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1. **School staff and children at risk from asbestos**

A report released on the 21 September by the Health and Safety Executive on 'system built' schools highlights the need for better asbestos management.

The report says that although the majority of local authorities are complying with official guidance, a significant number are not managing their asbestos effectively. Out of 42 schools inspected, a quarter were failing to manage asbestos effectively, and the inspectors issued 18 improvement notices and one prohibition notice.

Problems with system building have been known about for years, and UCU H&S has previously circulated information. Asbestos material was used to insulate roofs and walls, and asbestos packing material was often used to seal between concrete panels and around windows and doors. Dangerous levels of asbestos fibres can be released when doors are slammed or walls hit. Some occupational hygienists believe that in both system built and more traditional buildings, the natural movements caused by expansion and contraction may also release fibres into the atmosphere.

System built premises were mostly used by local authorities, so former local authority institutions - colleges and post-92 universities - may still have these kind of buildings. Worth checking with your employer if any older prefabricated buildings are those that contain asbestos, and if they are, that there is a suitable management plan in place. See the Control of Asbestos at Work Regulations (Regulation 4) for the duty on employers to manage asbestos. Download "The management of asbestos in non-domestic premises, Regulation 4 of the Control of Asbestos Regulations 2006" at <http://www.hse.gov.uk/pubns/books/l127.htm>

See <http://www.edexec.co.uk/news/1346/schools-at-risk-from-asbestos/> for further comments from the Asbestos in Schools campaigner Michael Lees.

2. New Stress guidance for employers

Once again employers are being reminded it is in their interests to prevent and manage stress at work, as a new guide, "Work-related stress: What the law says" is launched. The guidance highlights the potential legal risks they face if they ignore their responsibilities in this area. Published at the end of September by the Chartered Institute of Personnel and Development (CIPD), with support from the HSE, ACAS and the cross-government Health, Work and Wellbeing programme, the guide spells out employers' legal obligations to identify and prevent stress at work. Author John Hamilton is Head of Safety, Health and Wellbeing at Leeds Metropolitan University. Download from the CIPD website free of charge at

http://www.cipd.co.uk/subjects/health/stress/_work-related-stress-what-law-says.htm CIPD promotional 'blurb' says the guidance "*provides a starting point in understanding the legal requirements and suggests actions for employers to take so that they not only comply with the law, but also improve the working conditions of all employees.*" So what can we expect?

- The guide relies on the cost saving and productivity increasing effects of ensuring a stress-free workplace to persuade employers; yet the HSE and others have relied on these cost-benefit arguments for years, and there is precious little evidence that they are effective. See, for example, HSE-commissioned research that found that the current occupational accident and health insurance arrangements do not provide an incentive for employers to improve occupational health and safety standards. Neither do employers cite the cost of work related ill-health and injury as a motivator for improving standards of health and safety management, probably because employers bear very little of the cost of work-related harm – the state, victims & their families and insurers pick-up most of it. UK employers do not provide much in the way of rehabilitation and serious occupational health support, which means the costs are even less of a burden on them.

http://www.hse.gov.uk/research/crr_pdf/2002/crr02436.pdf

- The guide correctly focuses on employers using the HSE Stress Management Standards as a basis for risk assessments as the solution to the problems, and instances the HSE Improvement Notice for failing to undertake stress risk assessments that was issued against West Dorset NHS Trust in 2003. For an example from our sector see the more recent one issued against Liverpool Hope University (and their slothful response) in 2009. For details of that breach, and the failure of Liverpool Hope to comply within the original time period visit the HSE notices database at

http://www.hse.gov.uk/notices/breach/breach_list.asp?ST=B&SN=F&EO=%3D&SF=NN&SV=301840356

- It quotes 3 successful compensation cases, but no cases of formal enforcement - not surprising given the HSE's management instructions to inspectors that the only enforcement action they can take over stress is to ensure employers conduct risk assessments – see

<http://www.hse.gov.uk/foi/internalops/fod/inspect/stress.pdf> Workers don't

want to be made ill then compensated, they want employers who behave in ways that protects their health.

- The guide says that one of the factors that will help to determine whether harm is foreseeable is “..any other non-work factors that may be contributing?” The process of risk assessment is the key way that employers determine what causes harm – and therefore is key to “foreseeability”. Assessments should identify and deal with the factors present **in the workplace, under the control of the employer and which have the potential to harm workers**. An individual’s personal circumstances make no contribution to that process. Regulatory-compliant risk assessments must focus on the factors present in the workplace that have the potential to cause harm to all – that’s what it needs to expose and deal with. Even the HSE says the focus has to be on organisational factors, not individual, and advises its inspectors accordingly. This kind of guidance has the effect of giving employers another excuse to complain about the impossibility of the task “because everyone is different!”
- The statement “As an employer you are required to take reasonable steps to prevent work-related stress affecting employee health **once you are aware that it is affecting them**” is an incorrect interpretation of the duty on employers. The employer’s duty is to ensure the workplace is safe and without risks to health – that means provide a working environment free of those things that cause stress. The principle work-related causes of stress are well known; ensuring they are not present ensures that injury is prevented. Neither can we see the point of the inclusion of the word “reasonable” here; what would be ‘unreasonable’ in these circumstances?
- The document only mentions trade union safety representatives in passing. It makes no reference to the SRSC Regulations, and the duties on employers to consult with safety reps; nowhere does it even hint at the HSE’s enthusiasm for worker involvement and continual encouragement to employers to involve safety reps. It refers to the HSE guidance HSG 263 to employers, rather than the substantive SRSC Regulations and associated ACoP and guidance. More advice to employers to involve and consult with trade union safety reps and to remind them of their duties towards safety reps would be welcome. Coming from someone who works in a post-92 HE institution where union membership levels tend to be better than the average and there is a long-standing tradition of collective bargaining and negotiation, this is inexcusable. Or does it just reflect managerial practice at Leeds Met?

