UCU HEALTH AND SAFETY news

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1. Draft guidance on first aid training changes published

Draft guidance to help employers understand the proposed changes to workplace first aid has been published by the Health and Safety Executive. You will remember that in his review of H&S regulation, Professor Ragnar Löfstedt recommended that the First Aid at Work Regulations should be amended to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel. Löfstedt suggested that the HSE approval process went beyond the minimum requirement laid out in EU legislation.

The Government claims that removing the HSE approval process will give businesses greater flexibility to choose a training provider and first aid training that is right for their work place, based on their individual business needs. While formal approval is going, training providers will be required to meet a certain standard, which will be set by HSE. This change may impact on those colleges who currently provide approved first aid courses.

The legal requirement for employers to ensure they have an adequate number of suitably trained first aiders or appointed persons in accordance with their first aid assessment will remain unchanged. The documents are:

First Aid Training and Qualifications: http://www.hse.gov.uk/pubns/web41.pdf and

Selecting a First Aid Training provider: http://www.hse.gov.uk/pubns/geis3.pdf

The existing Regulation will continue to apply until the changes come into force, but HSE would like to know what you think of the draft guidance documents. Comments or suggestions can be e-mailed to firstaidconsultation@hse.gsi.gov.uk Use the e-mail subject "First Aid Guidance Comments". The guidance documents and the amended regulations are expected to come into effect in October this year.

2. Two recently published studies on work-related stress

a) Employee burnout common: Research commissioned by financial services recruitment specialist Robert Half UK reports that 30% of HR directors interviewed say employee burnout is common within their organisation; a figure that rises to over than a third (35%) for those in London and the South East and publicly listed companies.

Two thirds (67%) cite 'workload' as the primary reason for employee burnout, although this figure rises to three quarters (75%) for large and 73% for public sector employers. More than half (56%) cite 'overtime and/or long working hours' as the secondary reason,

followed by 35% reporting 'unachievable expectations', and 27% reported life-work balance a problem.

That must ring bells for UCU members, and the issue of work overload must be particularly challenging for academics as the year-end is getting closer, bringing a considerable amount of additional workload and stress.

Life-work balance hasn't improved significantly, as Half's research in 2012 showed that 29% of HR directors cited work-life balance as the primary motivation for employees leaving their employment. Employers clearly need to address employee burnout and life-work balance as part of their staff retention strategy.

Employer responses to the problems included promoting a teamwork-based environment (50%), reviewing/restructuring job functions and tasks (45%), encouraging team–building activities (34%), providing flexible working options (34%) and encouraging employees to take time off (31%). Only one in five said they intended to employ additional staff to help reduce workloads, clearly wishing to avoid additional labour costs; that sounds familiar.

http://www.roberthalf.co.uk/portal/site/rh-uk/menuitem.b0a52206b89cee97e7dfed10c3809fa0/?vgnextoid=cf27da61e120d310VgnVCM100000180af90aRCRD&vgnextchannel=0198ad657c762110VgnVCM1000000100007fRCRD

b) Driven to drink: The mental health charity Mind, has published the results of a recent study that confirms that work is the most stressful factor in people's lives, and drives many to drink.

The study contacted more than 2,000 people, with 34% reporting that their work life was either very or quite stressful. This exceeded the number reporting external factors like financial problems. The main causes of work-related stress the study identified were:

- frustration with poor management (32%)
- excessive workload (26%)
- insufficient support from managers (25%)
- unrealistic targets (25%)

Stress has often caused people to resort to alcohol and drugs to cope, with 57% saying that they drink after work and 14% admitted that they drink during the working day to cope with workplace stress and pressure. (Is that why some employers want to introduce general alcohol testing at work and make drinking during the working day a disciplinary offence, even when there is no safety-critical case?)

Other coping mechanisms people cited were smoking (28%), taking antidepressants (15%), and sleeping aids (16% over the counter products and 10% prescription sleeping pills)

The research also showed that a culture of fear and silence surrounded stress and mental health issues; 90% of workers who took a day off because of stress gave a different reason for their absence. While a quarter of those surveyed said they had considered resigning, 9% had actually done so. There was evidence that a substantial minority were afraid to tell their employer they suffered from stress of mental health issues.

