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1. Management of health and safety at work ACoP has gone

Following on from the withdrawal of The Prevention of Accidents to Children in Agriculture ACoP, The Management of Health and Safety at Work Approved Code of Practice (ACoP L21) has now been withdrawn and is no longer available. The actual Regulations haven't changed, and a copy of the Regulations can be downloaded from http://www.legislation.gov.uk/ukxi/1999/3242/pdfs/ukxi_19993242_en.pdf .

An Approved Code of Practice has a special legal status in supporting regulatory standards, set out in the HSE booklets. If an employer was prosecuted for a breach of duty, and it could be shown they had not followed the relevant provision of an associated ACoP, and couldn't show they had complied with a duty imposed by Regulation in some other way, the court would find them at fault. That was quite a powerful encouragement for employers to comply effectively with the duties imposed by Regulation.

The Management Regulations ACoP told employers to involve safety reps in risk assessments – Paragraph 15 said "The risk assessment process needs to be practical and take account of the views of employees and their safety representatives who will have practical knowledge to contribute". Positive and co-operative employers will do that without the urging of the ACoP; but where employers have been reluctant to involve safety representatives, this has helped us make the argument for involvement. That element of support, underpinned by the ACoP has now gone. Replacement guidance is much easier for employers to ignore.

L21 collected a wide range of comprehensive information together in one place; the quality of the replacement guidance will need to be assessed over time and use. This is what HSE say about the replacement guidance pages on their website.

"If you are looking for information on how to manage risks in your business, HSE has a suite of guidance that will be able to help. Each level of guidance on HSE's website offers appropriately targeted information, focussed on making compliance as straightforward as possible.

If you need basic information or are getting started in managing for health and safety, then the best place to look is [Health and safety made simple: The basics for your business](#)

Guidance on controlling risks from specific topics can be found in [The health and safety toolbox: How to control risks at work](#)

A revised and enhanced online version of ['Managing for Health and Safety' \(also known as HSG65\)](#) is now available. The guidance is divided into four sections:

- *Core elements of managing for health and safety*
- *Are you doing what you need to?*
- *Delivering effective arrangements*
- *Resources*

The first two sections of Managing for Health and Safety are targeted at leaders, owners, trustees and line-managers, whilst the third part will be particularly useful to those who need to put in place or oversee their organisations arrangements for health and safety. It will also be of value to workers and their representatives."

UCU H&S Advice says "Hang on to your copy of L21; you won't get another". The advice we gave a couple of years ago to download the HSE booklets because they might disappear has proved to be correct, and the process of withdrawing documents from the website has started. If you need a copy of L21, let me know - jbamford@ucu.org.uk

<http://www.hse.gov.uk/pubns/books/index-catalogue.htm> to check the lists of downloads still available.

2. More ACoP changes

HSE issued an updated Approved Code of Practice covering the installation and use of gas systems and appliances (L56), on November 12th. The revised content was agreed by both the HSE Board and the Minister of state with responsibility for health and safety.

<http://www.hse.gov.uk/pubns/priced/L56.pdf>

The Regulations deal with the safe installation, maintenance and use of gas systems, including gas fittings and appliances mainly in domestic and commercial premises. And provide guidance to those installing, servicing, maintaining or repairing gas appliances and other fittings, to suppliers and users of gas. HSE said changes include:

- details of the requirement for all those carrying out gas work to be adequately trained;
- the removal of the guidance for landlords, with detailed guidance now available on the HSE website;
- an update of the material on the requirements for appliances and flues;
- clarification of the definition of gas fitting and gas work; and
- revisions to reflect concerns around flues in voids and update guidance to reflect the introduction of smart meters.

An amended Workplace Health, Safety and Welfare Regulations 1992 booklet L24, with revised ACoP was published by HSE on 18th November. This is now on the website at <http://www.hse.gov.uk/pubns/priced/l24.pdf> Download a copy of the new document.

HSE say that revisions from the previous edition (published in 1992) include: simplifying the language to clarify what duty-holders must do to comply with the Workplace Regulations; updating the ACoP to include the provisions of the Miscellaneous Amendment Regulations 2002; improving guidance and referring to the most up-to-date and relevant standards for advice; and removing out-of-date duties and requirements that are superseded by newer legislation.

HSE has announced that more ACoP booklets will be revised, consolidated or withdrawn by December 2013. These are:

- Legionella (ACoP L8)
- Hazardous Substances (COSHH) (ACoP L5)
- Installation of Gas Service Pipelines (ACoP L81) is to be withdrawn in December 2013 and replaced by guidance.
- Dangerous Substances & Explosive Atmospheres (DSEAR 5 ACoP's in total – L134 – L138) will be consolidated into one ACoP on the 9th December 2013
- The Work with Materials Containing Asbestos (ACoP L143) and the Management of Asbestos in Non-domestic Premises (ACoP L127) – both linked to the Control of Asbestos Regulations are to be consolidated into one ACoP by the end of 2013.

