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## Safety Reps functions, facilities and time off

We continue to get an alarming number of inquiries about attempts by FE and HE institutions to restrict or prevent safety representatives from exercising their statutory functions – especially in respect of paid time off for undertaking duties and training.

UCU’s approach to health and safety has as its cornerstone developing more safety reps – using the best possible support and training from UCU. To assist safety reps facing problems this newsletter has an additional **Fact Sheet** on the key points related to safety rep functions, including employer duties to facilitate the undertaking of those functions, which will join others on the UCU web site.

If you have problems in exercising any of your statutory functions or your employer is in breach of their duty to support those functions, please approach your regional office as soon as possible and let the UCU health and safety office know too.

Next month, we will focus on what improvements we can negotiate to improve our impact and influence, and on questions related to training.

## Health & Safety Executive and Work Related Stress – Developing the control programme in FE & HE

In 2006, the HSE, troubled by an excessive level of stress-related illness and absence in (amongst others) the FE and HE sectors, decided to develop a mass-participation project in the sectors to get employers to take some action to reduce it.

Following a joint TUC/HSE workshop at the end of September, the HSE announced a further series of audits in the public sector in respect of work-related stress. This has already begun in some regions such as the northern and south west regions and we will be circulating more information as we get it from the HSE. UCU officials are to meet with the lead person in the HSE policy section responsible for this initiative soon, to explore ways UCU and the HSE can work more closely together on stress issues.

**Action** - Why not ask your own employer if such visits have taken place or they have been notified of them.

## **Dame Carol Black review of the health of Britain's working age population**

UCU is drafting evidence to this review focussing on a number of health and safety issues. Our evidence, along with that from the TUC, will help inform the work of UCU branches and LA's in response to the increasing use of well being at work policies which are affecting a range of employer policies including sickness absence. The final version will go on the UCU web site.

## **Work & Pensions Select Committee on the work of the HSE – HSC**

UCU has submitted evidence to this Committee session seeking to complement the TUC's submission. We have focussed on in particular safety rep functions and consultation & involvement. It will be posted on the UCU web site immediately after the session is held.

The Committee produced an excellent report last time they looked at this a couple of years ago - highlighting the need for more resources for the HSE, etc. which the Government promptly ignored. Let's hope better results this time. UCU has also recently written to Work and Pensions Secretary Peter Hain along similar lines.

## **Bullying at work**

Ban Bullying at Work day prompted a number of UCU branches to raise the issue at work. One example was City of Bristol College where our representatives produced their own publicity materials, an excellent fact sheet and a survey. We will post the factsheet on the website.

We are revamping our UCU stress and bullying materials at present and an expanded set of model policies, checklists, surveys, examples of good practice and resources will be available soon after Xmas.

In the meantime we continue to raise the profile of the issue despite the state of denial that some institutions continue to have. One contribution was the half page article in last week's Guardian the day before Ban Bullying at work day at:

<http://education.guardian.co.uk/higher/news/story/0,,2205672,00.html>

## **Stress and FESH**

UCU is represented on FESH (Further Education Safety and Health forum) where FE unions and employers meet on health and safety. We tabled a detailed programme of work at its last meeting and will report back on progress.

## **Help – good FE health and safety policies wanted!**

We are looking for examples of good FE H and S policies which are being implemented properly with full UCU safety rep involvement. If you think you have such an agreement please let John Bamford know at [jbamford@ucu.org.uk](mailto:jbamford@ucu.org.uk)

## **HSE releases statistics for 2006/07**

Health and safety statistics for the year 2006/07 were released by the HSE on 1 November. This release gives the latest statistics on work-related health, safety and enforcement in Great Britain. It's a pretty disappointing picture – deaths due to fatal injuries up by 24 over last year, mesothelioma deaths (due to asbestos exposure in the past) continue to rise; from 1969 in 2004 to 2037 in 2005. HSE currently expects them to peak at around 2450 deaths between 2001 and 2015. The HSE is still not on track to meet its targets for reducing ill health and cutting the number of days lost. As last year, the release includes a pocket-sized booklet providing headline

figures and commentary supported by a range of material on the Statistics website. Overall it has not been a great year for the HSE.

Download the booklet at: <http://www.hse.gov.uk/statistics/overall/hssh0607.pdf>

The HSE Statistics homepage, including key facts for 2006/07 is available at:  
<http://www.hse.gov.uk/statistics/index.htm> For just a general overview, go to:  
<http://www.hse.gov.uk/statistics/overpic.htm>

## MarshallACM

We have received a couple of inquiries about this organisation which appears to be involved in a large number of FE and HE institutions providing consultancy on health and safety (as well as on sickness absence and equality). If any reps have had direct experience we'd like to know more. You can find more at: <http://www.marshallacm.co.uk/index.html> (home page).