56% of managers said they would like to do more to improve staff mental wellbeing but they needed more training and guidance and 46% said they would like to do more but it is not an employer priority.

Mind believes that work-related mental ill-health problems are an issue too important for employers to ignore, and that decent employer behaviour can be cost effective in resolving problems. 60% of the people surveyed said that if their employer took action to support the mental wellbeing of all staff, they would feel more loyal, motivated, committed and be likely to recommend their workplace as a good place to work.

http://www.mind.org.uk/news/show/8566_work_is_biggest_cause_of_stress_in_peoples_lives

3. Updated "Fit Note" guidance issued by DWP

The Department for Work and Pensions issued updated 'Fit note' guidance for GP's, patients/employees and employers/line-managers on 8th March. Access to all DWP 'Fit note' guidance is here http://www.dwp.gov.uk/fitnote/ ; the documents for Occupational Health practitioners and Hospital doctors have not been updated.

http://www.dwp.gov.uk/docs/fitnote-gps-guidance.pdf for 28 pages of guidance to General Practitioners (as a group GP's don't like 'Fit notes' so presumably need a lot of persuading); http://www.dwp.gov.uk/docs/fitnote-patients-employees-guidance.pdf for 12 pages of guidance for patients/employees; and 16 pages for employers and line managers at http://www.dwp.gov.uk/docs/fitnote-employers-linemanagers-guidance.pdf

The underlying philosophy that work is always good for you regardless of the causes of ill-health, while failing to adequately distinguish between work-related illness or injury (the concept of good quality work came later) was established by two publications; one in 2006 (Is work good for your health and well-being? Waddell, G. and Burton, A.K.; download from www.dwp.gov.uk/docs/hwwb-is-work-good-for-you.pdf) and 2008 (Vocational Rehabilitation, what works, for whom and when? Waddell, G., Burton, A.K. and Kendall, N.A.S.; download from www.dwp.gov.uk/docs/hwwb-vocational-rehabilitation.pdf . More recent DWP-commissioned research has sought to provide evidence that this was always the correct policy initiative to pursue.

Besides Waddell and Burton, research quoted in the guidance relies on interviews with 19 patients and 12 GP's in South Wales; I'm not sure how statistically significant such a small sample might be (http://www.ncbi.nlm.nih.gov/pubmed/18245795). Another (http://research.dwp.gov.uk/asd/asd5/rports2011-2012/rrep733.pdf) sets out the findings of interviews conducted with 1,405 GP's only 6 months after the new system was implemented in September-October 2010. The report says that 38% of GP's interviewed reported that the 'fit note' had not changed their practices. In HSNews 44, December 2010, we reported Aviva-published research which must have been conducted at about the same time (http://www.ucu.org.uk/media/pdf/2/j/ucu_hsnews44_dec10.pdf) that said two-thirds of GP's were unhappy with fit notes, more than two-thirds of employers didn't understand the changes and 95% didn't believe the fit note would help reduce sickness absence, while 57% of workers believed their GP didn't know enough about their work or job to make useful suggestions.

The guidance is harder-edged than the previous stuff; case studies are simple and uncomplicated; all the quotes from patients and GP's that have been included are very positive; nothing even remotely critical from either doctors or patients – surprising, given that many doctors have been quite critical of the whole approach in the past.

Without exception, the documents all refer to the Med 3 medical certificate - Statement of Fitness for Work as the 'fit note', not by it's official designation; in the past, DWP guidance never referred to 'sick notes' as far as I can remember; the language is suspiciously like that used by the proponents of the neo-liberal and manipulative "nudge" approach to behavioural change.

