

## Contents

- 1. Stress and how NOT to deal with it – once again**
- 2. TUC documents and information for safety reps**
- 3. Potential H&S effects of nanomaterial**
- 4. UCU Congress fringe**
- 5. More Humpty-Dumpty words, or Regulation down the pan.**
- 6. Putting children at risk**
- 7. Current consultations**

### **1. Stress and how NOT to deal with it – once again**

The recent union health & safety specialist meeting at the TUC discussed something called “The Surviving Work Library” which is apparently being set up by an organisation called The Resilience Space, using a grant from UnLtd – a social enterprise organisation.

The objective of this resource is, apparently, to help workers develop increasing “resilience” to help them cope with work, and what happens there. The Resilience Space told Hugh Robertson that they are launching this in June, and intend to send material to trade unions. No union H&S specialists present at the meeting were aware of any approach or contact from this organisation.

Many union health and safety officers are concerned that this approach to stress is not appropriate; it isn't the shortage of resilient workers that's the problem; it is employers who create the conditions at work that cause stress and related harm. Employers already have a duty to make the workplace safe and without risk to health, and they should do this by removing the causes of stress and generally making workplaces safer and healthier, rather than making workers more resilient. The other key weakness of this approach is that it focusses on the individual, and defines the problem as that individual's failure to cope with what the employer throws at them. While there may be differences in the way that different people cope with the circumstances at work, the real problem is a collective one, and requires a collective approach. From a preventative perspective there are considerable concerns with the resilience approach. We continue to believe that if such organisations are so concerned about worker health issues, they should try working with us, rather than imposing their views and solutions, especially when they appear to be so at odds with our own.

See <http://www.ucu.org.uk/5799> for the published results from the 2012 UCU stress survey.

## **2. TUC documents and information for safety reps**

The TUC website is being updated, so this link may need to be renewed soon. It gives access to a range of more detailed TUC documents on specific health & safety issues, as well as access to all the other TUC health & safety topic pages.

<http://www.tuc.org.uk/workplace/index.cfm?mins=142&minors=124&majorsubjectID=2>

Other TUC website pages for specific health & safety issues have not yet had their links to the latest edition of the Hazards at Work manual updated, so links still take you to the old edition. I'm told this will be updated soon. Remember that not all the topics will take you to the appropriate chapters in the Hazards at Work manual, it's mostly those concerned with a specific workplace hazard.

Just a reminder that the latest edition of the Hazards at Work manual, published in February, is available for £18 at <https://www.tuc.org.uk/publications/index.cfm>

This edition was reorganised quite substantially, and a number of new issues included, along with a new section on workers in special categories. Reps should ask their employer to provide it under the duty imposed on them by SRSC Regulation 4A(2) There should be at least one in every Branch; ideally every UCU safety rep should have a copy. Last time we recommended this, a number of employer H&S officers took the opportunity to get a copy for themselves.

## **3. Potential H&S effects of nanomaterial**

The European Trade Union Institute (ETUI) has published a body of information on nanotechnologies over the years. This is the most recent ETUI publication on the production and use of nano-materials in workplaces. Nano-materials are coming onto the market in a widening range of uses at a dizzying pace, but the potential impact on society is going largely un-discussed and the European regulatory framework is arguably ill-suited to these microscopic scale materials. What we know of the risks involved for those who make or use them is scant and very patchy. Animal studies are sending out warning signals about the toxicity of some of them.

Download a copy of the book here:

<http://www.etui.org/Publications2/Guides/Nanomaterials-and-workplace-health-safety.-What-are-the-issues-for-workers>

## **4. UCU Congress fringe**

30 delegates attended the H&S fringe at Congress chaired by Blackburn College delegate John Murphy. Hugh Robertson, TUC senior policy officer spoke about the latest TUC 10-point 'manifesto', Health and Safety: Time for Change, a campaigning document for improving health and safety standards and trade union safety reps organisation, and a useful discussion followed.

The manifesto and a range of bulletins related to the individual manifesto demands are here <http://www.tuc.org.uk/workplace/tuc-21902-f0.cfm>

## 5. More Humpty-Dumpty words, or Regulation down the pan.

From burgers to bankers, hospitals to the press, and care homes to agricultural gang-masters, the organisation and provision for regulating organisational activities and standards weakens almost daily, and is no longer fit for purpose.

