

## Contents

- 1 Fire Safety
- 2 UCU Stress and Bullying Week
- 3 HSE "disappointed" by increased injuries and death
- 4 The Lofstedt review – you can contribute
- 5 UCU Congress
- 6 Employers eh – they provide hours of fun
- 7 Training

This is the final H&S news for the year. UCU health & safety advice will sign-off for this year on 21<sup>st</sup> July, and we'll be back in harness in mid-September. I'll spend most of the summer working on a fairly extensive edit of the TUC Hazards at Work manual for the 2012 issue. I'll monitor the e-mail box occasionally during this period, but please don't rely on this for urgent advice; if you need help, contact your Branch, LA or regional office for assistance. For those of you coming to the Hazards Conference in September, I look forward to seeing you there. With delegates, facilitators and contributors, there should be about a dozen or so of us from UCU.

Do have a good and relaxing summer break, and hope to see you all back on line in September.

## 1. Fire Safety

### a) Fire precautions weaknesses still apparent

I'm sure some of you wonder why I keep banging-on about fire precautions, but this report from the Fire Industry Association (FIA) is one reason. The FIA says that UK employers are risking their employees' safety by cutting back on fire precautions. Almost a fifth admitted delaying maintenance checks of fire safety equipment, reducing staff training or delaying updating their fire risk assessments. This is despite the fact that 20% of them also admitted to already having had a fire in their premises.

16% admitted to not having an up-to-date fire risk assessment and a quarter don't even know who does their fire risk assessment. In addition, 8% of employers confessed that procuring services at the lowest price was most important to them when it came to fire safety.

More worrying was that a third of staff don't know what to do in the event of a fire. Over half of the staff surveyed said they don't know how to use a fire alarm and a quarter of workers don't know where their nearest fire exit is, whilst a third don't know where their fire assembly point is. 82% of employees said they would like more training on fire safety, and a significant minority didn't believe their employer had any effective protection in place at all.

The FIA reminded employers that they could face huge fines or imprisonment for fire safety failures such as failing to keep fire risk assessments up-to-date; the report says that over half of employers don't fully understand the penalties that could be imposed on them.

We know that many educational institutions don't have regular fire drills – one UCU rep reported last year that she'd been at the college for 7 years and never been involved in a fire drill. Another recently told me that staff on the upper floors of a university building didn't evacuate when the alarm went off, but telephoned the reception to ask if it was a real fire or a drill; on being told it was drill, they remained in the building. Many employers:

- don't have suitable and sufficient fire risk assessments in place;
- don't conduct regular fire safety training and practice evacuations;
- don't keep proper records of practice drills and training where they do take place;
- don't involve our reps in practice evacuations; and
- don't consult with our safety reps on the appointment of fire marshalls and wardens as they are required to under the SRSC Regulations.

That's a lot of employer weakness to address. There have been some huge fires at university buildings over the years where we are fortunate there have been no resulting injuries or deaths. So the sector's record on injury caused by fire is pretty good, despite there being considerable weaknesses in procedures and training, but that shouldn't lead to employer complacency.

Make Fire Precautions the focus for your next workplace inspection – use our basic checklist that covers the key general points – download it from [http://www.ucu.org.uk/media/docs/6/t/ucu\\_firecheck\\_revmar11.doc](http://www.ucu.org.uk/media/docs/6/t/ucu_firecheck_revmar11.doc) See also Item 3 in the last H&S News for links to the official guidance on fire precautions for the education sector - [http://www.ucu.org.uk/media/pdf/3/4/ucu\\_hsnews50\\_jun11.pdf](http://www.ucu.org.uk/media/pdf/3/4/ucu_hsnews50_jun11.pdf) to help you identify the appropriate standards for effective protection.

## **b. The bitter bit!**

Here's an amusing twist in a privatisation of public assets story. Believe it or not, the London Fire Brigade (LFB) doesn't own any fire engines or other fire fighting equipment. Their equipment supply was put out to private tender (no pun intended) some years ago to a company called AssetCo, who thought they saw a chance to make "loadsamoney" out of the public purse. They got a 20-year contract to provide LFB with equipment, including 500 fire engines and another 50,000 various pieces of fire fighting equipment. Leasing that lot back to LFB should bring in a bob or two, they reckoned. Perhaps more importantly for organised workers, their contract extended to supplying scab labour in the event of an FBU strike. AssetCo also own about 150 fire engines used by the Lincolnshire Fire Service.

