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The UCU Health & Safety Team  
wishes all our readers a happy  
and safe New Year

## New Year, New Legislation

As reported in our October 2008 issue, tougher new penalties for breaches of health & safety law will come into force when the Health and Safety (Offences) Act 2008 becomes law in Great Britain and Northern Ireland on 16 January.

Increasing penalties are providing the Courts with greater sentencing powers has been Government and Health and Safety Executive (HSE) policy since the Revitalising Health and Safety Strategy Statement in June 2000. It took a Private Members Bill some seven years later to initiate the changes.

The effect of this Act is to:

- a) Raise the maximum fine which may be imposed in the lower courts to £20,000 for most health and safety offences;
- b) Make imprisonment an option for more health and safety offences in both the lower and higher courts;
- c) Make certain offences, which are currently try-able only in the lower courts, try-able in either the lower or higher courts.

### Summary of current and new penalties under the Act

Current maxima	New maxima
<ul style="list-style-type: none"> <li>▪ £5k or £20k fines for summary offence in lower courts, depending on offence; unlimited fine for indictable offence.</li> </ul>	<ul style="list-style-type: none"> <li>▪ £20k fines in lower courts for nearly all summary offences, unlimited fines in higher courts.</li> </ul>
<ul style="list-style-type: none"> <li>▪ Imprisonment not available for most offences (but up to 6 months in magistrates court or 2 years in Crown Court for few offences e.g. failing to comply with a prohibition notice or breaching a licensing requirement).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Imprisonment for nearly all offences – up to 12 months in Magistrates Courts and 2 years in the Crown Court.</li> </ul>

There are strict guidelines which are observed by the regulators in their approach to the prosecution of health and safety offences. The HSE Enforcement Policy Statement makes it clear that prosecutions should be in the public interest and where one or more of a list of circumstances apply.

These include:

- Where death was a result of a breach of the legislation;
- There has been reckless disregard of health and safety requirements;
- There have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance; or
- False information has been supplied wilfully, or there has been intent to deceive in relation to a matter which gives rise to significant risk.

Find the text to the Act at: [Health and Safety \(Offences\) Act 2008](#)  
HSE enforcement pages including [Enforcement Policy Statement](#)

## **HSE starting to back away from intervention in stress cases**

In a recent keynote speech to a conference organised by the International Institute of Risk and Safety Management (IIRSM), HSE Chief Executive Geoffrey Podger began to distance the HSE from enforcement and intervention into work-related health disorders that were stress-related. He said that such conditions may have both work and non-work related causes, and this raises difficulties for the HSE. It looks like the HSE are having some problems with work-related stress and its implications.

You will recall we reported in our November newsletter that the HSE's research shows that, after 4 years of the much-vaunted Stress Management Standards, there has been little if any change in the number of employees describing their work as "very" or "extremely" stressful. We await further developments in this area with interest.

## **City of Bristol College in the dock again**

City of Bristol College has been prosecuted again for a health & safety offence. The College pleaded guilty to breaching Section 3 (1) of the Health and Safety at Work Act at Bristol Magistrates Courts on the 8<sup>th</sup> January 2009.

City of Bristol pleaded guilty to serious breaches of duty under health & safety legislation in April last year. In that incident, UCU member Gary Baird was severely injured when a bottle of concentrated nitric acid exploded in his hand. Read the [TES report](#) at we included this matter in our March and May issues last year.

This time the HSE prosecuted the college, and the charity they were working with, after a team of volunteers were exposed to asbestos-containing material during a renovation project. They had removed a partition wall using hand tools and electric sanding machines, which resulted in the release of large amounts of dust and contamination. The wall was made from Asbestos Insulation Board (AIB) and the premises had to be isolated and expertly cleaned-up. The volunteers were taking part in a Prince's Trust Team Programme managed by City of Bristol. The college was fined £10,000 and ordered to pay costs of £18,922.53 and the charity was fined £4,000 and ordered to pay costs of £6,000.

See the [COI and HSE press release](#) for the full story.

## Asbestos

The City of Bristol case shows that asbestos continues to be a potential problem; there could be asbestos material in any building built between the 1880's and the 1980's. UCU is aware of one other current asbestos issue in the HE sector.

A key statutory duty on employers, under Regulation 4 of the Control of Asbestos Regulations, is to draw-up a management plan to deal with any asbestos in buildings they own or control,. A major part of this plan is to identify the location of asbestos. The HSE has issued a [guidance leaflet for employers](#).

Where they are present in the workplace, asbestos-containing materials should be clearly labelled and recorded in the workplace plan, but if there is uncertainty about any material, the law requires the employer to assume it is asbestos until a definite diagnosis is made. The guidance to Regulation 4 encourages employers to involve safety representatives in all the processes of drawing-up the management plan. If there are problems related to asbestos in your institution, check the [UCU Fact sheet on Asbestos](#), particularly the one that outlines what employers have to do to manage asbestos, at [Management of Asbestos in the Workplace](#)

Further information available from the [TUC H&S – Asbestos](#) page and from the [Hazards at Work manual](#)

The HSE is currently running an awareness project aimed at small trades people – particularly plumbers, electricians and joiners – workers who are most likely to disturb asbestos materials when doing maintenance or new installations. The [HSE microsite for Asbestos](#).