## Workplace Health Connect flop

A multi-million pound government funded project designed to provide advice on workplace health issues to small and medium-sized firms is failing dramatically in achieving this goal, with almost 9 out of 10 calls received not being workplace health-related. Workplace Health Connect, launched in February 2006 as a semi-detached offshoot of the Health and Safety Executive, quickly attracted criticism. HSE chief executive Geoffrey Podger told a May 2006 Select Committee the project 'had a problem in relation to take up'.

Now an Institute for Employment Studies evaluation of WHC's first 16 months in operation has found 'the data demonstrates that the advice line is primarily of interest to employers as a source of advice about safety related matters, although about 11 per cent of callers did ring with a specific health enquiry.' The report notes 'overall call levels to the advice line remain well below the initial targets, having received just over 9,000 calls since its inception in February 2006. The original target for the two-year pilot was 60,000. Questions will be raised about accountability for this abject failure - clearly our money could have been spent more positively and productively to improve workplace health.

## UCU Training - Health and Safety Stage 1 course

The UCU Health and Safety Stage 1 course consists of 5 two day modules. All new UCU health and safety reps should undertake training as soon as possible after they take up post. Existing health and safety reps and potential reps are encouraged to attend the Stage 1 course to develop and maintain the skills needed to perform the job of a health and safety rep.

It is vitally important that your branch/LA be up to date with changes in health and safety law and that each branch/LA has a trained health and safety rep on site. A trained health and safety rep with an understanding of their role and their rights will be able to play a vital role in representing members effectively. The following national course are being **held in London**.

<b>February 14 &amp; 15</b>	<b>Module 1 – Health and Safety Induction</b>
<b>March 17 &amp; 18</b>	<b>Module 2 – Understanding Health and Safety Law</b>
<b>April 8 &amp; 9</b>	<b>Module 3 – Using your rights as a Health and Safety Rep</b>
<b>May 13 &amp; 14</b>	<b>Module 4 – Dealing with Accidents and Tackling Hazards</b>
<b>June 19 &amp; 20</b>	<b>Module 5 - Trade Union Action to Tackle Stress</b>

For further information please visit the UCU website at [www.ucu.org.uk/training](http://www.ucu.org.uk/training) then click on national or contact Linda Ball at [lball@ucu.org.uk](mailto:lball@ucu.org.uk)

For regional events follow the above instructions and click on the relevant region.

## Environmental News

A lot of UCU health and safety reps have sought to raise more general environmental issues with their institutions. Indeed we now also have a few UCU environmental reps.



The next UCU Environmental Network newsletter comes out in the next few days. If you'd like to be added to the mailing list please let Sharon Russell know at [srussell@ucu.org.uk](mailto:srussell@ucu.org.uk) Membership of the list is open to ALL UCU members.

## UCU Health and Safety Advice Line

UCU's Health and Safety Advice Line for safety reps and branch officers offers information about health and safety legal standards, and how they can be applied and advice on dealing with health and safety issues/problems.

The Health and Safety Advice Line is for branch officers and safety reps only, not for individual members. The advice line will be staffed two days a week only. When you phone the advice line you will be asked to leave a message. You will then be contacted as soon as possible.

The **advice line number** is **0161 636 7558**

**Email** [healthandsafety@ucu.org.uk](mailto:healthandsafety@ucu.org.uk)

**Or by post to John Bamford, UCU Health and Safety Advice Line**

Greater Manchester Hazards Centre, Unit 2.5 Windrush Millennium Centre, 70 Alexandra Road, Manchester M16 7WD

## Safety reps' functions, facilities and time-off

This factsheet looks at statutory protection and how that can help UCU safety reps to function effectively in the workplace.

### Safety rep functions

Safety reps are given a number of statutory functions by the Safety Representatives and Safety Committees Regulations (SRSCR) 1977. In 1993, the SRSCR were amended to include additional functions in respect of an employer duty to consult with safety reps. These functions are often called safety reps rights – and while this may be true, the concept of “rights” implies they can be withdrawn; it is also the case that “rights” can be notoriously difficult to enforce. So UCU believes that it is better to emphasise that these functions are given to reps by law, and are, therefore, enforceable. SRSCR Regulations 4 and 4A details these statutory functions, which can be grouped under a number of main headings:

**Investigative:** to investigate potential hazards; dangerous occurrences; the causes of accidents; and complaints by employees.

**Inspections:** to inspect the workplace by regular quarterly inspections and to re-inspect when any remedial work has been completed; where there has been a reportable injury, dangerous occurrence or case of disease; inspect and take copies of documents relating to the health and safety of employees.

