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1) Even the budget has a dig at 'Elf 'n safety'

The deregulation of health and safety got a mention in Osborne's 21 March announcement of measures for 'supply-side reform of the economy, and I circulated information about that on 23rd March to the network. This is to keep it on the record.

Supply-side reform of the economy

Deregulation

2.238 Health and safety – *The Government will scrap or improve 84 per cent of Health and Safety regulation, including by: introducing legislative change in 2012 so that health and safety law will no longer hold employers to be in breach of their duties in civil law where they have done everything that is reasonably practicable and foreseeable to protect their employees; giving the Health and Safety Executive (HSE) authority to direct all local authority health and safety inspection and enforcement activity, in order to ensure that it is consistent and targeted towards the most risky workplaces. A code based on existing powers will be introduced in April 2013; amending the Health & Safety (First Aid) Regulations 1981 to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel. Revised guidance aimed at small business will be published by*

May 2012, and provisions repealed by October 2012; amending the Reporting of Injuries, Diseases and Dangerous Occurrences Regulation (RIDDOR) and its associated guidance to provide clarity for businesses on how to comply with the requirements by October 2013. This is in addition to the legislative change being made in April 2012 to extend to seven days (from three) the period an employee needs to have taken off work before an injury or accident needs to be reported; HSE redesigning information on its website in 2012 to distinguish between the regulations that impose specific duties on businesses and those that define 'administrative requirements' or revoke or amend earlier regulations; HSE providing further help to businesses by summer 2012 on what is 'reasonably practicable' for specific activities where evidence demonstrates that they need further advice to comply with the law in a proportionate way; aiming to start health and safety prosecutions within three years of an incident occurring by April 2013; HSE inputting ideas for micro-exemptions or lighter touch EU health and safety regulation for SMEs to the European Commission, based on ideas raised during the Red Tape Challenge; agreeing that the insurance industry will produce guidance for SMEs setting out what is and is not required to demonstrate compliance with health and safety law when obtaining insurance cover as agreed at the Prime Minister's insurance summit in February 2012; agreeing that the insurance industry also commits to challenge vexatious civil claims in order to tackle the compensation culture; and working with business and the ABI to build confidence in challenging such claims and ensure businesses have access to the right guidance and support.

Nowhere in all this do we see any concern for workers, the usual victims of employer negligence or failure. This is just more evidence that the government is conducting an ideological offensive against the health, safety & welfare of workers based on prejudice rather than reason. Professor Löfstedt talked about a 35% reduction based on a rationalisation approach; this immediately grew to more than 50% in the Government response to his review; now Osborne and the Treasury are talking about 84%. At this almost exponential rate of escalation, there will be nothing left by Christmas.

Safety & Health Practitioner magazine report that they contacted the Treasury to seek clarification, and says that a Treasury spokesperson confirmed that "167 of the 199 health and safety regulations considered as part of the 'Red Tape Challenge' will either be withdrawn or improved", although SHP reports she could not give a more detailed breakdown. UCU H&S isn't sure about the difference between scrapping and improving, but from what Cameron, Osborne, Duncan-Smith and Grayling have all said in the past, they obviously believe scrapping IS improving.

'Improvement' is a Humpty Dumpty word after all, and so far this government has not chosen to consult directly with workers or their representative organisations on any H&S matters, only with employers. Our improvements would be things that helped prevent the huge numbers of injury and death associated with work. That would include more safety rep functions, more powers to ensure employers act on our reports and recommendations, proper enforcement of safety reps functions, better protection from victimisation, and more Inspector visits and enforcement in workplaces, not less. If 84% of the duties imposed on employers are removed, what would be left? Is this the point at which trade union health & safety representatives come under attack, for instance?

2) Greedy insurers overturned again

On the 28th March, the Supreme Court ruled that “for the purposes of employer liability policies, the negligent exposure of an employee to asbestos during the policy period has a sufficient causal link with subsequently arising mesothelioma to trigger the insurer’s obligations to indemnify the employer”.