Now it appears that AssetCo is in serious financial trouble. In the best traditions of a rampant so-called free-market economy, their greed and incompetence and the actions of stock market gamblers have caused its share price to collapse; it is now fighting a winding-up order, the chief exec has been sacked and several directors have resigned. In the event AssetCo does finally go "belly-up", its assets could well be sold-off– that's the fire engines and other equipment it owns – so creditors and investors can get their hands on what's left of the money they think they are owed. Just another example of how money matters more than the lives of people who might die in a workplace or domestic fire.

"Google" AssetCo for more scandalous details; other reports include HMRC (Inland Revenue & VAT) difficulties; legal in-fighting between directors over who gets hundreds of thousands of disputed company cash; and foreign-owned banks sniffing around the spoils, but see for example

<http://www.guardian.co.uk/business/marketforceslive/2011/mar/24/assetco-boss-ousted-in-survival-battle> . That's public service twenty-first century style for you. This collapse looks like another very large and rusty nail in the coffin of PFI deals.

We may soon see Fire Brigades Union members in London and Skegness walking to the next job carrying a bucket of water. So, if you live or work there, be careful when using the chip pan or dropping your cigarette end. And please give a firefighter a hand with that heavy bucket!

## 2. UCU Stress and Bullying Week

In the June issue we reported plans by the Stress & Bullying Working Group to promote a campaigning week in November, from Monday 7<sup>th</sup> to Friday 11<sup>th</sup>. The NEC has now approved this activity.

Stress caused by many factors, including excessive workloads, institutional change and bullying and harassment happens in many institutions, as the preliminary figures from the 2010 UCU survey again show, and bullying is one of the ways employers and managers use to force our members into compliance with their decisions. This isn't just a one-off awareness-raising activity; I think most of our members are only too well aware of the causes of stress and related illness, and the adverse effects it has on our physical and mental health and general welfare.

Our intention is to make this campaigning week the start of a serious and sustained effort to tackle the causes of the most common health and welfare problems that many UCU members face, and help us develop a long-term strategy to tackle those problems. It's important to emphasise that this can only happen at the institutional level – where the unions can influence and enforce decent standards of employer and managerial behaviour that don't threaten the health of our members and others. It's also important to emphasise that the remedies lie in our own hands. The legal duties imposed on employers are just not effectively enforced; HSE instructions to inspectors are to do very little enforcement of stress-related issues, and HSE inspectors have now been told that universities and colleges are no longer to be included in the list of workplaces that are pro-actively inspected to check standards.

We also want the week to show that UCU activity around a major health and welfare issue can make a real difference – and publicising our successful interventions can help to improve member recruitment. The more members we have, the better organised we can become.

If you want a speaker to come along to a Branch or LA meeting, a special meeting, run a short workshop on how we organise, contribute to a debate etc. let me know. I welcome the opportunity to participate in local activities, but there are only 5 days in the week, so I would be spread pretty thinly; but if you want me to come along to an event outside the week, that's also possible. I might also be able to help in finding someone else to contribute, so just ask.

In addition to organising some local campus activity during the week, for the longer term, Branches and LA's need to develop a strategy for improving working conditions, building on the foundations of the campaigning week. This should include:

- taking a critical look at our local organisation for ensuring the working environment is safe and without risks to the health of our members, and identifying where we need to improve;
- ensuring employers have real commitment to overcoming the causes of stress, including bullying and harassment;
- looking at ways to identify those work factors that cause stress and related illness, and how they can be effectively reduced;

- reviewing and evaluating employers current policies and procedures, and putting forward revisions for negotiation so they are not just words on a page, but a stimulator of real workplace action;
- extending and improving the way the employer involves UCU representatives in dealing with the issues; and
- how we adopt an industrial relations and collective bargaining approach to dealing with these issues that can deliver results.

We will be producing campaigning materials for local use prior to, and during the week, and that will be circulated to Branches and LA's nearer the date.

### 3. HSE "disappointed" by increased injuries and death

I've already circulated the HSE has provisional data for the year April 2010 to March 2011, which shows the number of workers killed was 171, an increase on the previous year, when 147 died (the lowest number on record). The rate of fatal injury is now 0.6 per 100,000 workers, up from 0.5 per 100,000 workers the previous year.

In her press release accompanying the figures, Judith Hackitt, the HSE Chair, has stolen a line that the Hazards Campaign first used – the one that refers to workers failing to come home to their loved ones. She said that

"The increase in the number of deaths in the last year is disappointing, after an all time low last year. However, we must remember that we still have one of the lowest rates of fatal injury anywhere in Europe.