4. New edition of TUC Hazards at Work manual

The 4th edition of the TUC Hazards at Work manual has just been published, fully revised and with new section on vulnerable workers. Recommended price is £45; but a reduced-price of £18 is available for members of TUC affiliates. An even further-reduced rate copy is available for those attending a UCU health & safety course – UCU courses are run in public sector institutions by tutors within the TUC scheme, and UCU reps attending those courses can get a copy that way. I think that price is currently £11.

Remember our previous advice. This book is an invaluable information resource for safety reps. The SRSC Regulations impose a duty on your employer to provide UCU safety representatives with such facilities and assistance as they may reasonably require – a copy

of this manual is such a reasonable requirement, and is necessary assistance to enable you to undertake your statutory function; so ask your employer to provide you with a copy.

The full price is £45 – you can offer the employer a good reduction as a bargaining counter. Last time we reminded UCU reps of this, a number of you did get your employer to provide a copy, and in at least one case, the employer's safety manager also decided to get one. Is that a recommendation or what? https://www.tuc.org.uk/publications/viewPub.cfm

5. More TUC News

TUC new H&S Facebook and Twitter accounts are live from 1st March. The StrongerUnions blog is here – Hugh Robertson, senior TUC health & safety policy officer, regularly contributes articles. http://strongerunions.org/ Other TUC new media sites:

Website - www.tuc.org.uk/healthandsafety

Follow the TUC on Twitter at www.twitter.com/TUCHANDS

Also on Facebook at www.facebook.com/TUChealthandsafety

6. Employers refusing to recognise UCU safety reps

This has come up again this month, twice in quick succession. It can be a significant issue; in one case reported to me a couple of years ago, the rep gave up in the face of employer obstruction and resigned. So clearly a good tactic for an employer who decides to undermine UCU organisation in the workplace. This underlines the need for us to build strong workplace organisation for health, safety and welfare improvements, something reflected in one of the motions passed by UCU Congress in 2012. In case other employers are playing this game, here, again is the definitive version.

The appointment of trade union safety representatives is a trade union function, and provided for by SRSC Regulation 3. We decide who to appoint, and the union notifies the employer who has been appointed and the group of employees they represent. Once appointed, those safety reps automatically have a number of statutory functions, and duties are imposed on employers to facilitate their activities. They have to "permit such time of with pay during working hours as shall be necessary" for the rep to undertake those functions, (no qualification of "reasonable" here) and to be trained. (SRSC Regulation 4(2)). We call this 'statutory time-off' rather than 'facility time'; a concept that other unions have also adopted.

There is nothing in the Regulations about employers being able to approve or object to an appointment, or give or refuse recognition. The Regulations are written permissively, i.e. they are not restrictive and don't countenance employer non-recognition. The safety rep is a statutory appointment, and is the foundation on which we can build an effective workplace organisation.

Employers also have a duty to provide such facilities and assistance as the reps reasonably require – so reasonability qualifies the reps requirements, NOT what the employer provides. (SRSC Regulation 4A(2)) Where employers fail to permit safety reps time-off, or refuse to pay for time-off already taken, the remedy is an application to an Employment Tribunal (SRSC Regulation 11).

There is a guidance paragraph that suggests disputes are resolved via the normal collective bargaining arrangements with ACAS help if necessary, and HSE does nothing practical to enforce employer duties under SRSC Regulation. As many employers say when our reps quote HSE guidance, "It's only guidance". We need to insist more strongly.

7. E-cigarettes in the workplace

Under the aegis of "wellbeing", there is an opportunity to make demands on employers to provide help to members of staff who want to stop smoking. In relation to the latest stop-smoking 'product' – e-cigarettes - Hugh Robertson at the TUC wrote the following on the StrongerUnions blog, http://strongerunions.org/2013/02/25/e-ciggies-have-no-place-in-the-workplace/ I've already circulated to the HSREPS mailing list, so this is for the record. The problem for unions is to ensure that the interests of all members are protected as far as possible; since the ban on smoking in enclosed workplaces was introduced, such union activity has to be within the legal framework restricting smoking.