**Representative:** to make representations to the employer on both specific issues or on general matters relating to health & safety in the workplace; to attend meetings of the safety committee; to represent issues to inspectors of the Health & Safety Executive or other enforcing authority when they visit the workplace, and to receive information from such inspectors.

**Consultation:** To be consulted in good time on the introduction of measures in the workplace that may substantially affect employees health & safety; the nominations of competent persons to do risk assessments, take charge in emergencies etc; the provision of information about health & safety to staff; how training is planned and organised; and the consequences of the introduction of any new technology.

**These functions are a minimum standard:** UCU believes that good employers will work with our safety reps to extend these functions significantly. For example, we would expect our safety reps to inspect any incident, not just ones that are notifiable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR); on consultation over the appointment of competent persons to provide assistance to the employer, we would expect to be involved in the whole range of issues – drawing up the person specification and job description, sitting on an appointment panel etc., not just the basic arrangements. Next month we will outline some target improvements related to safety reps functions.

To be able to perform these functions effectively, the Regulations place a number of ***absolute duties on employers*** in relation to safety reps functions.

## 1. Time-off

There is a general and absolute duty on the employer that: *“An employer **shall permit** a safety representative to take **such time off** with pay during the employee’s working hours **as shall be necessary** for the purposes of”*

- a) performing their functions under the SRSCR and Health & Safety at Work Act, *and*
- b) undergoing training related to these functions that is reasonable in the circumstances.

Note that the provisions for time-off are not qualified by the word *“reasonable”* – so, unlike a Branch Officer or Departmental Rep, who are entitled to *“reasonable time off”*, safety reps are entitled to whatever time is necessary for them to do the job effectively.

**“Reasonable”** here qualifies the circumstances for time-off for training only – it is normally taken to mean the content of the training, which must be health & safety related. It can be used where, for operational reasons, an employer may not be able to provide cover for the reps normal work. However, once notified by the rep that they wish to attend a training course, the employer would be in breach of their duty if they continued to make the same excuse and not make appropriate arrangements for cover. [SRSCR Regulation 4(2)]

Failure to permit paid release: a complaint may be lodged with an Employment Tribunal for failure to permit time off, or failure to pay the representative for time-off that has been taken, within 3 months of the failure. [SRSCR Regulation 11]

## 2. Facilities and assistance

A general duty is imposed on employers such that: *“every employer **shall provide** such facilities and assistance as safety representatives may reasonably require for the purpose of carrying out their functions...”* [SRSCR Regulation 4A (2)]

It isn’t the duty on the employer that is qualified by *“reasonable”* here; it qualifies the safety reps needs. So, for instance, UCU recommends every Branch and LA should have at least one copy of the TUC *“Hazards at Work”* manual as a basic information resource for their health & safety work – a reasonable request. UCU therefore suggests that all Branches and LAs approach their employer with a request for this to be provided.

Regulations 5(3) & 6(2) also place a similar duty on the employer to provide facilities and assistance for workplace inspections and accident investigation.

## 3. Information

SRSCR Regulation 7 imposes 2 separate duties on employers in respect of the provision of information. Reg. 7(1) says that safety reps shall be entitled to inspect, and take copies of, any document the employer is required to keep by law, provided they give the employer reasonable notice. To keep can also mean to create. So, for example, the employer is legally required to record the main points of a risk assessment where there are more than 5 people employed. That record is a document – therefore safety reps can ask the employer to give them a copy of it.

Similarly, a RIDDOR reportable incident is to be reported by sending the HSE a form – safety reps are therefore entitled to a copy of this form.

In addition, employers shall make available the information within their knowledge related to health & safety that is necessary to enable the reps to fulfil their statutory functions. Such documents might include plans and any proposed changes, technical information, statistical records relating to health, incidents and injuries, the results of surveys (stress or bullying, for example) or monitoring exercises and any other information the reps may define as appropriate.

## **Enforcement**

The HSE has recently released guidance to Inspectors on worker involvement. One part of this gives inspectors guidance on enforcing the employer duties contained in the SRSCR.

<http://www.hse.gov.uk/foi/internalops/fod/inspect/workerinvolve.pdf>

Paragraphs 43 – 47 apply. The guidance suggests that immediate enforcement action may be appropriate where employers are in breach of the statutory duties on them, outlined above. This is a step forward for the HSE. Up until December 2006, questions relating to failure to consult, or provide information, or assistance and facilities were not considered appropriate failures for HSE Inspectors to enforce, and unions were encouraged to use the established industrial relations machinery to resolve disputes.