"The fact that 171 people failed to come home from work to their loved ones last year reminds us all of what we are here to do. It is a stark reminder of the need to ensure that health and safety remains focused on the real risks, which exist in workplaces not on trivia and pointless paperwork."

Despite denying complacency, the HSE continue to say that the UK has the lowest rates of fatal injuries in Europe as though constant repetition will make it true. Inclusion of more statistical data would undermine that claim, as many researchers (including UCU members) and campaigners have already shown. We wonder how the designation of colleges and universities as low-risk workplaces, and the huge reductions in HSE pro-active workplace inspections will promote this focus. We also wonder how much it may have already contributed to the rise in fatalities. In our view, the HSE's "disappointment" looks likely to continue into the future as their enforcement effort is reduced.

Given the HSE's effective withdrawal from any regular policing of employers in our sector, we need to think seriously about how we put pressure on the HSE, and how we ensure that we can organise to do what is necessary to try to fill the gap left by HSE withdrawal. This will be the key theme at the Hazards Conference in September; UCU has a number of delegates attending, as well as a number of workshop facilitators and speakers. We hope to produce some ideas and an outline strategy for workers to develop their organisation to increase our impact and effectiveness. Watch for the first issue in the new academic year for a report.

The HSE has also revealed there has been an increase in the number of so-called "near-miss" reports. It says it takes this increase as "a welcome sign of increased awareness amongst staff leading to a richer source of information about safety performance". We think they should be more aptly described as "near-hit" reports – they do actually "miss" injuring someone; and they could as easily have increased because there are more of them now.

## 4. The Lofstedt review – you can contribute

The quality of the Lofstedt review process seems very much open to question. The hyperbole around it calls for “evidence”, and invites responses to a number of questions. The problem is that he isn’t really asking for evidence, he’s asking for opinions and suggestions. If I was giving this kind of evidence in court, I’m sure the barrister would say “But Mr. Bamford, that’s your opinion, not evidence!” For more information, the official call is at <http://www.dwp.gov.uk/docs/lofstedt-call-for-evidence.pdf> and a Hazards view at <http://www.hazards.org/greenjobs/blog/2011/05/30/deregulation-is-really-a-workplace-death-wish/>

Here are the 10 questions Professor Lofstedt wants you to respond to:

**Question 1:** Are there any particular health and safety regulations (or ACoPs) that have significantly improved health and safety and should not be changed?

**UCU model response:** Yes – all of them. HSE commissioned research Report 385/2001 “The impact of the HSC/E: a review” said this: “Legislation and associated guidance is a major form of leverage over employers in terms of bringing about change in their health and safety policies and practices. Most employers are motivated to change their practices to comply with the law.”

**Question 2:** Are there any particular health and safety regulations (or ACoPs) which need to be simplified?

**UCU model response:** In relation to what happens to people at work, not that we are aware of.

**Question 3:** Are there any particular health and safety regulations (or ACoPs) which it would be helpful to merge together and why?

**UCU model response:** A lot of that was done following the introduction of the “6-pack” in 1993, where, for example, the Workplace Health, Safety & Welfare Regulations collected together a range of standards for all workplaces, thus consigning dozens of older Regulations and orders to the dustbin. This principle now ensures that Regulations have a wide-ranging applicability – that is effective combination in practice.

**Question 4:** Are there any particular health and safety regulations (or ACoPs) that could be abolished without any negative effect on the health and safety of individuals?

**UCU model response:** Not that we are aware of.

**Question 5:** Are there any particular health and safety regulations that have created significant additional burdens on business but that have had limited impact on health or safety?

**UCU model response:** We are not directly aware of any additional employer burdens created by regulation, unless they see the general moral and statutory duties to protect their employees as burdensome. However, we do understand that where employers flaunt their legal responsibilities and duties, and there is no effective enforcement action in response to prevent such breaches of duty, then such failure of regulation will have an adverse effect on the health, safety and welfare of employees. That will certainly impose a burden on them.

**Question 6:** To what extent does the concept of ‘reasonably practicable’ help manage the burden of health and safety regulation?