3. Don't stand on ceremony!

Evidence has been accumulating for a while that standing up at work can speed-up the reduction in blood glucose levels, and that can help reduce the risk of developing diabetes or having a heart attack. Research into this was stimulated by the increasing prevalence of sedentary work - see http://www.sciencedaily.com/videos/2008/0610-stand_up_for_your_health.htm for example. An article in the Independent earlier this year made the rather more startling claim that sitting down for extended periods could be one of the most dangerous things humans do and that standing up is a good antidote. The recent series of 'Trust me – I'm a doctor' on BBC2 also ran an item on this. They conducted an experiment in an estate-agents office and installed high level desks for staff workstations and took away the chairs. Some staff said they felt better for it; others didn't like it. But blood sugar tests showed that glucose levels reduced more quickly when standing. So, they concluded, there is some merit in the argument that standing up at work was better for you than sitting down.

Getting admin and similar workers to stand up whilst at work seems a little Dickensian – but it clearly isn't. Toyota (in their guise as sewing machine rather than car manufacturers) introduced the 'Toyota sewing system' into UK clothing factories in the late 1980's. This system replaced sitting down at the sewing machine with standing up. It was part of the Japanese managerial approach known as *kaizan* or continuous improvement, which were presented as meaning increased worker benefit, but were really about employer control and productivity benefits. The old National Union of Tailor and Garment Workers took up problems with this as members complained about having to stand up all day at work. Supermarkets tried the same thing on checkouts – the unions resisted; now checkout operators in supermarkets usually have the option to sit or stand as they choose during their working day.

UCU health & safety accepts there may be individual health benefits of standing-up more, but this sounds like an idea whose time may have come for some employers, especially as it's one way to save money by not having to buy expensive, multi-adjustable workstation chairs for DSE users. Office furniture manufacturers and providers already list stand-up desks in their catalogues. I'll limit my comments.

- There is a duty on employers to provide seats in workplaces so that workers can sit down when they have the opportunity.
- DSE users must have a workstation assessment that identifies all potential hazards and manages risk.
- It's the kind of 'cutting edge new initiative' an employer who is considering signing-up to the public health responsibility deal might introduce. See H&S News 71, October 2013 for more details. Replacing sitting with standing IS a significant change – so employers must consult under SRSC Regulation 4A.

Our advice – if you do have a relatively sedentary job, make sure you get up and have a walk around regularly during the day; do anything else that increases the amount of physical activity you undertake.

For more information do a search for "Standing desk"

4. LRD Health & Safety booklets package

Here at the Hazards Centre, we've just had a letter from LRD offering 3 of the 2013 H&S booklets as a package with a 15% discount. 'Health & safety law 2013', 'Bullying and harassment at work', and 'Preventing injury at work' are available for £29.16, a saving of £5.14 on the normal published price. The same discount also applies to multiple copies.

The letter publicising this offer came to GMHC as a subscriber, but I assume the offer is open to all. If your Branch or LA doesn't subscribe, contact LRD on 0207 928 3649, or e-mail info@lrd.org.uk for more information. UCU health & safety commends LRD H&S publications unreservedly.

5. Hazards Conference 2014

The sponsorship appeal for Hazards 2014 has been published and circulated. The appeal leaflet contains an account of some of the activities at Hazards 2013; download here <http://www.hazardscampaign.org.uk/hazardsconference/hazards2014sponsorshipappeal.pdf> A number of UCU Branches and LA's already support the conference and send a sponsorship donation.

UCU Congress motions to support the Hazards Campaign and Hazards conference were carried in 2012 and 2013, and UCU currently sends a delegation to the conference. We will circulate the call for delegates in April 2014, so anyone interested should keep their eyes open for that.

6. Workplace age profile changes

Research commissioned by the insurer Partnership shows that over one million people aged over 65 were in work or seeking employment between May and July this year, up from 706,000 during the same period in 2008. A third (9.1 million) of the UK workforce is now over the age of 50 - an increase of 12% in the same period.

The report says that between 2001 and 2011 there has been a 7.3% rise in the number of people aged 65-74 who were still economically active. Partnership says the research shows that the numbers will rise further as a younger generation approaches retirement age without enough money saved, with 71% of 50-65 year olds believing they will need to supplement their income in retirement. While 33% of 50-65 year olds had put aside savings and investments to fill this gap, up to 39% will need to rely on continued paid employment of some sort. This confirmed a recent Office for National Statistics (ONS) report that more people are putting-off retirement due to rising living costs; whether because of choice or necessity isn't absolutely clear.

The Age and Employment Network (TAEN) (www.taen.org.uk) provides information and resources on ageing and work, and in 2009, a team of researchers at Nottingham University and others produced a report on "Ageing, Work-Related Stress and Health" http://taen.org.uk/uploads/resources/24455_TAEN_Work_Related_Stress_32pg.pdf

There are other research projects investigating the effects of work on older workers, and of any particular health, safety or welfare issues that may arise. Chapter 20 of the TUC Hazards at Work manual deals with older workers, and the TUC and CIPD have produced a joint guidance document, chapter 6 of which deals with workplace health & safety - <http://www.tuc.org.uk/sites/default/files/extras/managingageguide.pdf> For HSE information see <http://www.hse.gov.uk/vulnerable-workers/older-workers.htm>

The European Agency for Safety & Health at Work (OSHA) has additional materials available here https://osha.europa.eu/en/priority_groups/ageingworkers This factsheet on age-sensitive risk assessment is quite a useful contribution for employers and safety reps <https://osha.europa.eu/en/publications/factsheets/87>

It could be worth focussing a workplace inspection on older workers to see what, if any, specific issues can be identified; and investigating how your employer deals with any health, safety and welfare issues in respect of older members of staff.