In a recently published essay, Professor's Andrew Watterson and Rory O'Neill of Stirling University argue that ideological opposition, rather than evidence-based action is undermining much of the regulation that is necessary to ensure decent standards of behaviour by corporate bodies and proper standards of public protection.

Published in Scottish Review, they argue that one important factor is the way language is twisted and used to obscure rather than clarify the reality of regulation. Most people want effective and proportionate regulation to ensure decent standards; Watterson and O'Neill argue that the phrase 'better regulation' now means less and poorer regulation, rather than an improvement in quality, and nowhere has this been seen quite as starkly as in the forced decline of the HSE, although they are not the only regulator to take a hit. <http://www.scottishreview.net/WattersonONeill98.shtml>

**It pays to use slave labour:** The Gangmasters Licensing Authority (GLA) was formed in 2006 following the deaths of the Chinese cockle-pickers in Morecambe Bay, and began life with a chief executive who believed in a strong regulatory framework, and who adopted a determined and positive approach to the work, exclusively to protect some of the weakest and most vulnerable workers in the UK. He has since been replaced, and the GLA, like all regulators, has suffered huge budget cuts, and is consequently less able to undertake its duties.

In an article in the Independent on Sunday, the current chief executive of the GLA Paul Broadbent, a former senior police officer, has also expressed concern that the courts have taken to imposing such lenient sentences on those employers that are prosecuted by the GLA that it is no longer an effective deterrent. Broadbent cites cases where farmers who used unlicensed contractors were let-off without penalty when cases went to court, claiming it wasn't their fault they used an unlicensed contractor, "...but they got offered labour at a price that was too good to be true and it was, Broadbent said. There had to be exploitation involved... There were Filipino workers sleeping in leaky cow sheds. It wasn't difficult to identify these people."

<http://www.independent.co.uk/news/uk/home-news/it-pays-to-use-slave-labour-says-watchdog-8669797.html>

## 6. Putting children at risk

This stuff is both unbelievable and inaccurate, and seems to be driven by ideological considerations and obsession, rather than evidence-based information. A press release published on the 21<sup>st</sup> June, headed "Ministers to end work experience Health and Safety confusion" begins by saying:

*"The latest stage of the Government's commitment to debunking health and safety myths, and slashing burdensome rules, has seen Ministers today outline plans to make it as easy as possible for employers to take on work experience students."*

The PR continues:

*"In an open letter to employers, Mark Hoban, Vince Cable, Matthew Hancock, Oliver Letwin and Michael Fallon voiced their commitment to putting an end to this kind of health & safety bureaucracy"*

<https://www.gov.uk/government/news/ministers-to-end-work-experience-health-and-safety-confusion>

It says:

*"Employers have been hampered in the past by thinking that they have to do special risk assessments for young people, and even having to repeat the same assessment for every young person they give a chance of work experience, even though the circumstances were exactly the same."*

Well, regardless of what these politicians think, that's exactly what the law requires employers to do. The legal standards are in Regulations 3, 10 and 19 of the Management of Health and Safety at Work Regulations 1999

In addition to the general duty imposed on the employer by Regulation 3(1) to undertake suitable and sufficient risk assessments, Regulation 3(4) requires employers to conduct or review risk assessments in relation to the health and safety of young persons; while Regulation 3(5) sets out what the employer must take account of, starting with the inexperience, lack of awareness of risks and immaturity of young persons. As we all know, immaturity can vary considerably – as can other matters that relate directly to an individual – so things like physical characteristics (children of the same age vary enormously in size and strength, for instance), physical disability or other medical conditions, behavioral problems and learning difficulties will need to be included if the assessment is to reach the standard – 'suitable and sufficient'. The level of risk assessed can therefore vary, so control measures such as the level of supervision and the tasks permitted will vary according to the individual characteristics and the other assessment findings. Conduct or review? Take your pick, but to do nothing because you have already done it once before as they suggest, isn't an option. Regulation 19 reinforces the Regulation 3 duty very clearly, in that the employer shall ensure that the health and safety of young persons is protected from risks that are a consequence of their lack of experience or absence of awareness of risk due to immaturity. Neither shall an employer employ a young person for work that is beyond their physical or psychological capability, or on work involving the risk of accidents which cannot be recognised or avoided owing to the young persons insufficient attention to safety or lack of attention or training.