## Upper limb disorders

This is advance notice to remind everyone that 28<sup>th</sup> February is International RSI day. Many academic and related staff spend a lot of time using computer workstations, with all the potential risks they pose for damage to muscles, tendons and tendon sheaths, and joints. The law requires employers to adopt the workstation and most other standards contained in the Display Screen Equipment Regulations for anyone whose workstation has a screen and input devices like a mouse or trackball. You don't have to be a designated user under the Regulations for the standards to apply.

RSI day is a good opportunity to plan and undertake a workplace inspection focussed on DSE equipment. The HSE guidance to the DSE Regulations contains an excellent workstation checklist that reps can use for inspection purposes. Your employer should give you access to such information, as it is a facility and assistance you require – so ask them to give you a copy. Check with members what workstation assessments have been done; check for specific problems that need to be raised with management.

The HSE has issued a free general guidance leaflet on [Working with VDUs](#). Check the HSE website for other materials on [Display Screen Equipment](#)

UCU can supply copies of a checklist if you do organise an inspection – e-mail [jbamford@ucu.org.uk](mailto:jbamford@ucu.org.uk)

## You and your HSE Inspector

We will shortly publish a new fact sheet on working effectively with the HSE inspector responsible for your institution. Keep your eye on the website for it. We will post it with the next newsletter.

## Noise – Schools and Colleges

Hot off the press – information and guidance on [Noise in Schools and Colleges](#). The link takes you to the HSE news website – this one takes you directly to the main source, [Sound Advice in Schools and College](#)

This main source is primarily concerned with noise exposure in the teaching of music; but there are other examples where noise can be a problem:

- Craft and engineering workshops with metal cutting – plasma cutters are particularly noisy;
- Welding;
- Woodworking machinery;
- Vehicle bodywork and repair workshops; and
- Construction sections where disc cutters are used for paving etc.

There are lots of links from this page to risk assessment, standards and other issues. Unfortunately the guidance makes no mention of the single most important provision of the Noise Regulations; that ***the involvement of trade union safety reps is a STATUTORY DUTY on the employer, NOT just guidance.***

Regulations 5, 6 & 7 all place a duty on the employer to consult with or involve the safety reps:

- In the noise assessment process (Regulation 5);
- In the planning of control measures (Regulation 6); and
- In the provision of personal protective equipment. (Regulation 7)

Despite the site being about noise in music teaching, the standards and processes and potential for harm are common to all situations where excessive noise is generated.

## Fire Safety information

Fire Safety Engineering (FSE) describes itself as the definitive magazine and website for fire professionals. Last week they sent UCU health & safety an e-mail telling us we were signed-up for their new, free, weekly e-mail; something we was completely unaware of! We've just received the first issue, and it's OK, and it's free.

You can sign-up to the free weekly e-mail by clicking on the link near the top left-hand corner of the homepage available at [Fire Safety Engineering website](#). There is an interesting article on fire safety at Cambridge University further down the page, which describes how their new fire safety officer has started to deal with some of the complexity of fire precautions in a university. Looks like this newsletter might be helpful in keeping reps up-to-date on fire safety issues and developments.

UCU doesn't endorse the magazine or website, or any of the products they refer-to or advertise – but like many commercial and industry/trade sites, it can be a useful source of up-to-date information. It's possible that some college or university safety officers subscribe to the magazine – you should ask, and request access to it if they do.

## National Training - Health and Safety Stage 1 course

The UCU Health and Safety Stage 1 programme 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 skills needed to perform the job of a health & 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 courses are being **held in London** (please note that **modules 1 must be completed before you can attend modules 2 – 5.**)

<b>Module 4</b>	<b>Dealing with Accidents/Hazards</b>	<b>11 &amp; 12 Feb 2009</b>
<b>Module 5</b>	<b>TU Action to Tackle Stress</b>	<b>17 &amp; 18 Mar 2009</b>
<b>Module 1</b>	<b>Health &amp; Safety Induction</b>	<b>6 &amp; 7 April 2009</b>
<b>Module 2</b>	<b>Understanding H&amp;S Law</b>	<b>12 &amp; 13 May 2009</b>
<b>Module 3</b>	<b>Using your rights as H&amp;S rep</b>	<b>10 &amp; 11 June 2009</b>

For further information please visit the UCU website at [www.ucu.org.uk/training](http://www.ucu.org.uk/training) or contact Abbie Jenkinson at [ajenkinson@ucu.org.uk](mailto:ajenkinson@ucu.org.uk)

The following courses are being **held in Birmingham**

<b>Module 3</b>	<b>Using your rights as H&amp;S Rep</b>	<b>20 &amp; 21 May 2009</b>
<b>Module 4</b>	<b>Dealing with Accidents &amp; Hazards</b>	<b>Dates TBA</b>
<b>Module 5</b>	<b>TU Action to Tackle Stress</b>	<b>Dates TBA</b>

For further information regarding courses in Birmingham, please either visit the UCU website at [www.ucu.org.uk/training](http://www.ucu.org.uk/training) or contact Lesley Foley at [lfoley@ucu.org.uk](mailto:lfoley@ucu.org.uk)

## 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 three 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.

<b>Telephone number</b>	<b>0161 636 7558</b>
<b>Email</b>	<b><a href="mailto:healthandsafety@ucu.org.uk">healthandsafety@ucu.org.uk</a></b>
<b>Postal</b>	<b>John Bamford UCU Health and Safety Advice Line Greater Manchester Hazards Centre Windrush Millennium Centre, 70 Alexandra Road Manchester M16 7WD</b>

Don't forget to visit the [UCU Health and Safety web page](#)