7. Campaign calls for employers to identify 'risky drinkers'

The Alcohol Health Network, (AHN) which was set up to tackle alcohol misuse, wants employees to take a standardised test that identifies whether or not they are drinking too much. In a recent letter to the British Medical Journal, a spokesperson for the network said that if problems were identified, employers could provide advice to help prevent problem drinking at an early stage. The letter implied that AHN was promoting employer testing using their questionnaire; they say they are not promoting employer testing, but want employers to promote worker self-testing using their resources (a questionnaire based on WHO and NICE research and advice on reducing drinking), to increase self-awareness, and perhaps, seek assistance where appropriate. (<http://www.alcoholhealthnetwork.org.uk/about/blog/ahn-promotes-self-awareness-not-testing-by-employers>)

AHN say that by offering staff the use of the test and providing brief advice as a self-awareness initiative at work, it may help to prevent problems with alcohol early on. The organisation says that staff who may be concerned about their drinking can assess the risks it poses to their health, and take appropriate action. They further say that employers need to be convinced of the business case for prevention rather than cure – that is, that it is

ultimately more cost effective to prevent and reduce harmful drinking in the general working population compare with the costs of managing dependent drinking among a minority of staff.

AHN is promoting a product that employers have to purchase, and they focus their marketing on both employer and public health benefits. It looks very much like this is a further indirect initiative that can easily be linked to the Public Health Responsibility Deal, not directly to the health & safety of workers but as part of a pretence that "something is being done" to further employee health, safety and welfare at work. There are potential dangers for workers when employers start to introduce off-the-peg testing. Negative consequences can all too often result, which lead to disciplinary action and dismissal, even those that include a claimed assistance programme without suitable safeguards. Most UCU members do not work in safety critical occupations, and in the past we have challenged a number of employer proposals to introduce draconian, over-the-top alcohol at work policies to control employee behaviour. There is a growing 'testing' industry encouraging employers to implement drug and alcohol tests – not, you can be sure, for the benefit of those being tested.

We advise that, if employers make a proposal to introduce such blanket testing, it should be resisted. Where it may be necessary to tackle such issues in the workplace, decent occupational health and assistance provision that is non-punitive and aimed to help and rehabilitate should be provided, and that should only be done with employee consent, trade union involvement and appropriate safeguards.

<http://www.shponline.co.uk/news/latest-news/news/full/campaign-calls-for-identification-of-`risky-drinkers'>

8. HSE Fee for Intervention (FFI) update

Manchester-based business services provider ELAS recently made a FOI request to HSE, which reveals that employers have been charged a total of £5,532,565 for health and safety failings since October 2012, when FFI was introduced.

The ELAS report says that the HSE has fined UK firms more than £5.5 million for health and safety failings under its Fee for Intervention (FFI) scheme, but these charges under FFI are NOT fines; only courts can impose fines for health and safety breaches. FFI is a charge to cover the cost of the HSE inspector's time to deal with a 'material breach' of health and safety law. Under the Health and Safety (Fees) Regulations 2012, employers can be charged to cover HSE's related costs, which include the initial visit, call-outs, inspections, investigations and taking enforcement action. The rate is £124.00 per hour. The imposition of FFI charges does not appear in the HSE enforcement record databases, and is not part of the employer's criminal history, but then, neither is advice and encouragement to put something right.

ELAS commented that this shows that the FFI scheme is a force to be reckoned with and that companies are clearly bearing the brunt of having poor, or even non-existent, health and safety measures in place. <http://www.elas.uk.com/articles/hse-fines-uk-businesses-5-5m/>

The HSE declined to take powers to issue on-the-spot fines and fixed penalties some years ago under the then Labour Government. FFI seems like a dead end in terms of enforcement, and has been forced onto the HSE by the government. HSE is allowed to keep

a proportion of the revenue raised, to counter some of the effect of the 35% cut in their budget, but that is a mere drop in the ocean of need. The government had put a cap on the amount of income HSE could retain from the scheme at £10m for 2012/13, £17m for 2013/14 and £23m for 2014/15. The first year results suggest the contentious scheme will not deliver anything like the boost to HSE's income they were hoping for.

It will do very little to help HSE remain an effective regulator and enforcer; but it could skew their priorities for effective intervention. It does, as ELAS commented, show how badly many employers treat worker's health and safety and gives the lie to the government and media constant trivialisation of work-related health and safety.

Current detail on FFI in HSE47 available here <http://www.hse.gov.uk/pubns/hse47.pdf> and more general information on past consultations on alternative approaches to penalties <http://www.hse.gov.uk/consult/condocs/penalties.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 (t) 0161 636 7558