**UCU model response:** Employers often emphasise and misinterpret “so far as is reasonably practicable” to mean “affordable” or to limit what they do to ensure an adequate control

regime. For example, in the tertiary education sector it regularly appears in employer's policy statements so as to imply there are limits to how the employer will treat the health, safety and welfare of employees related to some notion of excessive cost. More needs to be done to ensure employers understand the significance of "reasonably practicable" so they stop erroneously believing that it reduces or limits their legal obligations.

**Question 7:** Are there any examples where health and safety regulations have led to unreasonable outcomes, or to inappropriate litigation and compensation?

**UCU model response:** We don't know of any cases which have resulted in deaths, injury or ill-health resulting from an excess of regulation. We know of thousands of such cases where employers have negligently exposed their employees to risk and hazard by failing to comply with statutory standards – that is clearly an unreasonable outcome. You should review the prosecution cases and outcomes record of the HSE over the past 35 years for examples. As far as inappropriate compensation is concerned, the TUC estimates that only 10% of workers who are injured by their work get any compensation at all. That is inappropriate. The provision of an adequate no-fault compensation scheme should be in place to ensure all who are injured by their work have the resources necessary to help them through that period of injury, including the extra costs they may have to bear, and that compensation for resulting disability helps to maintain pre-injury standards of living.

We also know of many cases of damage caused by work-related stress, itself caused by excessive workloads, bullying and harassment by managers; constant changes that threaten livelihoods and the quality of working life where there is little or no regulation, and which employers deliberately fail to deal with; we consider that to be an unreasonable outcome too.

**Question 8:** Are there any lessons that can be learned from the way other EU countries have approached the regulation of health and safety, in terms of (a) their overall approach and (b) regulating for particular risks or hazards?

**UCU model response:** The system for ensuring the health, safety and welfare of employees across all EU countries is based on risk assessment, and the ability to regulate in appropriate ways across a wide range of employment circumstances – from a relatively benign workplace such as an office, to a physically hazardous workplace like a coalmine or steelworks, and everything in between. Differences may well be because of a regulatory failure rather than any inherent weakness or difference in the systems adopted in different countries. Good workplace trade union organisation means lower risk and fewer deaths and injuries. Effective inspection regimes and actions also mean better standards.

**Question 9:** Can you provide evidence that the requirements of EU Directives have or have not been unnecessarily enhanced ('gold-plated') when incorporated into UK health and safety regulation?

**UCU model response:** We challenge the concept of 'gold plating' in two respects. First, it implies that UK regulations have established a higher standard of protection than required by the original EU Directive, resulting in some ill-defined additional 'burden' on employers. If that were the case, we wonder what effect this would have had on the death, injury and ill-health statistics. Our belief is that they would rise. In fact, the UK Government has been challenged by the EU to upgrade a number of Regulations made in response to Directives as the standards established in the UK Regulations were insufficient to meet the standard required by the Directive. Three examples of this are:

1. The Management of Health & Safety at Work Regulations, where the hierarchy of control approach which requires employers to remove or control hazards at source as their primary action was not clearly set out, a new Regulation 4 was included in the 1999 revision;

2. The original Display Screen Equipment Regulations had application limited to “designated users” only, whereas the directive established standards for any DSE workstation and user; a key amendment to DSE Regulation 3 removed that reference, with subsequent amendments to Regulations 4 and 6, and
3. The UK government were warned (February 2011) that the Control of Asbestos Regulations did not comply with the standards in the Directive. The European Commission said that “the UK misinterpreted requirements on 'sporadic and low intensity exposure to asbestos' to justify the exclusion of considerable amounts of asbestos work from asbestos licensing, health assessments and exposure recording requirements. The EC announcement warns of court action if the government fails to act, and notes: “The UK legislation currently focuses on the measurement of exposure to asbestos and not enough on the how the material will be affected by the work itself, while the directive deals with both exposure and the material.”

On the other hand, ‘gold-plating’ implies a cheap mass-produced article that is of inferior quality that has been gilded to give a false appearance; this implies a higher quality than exists in reality. Quality is an illusion. Take your pick.

**Question 10:** Does health and safety law suitably place responsibility in an appropriate way on those that create risk? If not what changes would be required?

**UCU model response:** No it doesn’t. The law needs to provide that employers and senior managers in larger organisations are made individually responsible and liable for the health and safety performance of the organisation they own, control or manage. Currently, it is only small employers or one-person businesses where an individual will be prosecuted for manslaughter and held to account, because of the difficulty in larger more complex organisations of identifying what the law calls “a controlling mind”. This issue was never properly addressed when drafting the current corporate manslaughter legislation.