This document breaks no new ground and takes us no further forward. It is couched in language designed not to frighten employers, and does little to encourage them to behave better, especially towards our union representatives. Its cagey qualification that everything should be reasonable doesn’t strike a chord with those workers who experience the unreasonableness of excessive workloads, diminishing levels of control over their working lives and bullying management cultures. Could do better.

3. Where the NHS leads, others will follow

Staff at a Manchester NHS trust who take more than an agreed number of days off sick are to lose their annual pay rises, it has been reported in the journal Occupational Health. Central Manchester University Hospitals NHS Trust says it will refuse salary increases to workers who have taken more than 18 days off sick or have had four separate sick absences. You can read the report on the Personnel Today website at

<http://www.personneltoday.com/articles/2010/09/29/56639/sick-nhs-staff-threatened-with-pay-curb.html>

A statement from the trust said: "The trust will be operating in a challenging financial environment over the next few years. In order to protect the development of our services and safeguard the employment of our staff, we need to increase our productivity and efficiency to ensure we can continue to deliver quality clinical services while making financial savings of around £30 million for each of the next four years."

The move has been heavily criticised by unions, with UNISON arguing the measure could put the trust in breach of workers' contracts of employment. UNISON has said it will take legal action on behalf of all affected staff. A spokesman is reported as saying "There is nothing in existing contracts that says staff can be denied annual incremental rises on grounds of taking too many sick days. If the trust goes ahead with this, there will be infection-carrying staff dragging themselves into work to pass on their illnesses to patients."

Note that this is a **university** hospital. I'm impressed with the advances in health prediction that this appears to be based on, and I like the concept that you can "agree" with your employer when you are going to catch some dreadful disease or be injured at work, and require time off. Another HR triumph.

Very clearly this decision owes more to financial and absence management considerations than to either staff or patient welfare. It's a gross form of disciplinary action against workers whose very job exposes them to a higher level of risk of ill-health than many others face. Now that the ConDem's have announced the demise of PCT's and the effective privatisation of the distribution of NHS finances under the control of small private businesses, the GP's, it's time to read 'NHS: plc' by Professor Allyson Pollock, if you haven't already done so. It is still a cracking read even if a couple of years out of date in such a rapidly changing sector. In order to be able to manage this privatisation, GP's will be helped by management and financial consultants. The big four accountancy - consultancy companies must be rubbing their hands; the unpaid salary awards in Manchester should help to line their pockets.

The NHS Support Federation has organised a petition to protest about the proposals in the white paper to break-up and further privatise the NHS. You can sign this at

<http://www.nhscampaign.org/white-paper-comment/e-petition.html> and please, pass the link on to friends, colleagues, Branch members, Uncle Tom Cobleigh and other family members, and, if you know any, members of the political parties as well as your MP.

A good example of how managerial decision making, conditions of service matters and staff health and welfare are inextricably inter-twined.

4. Recovery from work

Here's an interesting report from the University of Surrey, with a different slant on the need for workers to take a break during the working day. This is something that UCU reps should think about in terms of linking to workload agreements and issues – and how rest breaks are part of the control measures that can be implemented following a workload risk assessment.

<http://www.shponline.co.uk/features-content/full/worker-fatigue-the-recovery-proposition>

5. Student numbers in workshops

Since the start of term, we have received a number of enquiries regarding the maximum number of students that are permitted in craft workshops. Reps have said that employers are increasing the number of students on craft courses without corresponding increases in the resources and facilities. This has led to what lecturers believe to be an increasingly unsafe and higher risk environment, as more students make supervision and discipline more difficult, and the increased numbers mean less room to work safely.

The Workplace Health, Safety & Welfare Regulations 1992 require that there is a minimum of 11 cubic metres per person in any workroom, although the accompanying Approved Code of Practice specifically exempts room used for “lectures” – so a moot point for debate – is a craft lesson a “lecture”? The Workplace Regulations also require that workstations are laid out to permit the work to be done safely, and to ensure there is sufficient room to work safely; and fire precautions require there are clear routes to fire and emergency exits. There are no prescribed numbers for workshop groups – although 20 appears to have been the number established by custom and practice over the years. The safe number should be determined by the employer's risk assessment, which must take into account the legal standards, such as they are; the nature of the work; the kind of work equipment and materials being used; and any factors related to the students themselves (things like behavioural problems or learning difficulties). Where young people are concerned, the Management Regulations require employers to take special care and ensure their risk assessments reflect young people's inexperience and lack of awareness of danger.

