24 8BX

IRELAND

Brendan Ogle, T: 02890 232 381 F: 02890 329 904

Unite the Union, 26/34 Antrim Road, Belfast BT15 2AA

LONDON AND EASTERN

Danny Freeman, T: 020 8800 4281 F: 020 8802 8388

Unite the Union, London Regional Office, 33-37 Moreland Street, London, EC1V 8BB

NORTH EAST, YORKSHIRE & HUMBERSIDE

Andy Pearson, T: 0113 236 4830 F: 0113 236 4831

Unite the Union, 55 Call Lane, Leeds LS1 7BW

NORTH WEST

John Lea, T: 0161 669 8674 F: 0161 873 8465

Unite the Union, Merchants Quay, Salford Quays, Salford M50 3SG

## SCOTLAND

Jim Aitken, T: 0141 404 5424 F: 0141 248 8421  
Unite the Union, John Smith House, 145/165 West Regent Street Glasgow G2 4RZ

## SOUTH EAST

Sharon Wentworth, T: 01753 313843  
Unite the Union, Chalvey Road East, Slough SL1 2LS

## SOUTH WEST

Karen Cole, T: 0117 923 0555 F: 0117 923 0560  
Unite the Union, Tony Benn House, Victoria Street, Bristol BS1 6AY

## WALES

Glyn Conolly, T: 02920 394521 F: 02920 390684  
Unite the Union, 1 Cathedral Road, Cardiff CF11 9SD

## WEST MIDLANDS

Keith Cockcroft, T: 0121 553 6051 F: 0121 553 7846  
Unite the Union, 9-17 Victoria Street, West Bromwich B70 8HX

## GIBRALTAR

Sandra McIntosh, T: 200 74185 F: 200 71596  
Unite the Union, Unite House, 41 - 44 Town Range, Gibraltar

### Trade union and labour movement

European Trade Union Confederation (ETUC)  
Boulevard Roi Albert 11,5, B-1210 Brussels, Belgium  
T: 00 33 (0)2 224 0411  
etuc@etuc.org  
www.etuc.org

Joint Union Asbestos Committee (JUAC)  
<http://www.juac.org.uk/>

Labour Research Department (LRD)  
78 Blackfriars Road, London, SE1 8HF  
T: 020 7928 3649  
info@lrd.org.uk  
www.lrd.org.uk

Scottish Trades Union Congress  
333 Woodland Road  
Glasgow G3 6NG  
T: 0141 337 8100  
www.stuc.org.uk/

Trades Union Congress (TUC)  
Congress House, Great Russell Street,  
London, WC1B 3LS.  
T: 020 7636 4030  
healthandsafety@tuc.org.uk  
www.tuc.org.uk

### Enforcement Bodies

Health and Safety Authority (Republic of Ireland) - HSA  
LoCall: 1890 289 389 (between 9:00am and 12:30pm, Monday to Friday)  
Alternative landline: (01) 614 7000  
Fax: 01 614 7125  
Email: wcu@hsa.ie  
Overseas callers should call +353 1 614 7000

Head Office:  
The Metropolitan Building  
James Joyce Street  
Dublin 1  
D01 K0Y8

Health and Safety Executive (Great Britain) - HSE  
**www.hse.gov.uk**  
Contact HSE  
**<http://www.hse.gov.uk/contact/index.htm>**  
HSE RIDDOR reporting  
Online  
**<http://www.hse.gov.uk/riddor/report.htm>**  
Written reporting under RIDDOR

RIDDOR Reports  
Health and Safety Executive  
Redgrave Court  
Merton Road  
Bootle  
Merseyside  
L20 7HS

Health and Safety Executive for Northern Ireland - HSENI  
83 Ladas Drive  
Belfast  
BT6 9FR  
T: 0800 0320 121  
Email: [mail@hseni.gov.uk](mailto:mail@hseni.gov.uk)

### **Campaigning organisations**

Asbestos Victims Support Groups Forum – UK  
Windrush Millennium Centre, 70 Alexandra Road,  
Manchester, M17 7WD  
T: 0161 636 7557  
<http://asbestosforum.org.uk/>

British Asbestos Newsletter and International Ban Asbestos Secretariat  
<http://ibasecretariat.org/>

Hazards Campaign  
c/o Greater Manchester Hazards Centre  
Windrush Millennium Centre, 70 Alexandra Road,  
Manchester, M17 7WD  
T: 0161 636 7557  
[mail@gmhazards.org.uk](mailto:mail@gmhazards.org.uk)  
[www.hazardscampaign.org.uk](http://www.hazardscampaign.org.uk)

Hazards magazine and website  
PO Box 4042, Sheffield, S8 2DG  
T: 0114 201 4265  
[editor@hazards.org](mailto:editor@hazards.org)  
[www.hazards.org](http://www.hazards.org)

Families Against Corporate Killers (FACK)  
c/o Hazards Campaign  
Greater Manchester Hazards Centre  
Windrush Millennium Centre, 70 Alexandra Road,  
Manchester, M17 7WD  
[mail@gmhazards.org.uk](mailto:mail@gmhazards.org.uk)  
[www.fack.org.uk](http://www.fack.org.uk)

Royal Society for the Prevention of Accidents  
Head office  
RoSPA House  
28 Calthorpe Road  
Edgbaston  
Birmingham  
B15 1RP  
T: 0121 248 2000  
Email [help@rospa.com](mailto:help@rospa.com)  
There are also offices in Scotland and Wales  
For more information go to [www.rospa.com](http://www.rospa.com)

The UK National Stress Network  
[www.workstress.net](http://www.workstress.net)

Women's Environmental Network  
20 Club Row  
London E2 7EY  
<https://www.wen.org.uk/contact/>

### **Professional bodies**

British Occupational Hygiene Society  
5/6 Melbourne Business Court, Millennium Way,  
Pride Park, Derby, DE24 8LZ  
T: 01332 298101  
F: 01332 298099  
e-mail: [admin@bohs.org](mailto:admin@bohs.org)  
<http://www.bohs.org/>

Institution of Occupational Safety and Health (IOSH)  
The Grange, Highfield Drive, Wigston, Leicestershire LE18 1NN  
T: 0116 257 3100  
F: 0116 257 3101  
[enquiries@iosh.co.uk](mailto:enquiries@iosh.co.uk)  
[www.iosh.co.uk](http://www.iosh.co.uk)

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