I also had a similar enquiry – my response included the suggestion that the union approach the employer with demands under any "wellbeing" initiative for the provision of some support for those members of staff that want to stop smoking. There is no 'one-size fits all' approach, so employers can be asked to provide a range of support techniques – mutual support groups, occupational health advice, advice on diet (lots of people put on weight once they stop), and the provision of things like chewing gum and nicotine patches, and even e-cigarettes where that helps.

8. New HSE guidance on health surveillance

HSE has issued new, on-line health surveillance guidance to, they say, make it easier for employers to understand what they need to do to check and protect their workers' health. The old guidance document, 'Health Surveillance at Work' HSG 61 has been withdrawn.

The general requirement on employers to provide health surveillance is under Regulation 6 of the Management Regulations; but the generality of this gives quite some room for interpretation. The Regulation requires that *"employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment"*. The ACoP (Paragraph 41) mentions specific requirement under COSHH, but then goes on to instance other criteria for surveillance.

> *"Health surveillance should also be introduced where the assessment shows the following criteria to apply:*
>
> *(a) there is an identifiable disease or adverse health condition related to the work concerned; and*
>
> *(b) valid techniques are available to detect indications of the disease or condition; and*
>
> *(c) there is a reasonable likelihood that the disease or condition may occur under the particular conditions of work; and*
>
> *(d) surveillance is likely to further the protection of the health and safety of the employees to be covered.*

HSE has always been very cagey about health issues generally (it has allowed EMAS to wither almost completely away) and clearly sees health surveillance applying only to exposure to substances. HSE also seems to conflate it with medical surveillance (the other kind of surveillance, under the supervision of a medical practitioner) required under the Lead and Ionising Radiation Regulations. Other factors that cause ill-health, such as stress, have been specifically excluded from surveillance requirements by the HSE interpretation. For example, in the on-line guidance for the construction industry, HSE says about MSD's and Stress:

> *"There are health risks (eg stress; musculoskeletal disorders) for which the law doesn't require employers to provide formal health surveillance. This is because valid techniques don't yet exist to detect the symptoms of these diseases. However, it is still be good practice (sic) to monitor health using other arrangements, such as symptom reporting and sickness absence records."*

http://www.hse.gov.uk/construction/healthrisks/surveillance.htm

I'm not sure that this is a valid interpretation, and find it difficult to establish the logic underlying it, but what IS true is that what HSE say applies to Construction will apply across the board. Valid techniques do exist to identify the effects of stress – thousands of psychiatrists and psychologists around the world will tell you what they are; a number of musculo-skeletal injuries are prescribed industrial conditions that attract disablement benefit – so does HSE say that the state pays benefits without any proper diagnosis and confirmation of a health condition?

The HSE press release says *"Developed with industry, the clear and simple guidance makes it easier for employers to decide whether their workers need health surveillance, how to go about it and how to use the results. The guidance also makes it clearer when action is not needed, saving lower-risk businesses, such as those that are office- based, from wasting time and money".* That means "Developed with employers", and no mention about employer duties to consult with, or involve, union safety reps; and clearly saying that health surveillance in an office environment is a waste of time and money.

The HSE spent a lot of money a few years ago requiring employers to conduct risk assessments for stress hazards, and the Regulations and ACoP refer to health risks identified by an assessment. These issues need to be further examined.

The key question is; does health surveillance prevent harm? The answer to that is 'No', rather it identifies when harm has occurred, and that enables the employer to withdraw that worker from further exposure. For that particular worker, it's a bit too late. The old National Coal Board used to send mobile x-ray units to collieries every 3 years or so, and encourage workers to get a chest x-ray. The problem was that, when an x-ray reveals dust accumulation in the lungs, there is at least 20% contamination – and that means the worker already had pneumoconiosis if the contaminant is coal dust; or silicosis if the contaminant is silica from hard stone – it's too late for prevention. All that could happen is for someone to be withdrawn from working in a contaminated atmosphere, and for mineworkers, that also meant a big drop in pay.

http://www.hse.gov.uk/health-surveillance/index.htm

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
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