The judgement upheld appeals from Unite the union, employers and others concerning the liability of insurers to employers where their employees had contracted mesothelioma following exposure to asbestos. The insurance companies argued that they were not liable at the time a victim was exposed to asbestos; they only became liable at the point the disease developed. Since mesothelioma can take up to 60 years to develop, the insurance companies hope to avoid liability for compensation to the victims so many years after wrongful exposure. Nice one.

This case follows on from earlier attempts by insurers to avoid paying out against the risks they were happy to insure at the time. The most famous argument brought before the courts was that, as mesothelioma can be caused by one fibre, where a victim had worked for more than one employer who had exposed them to asbestos, it was impossible to determine which employer’s exposure had caused the disease; therefore, compensation should not be awarded against either. Up to that point, it had been accepted that liability should be shared between the relevant insurance companies, and pay a proportion of the compensation awarded. The government had to change the law to overturn that argument and return to what was essentially, a humanitarian status quo.

HSE figures show that around 3,000 people die of mesothelioma every year, all but a few with links to asbestos exposure, and the numbers continue to increase. Estimates are that they will peak around 2016, but possibly later, before starting to fall. Blue and brown asbestos was in fairly common use up to 1985 when its importation was banned. White asbestos and products containing it continued to be imported until 1999, when an EU ban finally stopped the use of this material.

3) Student behaviour

Towards the end of last year, we asked colleagues in FE to respond to a questionnaire about student behaviour in FE, part of a UCU project funded by LSIS (H&S News 54, December 2011) Since then, we’ve heard about a couple of student behaviour problems in HE, which left our members involved frightened and concerned. We’d like to know about any other such incidents, so if any Branches/LA’s in HE have examples of poor student behaviour that has affected staff, please let me know. jbamford@ucu.org.uk

4) Our little ‘Bullying or robust management’ questionnaire

First of all, thanks to those reps who managed to test our one-page questionnaire with a few members. We just wanted to know if it helped, and generally the response was that it did. One rep reported that a member who had experienced

exactly the kind of behaviour we asked about said he would have understood much sooner that he was being bullied had he seen it then. As a result of the test, we have made a few amendments, and this amended version will be considered by the Stress & Bullying Working Group at its next meeting at the end of April. We will then post it on the website.

There were lots of other useful suggestions which we have noted – at some point I hope we will develop something a little more detailed and focussed, but our original idea of a single page, quick response questionnaire should be maintained.

5) HSE cost-recovery scheme delayed

The HSE has announced that its cost recovery scheme, Fee for Intervention, originally planned to begin in April has now been delayed until October. Discussions are still taking place on the technical details of the scheme, which are expected to be concluded soon. This came about as a result of the government deciding that it is right that those who break the law should pay their fair share of the costs to put things right – and not the public purse. So will this principle be extended to other criminals – TWOC'ers charged police time and petrol for a high-speed chase, with helicopter supplement, for instance?

The intention of the scheme is to recover costs from those who break health and safety laws for the time and effort HSE spend on helping them to put matters right, investigating and taking enforcement action. For more details of what the government originally proposed, see <http://www.dwp.gov.uk/docs/good-health-and-safety.pdf>

An Inspector's time will be charged at an hourly rate of £124. Will it be tax deductible? HSE is pinning its hopes on having some of that money returned to them to help offset cuts in direct funding from the state. They could run a BOGOF promotion to get the scheme started! A pilot scheme has been running since November, and will continue. HSE says it is taking advantage of the extra time to work further with businesses to improve their understanding of the scheme and how it will affect them. How difficult can that be?

"Hello employer, it works like this, you break the law, the HSE inspector comes in, you get advice and enforcement action taken against you, it takes 4 hours, that's £496 please, yes we do take cheques. Need a receipt?"

HSE inspectors are apprehensive about the HSE's plans for cost recovery from organisations which have been found to flaunt health and safety rules. There is concern it may adversely affect the relationship an inspector has with an employer. Some are wondering if HSE inspectors are going to be set targets for income generation.

6) Work-related stress expected to rise across the EU

Job-related stress is a major concern for the large majority of the European workforce. 80% of the working population across Europe think that the number of people suffering from work-related stress over the next five years will increase, with more than 50% expecting this to 'increase a lot'.