Regulation 10 requires employers to give the employees information about the risks identified by the assessment, and the measures taken to protect them from those risks. This includes children and young persons. In respect of children (those under the normal school leaving age) that information must also be given to the child's parents, but how this can be done is not specified. There is no requirement to put the information in writing, for example. Current HSE guidance says it can be done via a school or college, a placement agency, or via the child themselves if the parents agree and it is considered a reliable method.

The ministerial statements make clear that schools or colleges have no responsibility for the H&S conditions in workplaces where students undertake work experience apart from asking "sensible questions". Leaving aside the matter of how a member of staff necessarily knows what "sensible questions" are in relation to a particular workplace, no matter how sensible the question, no employer is likely to admit weaknesses in the way they operate or manage health and safety when asked. To assume, as this does, that all employers behave impeccably is a nonsense – if they did, there wouldn't be

thousands of workers dying every year of some work-related cause, and hundreds of thousands being injured or made ill. That's not our hyperbole, that's according to the annual figures released by the HSE.

HSE statistics for under-19's show that in 2011-12, 4 under-19 males died in work-related incidents (7 the year before); 415 male and 256 females suffered major injury, and 1,162 male and 733 females suffered injury that kept them off-work for more than 3 days. See <http://www.hse.gov.uk/statistics/tables/index.htm#riddor> for the RIDAGEGEN1 and RIDAGEGEN2 tables.

Employers, parents, and college managements should be reassured by the confirmation from the Association of British Insurers that existing employer liability insurance against injury will cover their work experience/work placement young people. It's reassuring to know they will be compensated for any injury they sustain, subject of course to any contributory factors being apportioned by a court. It is also important to remember that the work-related death of a young person will not be adequately compensated, unless the young person had some economic responsibility for their parents.

See <http://www.thestar.co.uk/news/youth-contract-could-lead-to-more-deaths-1-4025602> for a report of concerns over the government's proposals for getting young people into some kind of work experience; and see the report of questions in the Commons for the expression of parliamentary concern about H&S on the 1980's YOP's and YTS schemes. <http://hansard.millbanksystems.com/commons/1989/jan/17/yts>

## **7. Current consultations**

HSE continues to pursue the deregulatory agenda forced on it by the government; this is about the review of the Approved Codes of Practice linked to Regulations. It's important to be clear that the Regulations themselves (the legal standard) are NOT the subject of the consultation, only the associated ACoP. If you remember, Cameron's intention is to get rid of the ACoP's, or reduce them in size, or turn them into simple guidance, so removing the quasi-legal status of them. These are in progress now, and you can find the various consultation documents through the following links.

[Consultation on the exception for pregnant workers and workers who have recently given birth or are breastfeeding from section 69 of the Enterprise and Regulatory Reform Act 2013](#)

[CD259 – Consultation on Control of Substances Hazardous to Health Regulations 2002 \(as amended\)](#)

[CD258 – Consultation on Legionnaires' disease: The control of legionella bacteria in water systems \(L8\)](#)

[CD254 – Consultation on Dangerous Substances and Explosive Atmospheres Regulations 2002](#)

[CD253 – A consultation on the revised Approved Code of Practice \(ACOP\) L24 - "Workplace health, safety and welfare"](#)

[CD252 – Consultation on proposals for a revised Approved Code of Practice on "Safe installation and use of gas systems and appliances" \(L56\)](#)

There is also a triennial review of the HSE going on, which I will prepare a formal UCU response following the next TUC H&S Specialists meeting in July, and a consultation about the EU framework for H&S. The TUC has drafted a response for discussion, which is consistent with the approach that is being taken by the ETUC. I'll circulate that once it is finalised, for information. You can look at this consultation document here:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=699&consultId=13&furtherConsult=yes>

The closing date for responses is 26<sup>th</sup> August 2013.

**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**