Workplace deaths should be treated in the same way as any other non-natural death, investigated by an enforcing authority and any culpable individual brought to justice. Where serious injury occurs because of employer failing, those who failed should be prosecuted for causing that injury. The case for individual’s duties in such circumstances has been made many times over; governments have chosen not to implement such legislation when they had the opportunity. Introduce legislation to control the behaviour of such owners, controllers and senior managers to further reduce deaths, injuries and ill-health.

**That’s Lofstedt’s questions. Here’s what you can do.** The advisory panel say they are keen to gather evidence from key stakeholders with an understanding of health and safety law to inform the review. The consultation period is now open. We in the trade union movement need to respond and provide evidence, including on the specific questions (see above) **no later than 29 July 2011** so that they can give sufficient consideration to this before reporting to the Minister in October. The TUC is producing a comprehensive response which will set out a lot of detail of the background to all this – we’ll circulate that when it has been completed, but that won’t be until shortly before the deadline.

Please provide **your** responses to the questions. You have to be careful; if they get standard responses, they just lump them together as a single response, so include a bit of variety; keep it simple like my “Not that I am aware of” responses; that kind of thing. Please include any other comments or evidence that you think would be helpful in informing the review. You can answer a single question, a few of them, or just make a more general statement – anything that will help Professor Lofstedt to understand that, far from being over-regulated, UK H&S regulation is painfully lacking in many respects, and that the “burden on business” argument is manufactured and not true. Once you have completed your response, please then email it to the DWP: [review.healthandsafety@dwp.gsi.gov.uk](mailto:review.healthandsafety@dwp.gsi.gov.uk)

Alternatively, please print out a copy and send it to: Health and Safety Review Team  
Department for Work and Pensions, Level 2B, Caxton House, Tothill Street, London SW1H  
9NA **Please ensure your response reaches DWP by 29 July 2011**

**Have a go. We can all produce something in 3 weeks.**

## 5. UCU Congress

Just to report that the fringe meeting on stress and bullying was well attended by almost 50 delegates, and some useful discussion took place. We also ran a fringe on Bodymapping led by Hilda Palmer, Chair of the Hazards Campaign; 14 people attended that, and an enjoyable, instructive, lively and participative hour ensued. You can find out more about Bodymapping, a DIY technique developed to help worker's representative find out about the existence or extent of work-related health problems, here <http://www.hazards.org/diyresearch/>

## 6. Employers eh – they provide hours of fun

It's often difficult to find something challenging to do over the summer once the Sudoku grids have been filled-in and the potboilers all read, so I thought you might like a little case study to ponder over the summer. A rare Hazards Campaign and Conference Badge as a prize for the best and most comprehensive answer – I'll be the judge of that – and I'll publish the winner in the September H&S News. The only proviso is that the UCU rep that raised this with me is, for obvious reasons, not permitted to enter the competition.

In the computer room, the computer tables, full of screens, keyboards, mice, cables etc. are lined up along the wall of the classroom under the windows. The windows provide the only ventilation in the room, but cannot be reached over the desks. The only way they can be reached to open or close them is to climb onto the desks and lean over. The cleaners have refused to do this to close the windows because they say it isn't safe, and anyway, if any damage is caused to the equipment, they will be blamed. Management have given way to the cleaner's objections, and now instructed lecturers to close the windows (presumably by adopting the only way to do it, the unsafe system already refused by the cleaners), and if they refuse, they (management) have said they will lock the windows permanently shut. What are the issues, and what should be done? Points will be given for identifying issues (in the widest context), for quoting appropriate standards in legislation and guidance, and suggesting possible solutions to the problem.

Any response that includes the use of an AK47 is not permitted, however appropriate it might be. Bullet points or lists for the answers will be enough – no need for essays. Have fun!

## 7. Training

The forthcoming training courses for H&S reps are taking place in London:

### **Safety reps 1: Induction (Safety Reps role and functions)**

September 20<sup>th</sup> - 21<sup>st</sup> 2011

### **Safety reps 2: The management of health and safety**

October 24<sup>th</sup> - 25<sup>th</sup> 2011

### **Safety reps 3: Prevention of injuries and accidents**

December 6<sup>th</sup> - 7<sup>th</sup> 2011



## **Safety reps 4: Bargaining for health and safety**

January 10<sup>th</sup> – 11<sup>th</sup> 2012

You can register for all these courses at:

<http://www.ucu.org.uk/index.cfm?articleid=4918>

### **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](mailto: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>