The second European Opinion Poll on Occupational Safety and Health, conducted by Ipsos MORI on behalf of the European Agency for Safety and Health at Work (EU-OSHA), asked the opinions of over 35,000 members of the general public in 36 European countries on contemporary workplace issues including job-related stress, and the importance of occupational safety and health for economic competitiveness and in the context of longer working lives.

Rather surprisingly, the UK scored the highest percentage of workers who said they are 'very confident' that health and safety issues would not be ignored by their employer – 71 per cent compared with 40 per cent across Europe as a whole. Overall, 91 per cent of UK workers believe that a health and safety problem would be addressed, but employees in small companies are less confident than workers in larger organisations. That doesn't quite square with our experience as reps, from UCU stress surveys and the TUC biennial safety rep survey results.

The poll found that most Europeans (86%) and most European workers (86%) believe that following good occupational safety and health practices is necessary for a country's economic competitiveness, with 56% agreeing strongly.

Work-related stress is the biggest health and safety challenges facing Europe, representing a huge cost in terms of human distress and economic performance. The results revealed interesting national variations in those who expect job-related stress to 'increase a lot', with Norwegians least worried (16%) and Greeks most worried (83%). Will this lead to us seeing some research that will claim ambient temperature to be a significant cause of work-related stress, rather than employer misbehaviour?

EU-OSHA says that increased demands on workers as a result of the changing world of work means they need to focus on tackling psychosocial risks in order to help improve the lives of workers across Europe. Not, I suspect, if Cameron has his way.

http://osha.europa.eu/en/safety-health-in-figures/index_html#tabs-2

7) Employers must have an accident book; employees must use it

We have had a couple of enquiries recently about reporting injuries sustained at work. Our advice is that all injuries at work should be reported, however minor. If things go badly wrong, even a simple cut or minor burn can become infected, turn septic and cause blood poisoning, a medical emergency and potentially fatal. The risk is increased for older people. Regulations 24 and 25 of the Social Security (Claims and Payments) Regulations 1979 set out what workers and employers have to do. These Regulations apply to any workplace where 10 or more persons are employed. If the injury is one that falls within the definitions of RIDDOR, the employer will also need to report this to the HSE reporting centre.

Regulation 24 requires any employee to give their employer notice of any personal injury caused by accident. The record is a purely factual account of the event and injury, and makes no judgement about responsibility or fault. Schedule 4 to the Regulations sets out what information must be recorded:

- name, address and occupation of the injured person
- date and time of the accident
- place the injury occurred
- cause and nature of the injury
- the name, address and occupation of the person giving the notice if not the injured person

Regulation 25 requires the employer to make any book or electronic recording system readily accessible in the workplace to enable injured workers, or someone acting on their behalf to record an injury, and requires the record to be kept for a minimum of 3 years. Employers are required to take reasonable steps to investigate the circumstances of every accident of which notice has been given, and if any discrepancies are found, they too should be recorded.

The HSE produces an official "accident book", the BI 510, for employers to use, but this isn't compulsory. The duty relates to what information is collected, not the form in which it is held. Many employers now use electronic means to record incidents and injuries, so it should be relatively easy for them to produce relevant figures for safety committees. Many also now combine the official record with their own incident report form. There can be dangers in this approach, as employer investigation forms often ask leading questions about fault, or require the injured person to sign any such form as a true record. Such information may affect an injured person's ability to make a successful compensation claim should that become necessary. UCU recommends that investigation of incidents and injuries in the workplace are best dealt with by a joint investigation with the employer - that way we should get to know about incidents when they happen, and our member's interests are best protected.

The recording process can link to a future claim for a state benefit. If a worker is so badly injured it results in a long-term condition that affects their ability to do their job, they may be able to claim Industrial Injuries Disablement Benefit (IIDB). The Department for Work & Pensions will refer to the employer for confirmation that an injury was sustained at work. Injured workers can register an accidental injury with the DWP **as well as, but not instead of** the workplace record by submitting form BI100A to the DWP

http://www.dwp.gov.uk/advisers/claimforms/bi100a_print.pdf

More information is available on the DWP website. For a copy of the guide DB1 at: http://www.dwp.gov.uk/advisers/db1/industrial_accidents.asp