This approach could well mean that the safe number is below 20. UCU safety representatives should be involved in the risk assessment process, to ensure no hazards are missed; that the calculated level of risk is appropriate; that the control measures are adequate and suitable, and to generally constructively criticise the process. Employers have a duty to consult with safety reps on any matter that may have a substantial impact on health and safety – and as risk assessment is **the** way employers must use to ensure the workplace is safe, that's clearly pretty substantial.

A new factsheet on student numbers in workshops is available from dhendry@ucu.org.uk and will be available on the website (see the full list at <http://www.ucu.org.uk/index.cfm?articleid=2424>) under the sub-heading "In the workplace" in due course.

6. Lord Young's Report

Some of you may have heard all the fuss on the news on Saturday last (2 October) about Lord Young's report into 'elf 'n safety and compensation **but still no sign of it!** What *is* going on?

But never mind, it was another opportunity for the radio and TV to mimic the tabloid obsession with the constant trivialisation of the topic. As the day went on, the BBC bulletins couldn't decide whether to use the phrase "alleged compensation culture" or "the burgeoning compensation culture". Nice leak by the Tory spin doctors, got another whole day focussed on a non-event – so they get a further bite of the cherry whenever the good lord does produce his report.

The BBC quotes him as saying "It's been the same laws that apply to a heavy manufacturing or chemical plant, apply to an office, to a shop and to a classroom and that is nonsense." But David, my old mate, that's not the nonsense. The real nonsense is your complete intellectual inability to understand the concept underlying the Health & Safety at Work Act (HASAWA) and many of the Regulations made under it. You have obviously done nothing with your pre-course reading list, top of which is the Robens Report published in 1972 by HMSO, which outlined the principles on which regulatory standards should be based, and which is the basis for the Act. The HASAWA is 'enabling' legislation – it enables the regulatory standards to be flexible enough to cater for all kinds of workplace, not just factories. It is flexible precisely because it is intended to deal with a nuclear installation, a foundry or a small office or classroom. Approximately 8 million workers were brought under the HASAWA umbrella in 1974 – that's 8 million workers who, until then, were completely unprotected by any occupational H&S legislation. No wonder lots of employers complained. As further evidence of his naivety, the BBC also reports that Young believes that pubs are low risk workplaces – he obviously hasn't used some of the ones that I've been in over a long and sustained drinking career!

As an interesting aside, the evidence submitted to Robens by the Committee of Vice Chancellors and Principals of the Universities of the UK argued that Regulation was inappropriate for universities, that a code of practice was better, and proposed self-regulation rather than enforcement for themselves, although they graciously conceded they would accept advisory visits by HM Inspectors. Would they still say the same today, I wonder? (Safety & Health at Work: Report of the Committee 1970 – 72. Volume 2; Selected written evidence pp 156 - 158)

<http://www.bbc.co.uk/news/uk-politics-11454241> for more on this everlasting tale of obfuscation and delay.

7. Forthcoming events

i) Reminder - National Inspection Day 27 October

Don't forget that this is the day when we encourage all UCU safety reps to join the TUC mass-inspection campaign. See the September issue for full details and links to a wide range of resources http://www.ucu.org.uk/media/docs/t/p/No_41.doc . Notify your employer now and get ready to make your presence felt with members, staff and management.

ii) Ban bullying at Work Day 7 November

Plenty of time to download and print the UCU anti-bullying posters and get some up around the workplace. We encourage Branches and LA's to organise some event – perhaps a lunchtime meeting; an e-mail to all members about the day and encourage incident reporting; an evaluation of the existing bullying and harassment policy and how well it works – something to remind employers that this remains an important issue in many workplace and where bullying exists, it needs to be addressed effectively and stopped.

8. UCU Training for safety reps

Being a UCU appointed health and safety representative means you enjoy a range of statutory functions which help you monitor conditions and issues in the workplace, and raise these with the employer. Your employer also has a legal duty to assist you with those functions, by permitting you to take paid time-off from your lecturing job to undertake safety reps duties and to undergo union-approved training.

To find out more about being a UCU health and safety rep and to see what training is available in your region, go to <http://www.ucu.org.uk/index.cfm?articleid=4918> and <http://www.ucu.org.uk/index.cfm?articleid=3140> .

Contact UCU Health & Safety Advice

UCU Health & Safety Advice is provided by the Greater Manchester Hazards Centre, and is available for 3 days each week during extended term times. The contact person is John Bamford: (e) jbamford@ucu.org.uk (t) 0161 636 7558

Visit the [UCU Health and Safety web page: http://www.ucu.org.uk/index.cfm?articleid=2132](http://www.ucu.org.uk/index.cfm?articleid=2132)