All members of staff should know how to record an injury, and be informed about the importance of doing so. We recommend an item on a staff meeting agenda, not just the minimum compliance approach - "It's on the intranet - your own fault if you don't read it". UCU safety reps should check that accident book is being used properly - this is a document the employer is required by law to have, so you can request a copy of the entries in it under SRSC Regulation 7(1). Some employers have refused UCU safety reps access to these records on data protection grounds. The HSE has made it clear that employers are required to give this information to safety reps; the official form contains a tick box for injured workers to authorise

that the information can be passed on to the union health & safety rep. If that authority isn't given, the information must be anonymised and then given to reps. Employers own systems should have a similar means of giving or withholding authority.

There should be an article appearing in the next issue of the magazine on Stress as an Accident. We will include an item and more guidance in the next newsletter.

8) RIDDOR changes - last reminder

Just to remind everyone that from the 6th April, the duty on employers to report injuries causing more than 3 days absence was extended to more than 7 days absence, but that employers must still keep a workplace record of all "over- 3-day" injuries. That should confuse even the best. At some point in the future you should all check that the new system is working, and that employers are still keeping the "over 3-day" records in the workplace.

9) Workers Memorial Day/TUC Day of Action 28th April

Just to remind everyone that this day of action is being organised locally rather than nationally, as that has always been the Workers Memorial Day tradition. Full resources, information and links to TUC site and others here -

<http://www.hazardscampaign.org.uk/wmd/> The official symbol for WMD is the purple "forget-me-knot" ribbon, they are £30 per hundred post free – order form here <http://gmhazards.files.wordpress.com/2012/02/wmd-order-form-20121.doc>

You will also get a free poster with them, or ask for multiple copies, still free of charge and postage. Hurry, there isn't long to go.

10) More and greater fit note resistance

Following a recent website poll, the Chartered Institute of Payroll Professionals (CIPP) has found that a staggering 90% of employers do not believe the GP fit note is effective. Following Dame Carol Black's review of the health of Britain's working age population in 2008, the GP fit note, or Statement of Fitness for Work as it is formally known, was introduced in April 2010. A spokesperson for the CIPP, said:

"The CIPP is disappointed with these results; the fit note was intended to be used as a tool to encourage conversations between employers and employees about how an earlier return to work after sickness could be facilitated. In light of Dame Carol Black's review the fit note was intended to be used to show that employees do not need to be 100% fit for both parties to benefit from a phased or adjusted return to work."

Dame Carol Black's review talked about there being evidence that some employers are reluctant to contact absent staff for fear of being accused of harassment.

In a perceptive comment, the CIPP spokesperson also said that "Managing sickness absence is a challenging and often sensitive issue for employers so if the communication channels are open from the outset with clear company policies, the easier the process should be for both employers and employees. The answer to this issue could well lie with the need for better sickness policies to be put in place at work". UCU says that if such "better sickness policies" were to focus on the sickness and its causes rather than just getting sick workers back to work at any price, have as a priority the removal any work-related causes, and focus on the rehabilitation of those sick workers, the world of work would improve considerably.

Last year, Chartered Institute of Personnel & Development research into the new GP fit note found the replacement of the sick note has been met with resistance by employers. As we reported at the time, they found nearly three out of five employers (58%) did not think it would help to reduce employee absence levels.

What can I say? I'm not surprised, but the show is bound to improve when we get the proposed independent assessment centres (more public money for Atos, the dreadful French outsourcing company?) and the 'sick worker redirection service' up and running. That'll sort out the "I don't like Mondays" sickies, shirkers and wool-pullers, as well as the amputees, those poisoned by asbestos, and all those stressed beyond breaking point victims of modern work. How can employers be so ungrateful to the Dame for all her hard work on their behalf, which has cost all of us a small fortune? They will, after all, be asked to find work for sick and incapable workers that used to belong to other employers'. That will be fun.

11) Health & safety training

The next 3-day H&S Induction course is in London and runs 18th – 20th September. If you have already done the Induction course, there is a H&S 2: Management of Health & Safety on June 19th – 21st in London. Full H&S courses programme at http://www.ucu.org.uk/media/pdf/2/2/H_S_courses_all_regions_at_27Mar12.pdf

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)
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