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1. Gagging policy proposal

A university in southern England has produced a policy that proposes to limit the right of trade union safety representatives to contact the enforcement agency responsible for health and safety. This policy proposes that all contact with HSE or any other enforcement agency must be channelled through the university's safety and occupational health service.

The HSE is a statutory enforcer – HSE inspectors are police officers, and they carry a warrant card, as does any other police officer. Any worker, member of the public or any trade union safety representative may contact the HSE if they have concerns about a work-related health and safety matter.

UCU guidance, in accordance with both the TUC and HSE is that every effort should be made locally to resolve problems by discussion and negotiation with the employer, even going so far as to offer employers a joint approach to HSE for advice in those cases where it has not proved possible to reach an agreed resolution. Only if all that fails,

then where the reps believe that there has been a statutory breach – failure to conduct a suitable and sufficient risk assessment, for example – that forms the basis for an independent reference to HSE.

Following the removal some years ago of office contact numbers from the HSE website, trade unions pressed for, and got the HSE to concede first, a Concerns Team, available by telephone, and secondly a form specifically for safety representatives to use to contact the HSE. That form requires that reps using it identify a material breach of the law as the basis for their complaint.

No employer can develop a policy that undermines a statutory right or restricts the right of workers, their representatives or members of the public to contact the police! Please let us know if your employer tries it on.

HSE contact details: Contact Team on 0300 003 1647 Mon-Fri; 8:30am–5:00pm, or to access the reps form: <http://www.hse.gov.uk/involvement/hsrrepresentatives.htm>

2. Employer tells union rep how to do an inspection

A university in northern England has decided to tell the joint union safety representatives how to undertake an inspection of the workplace. HR managers have also accused safety representatives from the joint unions of causing stress to members of staff by conducting a workplace inspection, and then updating those members of staff on progress – i.e. that very little has happened in the 4 months since the inspection.

As part of the inspection, safety reps from the joint unions spoke to employees and asked about any specific issues they wanted to raise with the union team. They were amazed when a significant number started to tell them their experience of harassing and bullying tactics used in their workplace – at one point members of the team were overwhelmed by the emotional impact of this; one confessed to be almost in tears themselves.

As a result of saying this, the employer's safety officer decided to give us the benefit of his thoughts and wisdom; he accused the unions of not preparing themselves for this, and failing to undertake a risk assessment, (employers conduct risk assessments and safety reps are volunteers, not employers) and then by some form of twisted logic suggested that HASAWA Section 3 duties applied to trade union safety reps – he's clearly not understood the opening words of Section 3 that begins "It shall be the duty of every employer..."

The other significant focus was that, whereas more than 20 staff had told the

inspection team about the bullying and intimidation, HR refused to accept this without "further evidence"; they did, however, accept immediately and uncritically the single view expressed by a member of the departmental management that he had been caused stress by the inspection teams activities, even though he was on secondment and had not been present in the university, and was not reading or responding to e-mails.

The joint unions continue to press the employer to give us a copy of the recorded main points of the risk assessments that relate to the stress factors that our reps identified during their inspection. It's only been 4 months.

3. SRSC: Brown Book changes

We gave details some time ago (see H&S News 75 May 2014 and H&S News 77 September 2014) about changes to both SRSC Regulation 6 – Inspections by safety reps following a notifiable injury, accident or dangerous occurrence or a case of a notifiable disease that followed from an amendment introduced in the revised RIDDOR Regulations (but see below for no change in Northern Ireland); and of a few changes to ACoP and Guidance paragraph text stemming from the withdrawal of the Management Regulations ACoP and other minor detail changes.

Hugh Robertson has gone through these changes in great detail – a heroic effort – and now the TUC is about to publish the updated Regulations, ACoP and Guidance, and the new version will be posted on the TUC website after Easter.

A UCU badged version will be posted soon at:

http://www.ucu.org.uk/media/pdf/6/l/brownbook_UCU_logo.pdf.

All safety reps need to download the new copy – I'll send an e-mail around the list as soon as the UCU version is posted. The TUC has supplied UCU with a number of printed copies free-of-charge, and we'll take 100 to UCU Congress in May, so if you are a delegate, come and pick one up from the H&S stand.

Enthusiasts can download the now updated 'official' version, L146, from the HSE website free downloads at <http://www.hse.gov.uk/pubns/priced/l146.pdf> but remember this also contains the 1996 Health & Safety (Consultation with Employees) Regulations.

4. RIDDOR in Northern Ireland unchanged

On the 27 March 2015, the HSENI wrote to the Irish Congress of Trade Unions in Belfast about the proposed RIDDOR changes, aimed to bring NI into line with the rest of the UK. The letter said that, because of a clear lack of consensus in relation to the proposed changes and budgetary restraints in relation to their implementation which have arisen since the consultation was carried out, HSENI has decided, with the agreement of the DETI Minister, not to proceed with the proposed changes in Northern Ireland. All the provisions of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) will therefore remain in force as they were; as will the NI version of the Safety Reps & Safety Committees Regulations.

5. You heard it here first

Those of you with elephantine memories may recall our article about 'standing-up workstations' in H&S News 73. Anyone up and about early enough on Friday 27 March would have heard the Today report about the health risks from sitting down at work – see <http://www.bbc.co.uk/news/health-32069698>.

As we predicted in 2014, the 'standing up at work bandwagon' is rolling under the "wellbeing" agenda; the UK now has organisations promoting the Bob Cratchitt-style workstation and associated conditions. How long until you are all given Scrooge quill pens to use during your time at work? Many of our members have already reported working a 60 hour week in the recent stress survey.

<http://www.getbritainstanding.org/> has "The Sitting Calculator" – one thing this site **is** calculated to do is increase your stress levels when you discover that:

- sitting down for more than about 4 hours increases your risk of everything from heart disease to dementia.
<https://getbritainstanding.org/health-risks.php>
- Employers can apply for a "Sit-Stand Voucher" worth £150 which turns out to be just a promotional discount on some very expensive office furniture
- The "Active Working Summit" in 2016, is aimed at "leaders and decision-makers from HR" amongst others
- The effects of sitting down listed in the photo album "9 ways prolonged sitting can harm you"

is enough to make you stay on your feet forever.

Interesting that the site quotes a comparative study of bus drivers and conductors in 1953 that showed drivers had almost twice the incidence of heart disease than conductors, but despite the problems for drivers, they stayed while conductors disappeared. (OK, I know, but you do see the point – having identified a problem, the health impact on workers just didn't get addressed. Social historian colleagues will no doubt tell us that tram drivers used to stand up).

Watch out for prolonged sitting down appearing in risk assessments sometime soon, or meetings that become 'standing-up or walking meetings', or a requirement to stand up when the phone rings; do please let me know, and do please make the argument to resist. Another good example of how it appears that workplace conditions created by employers that might cause harm appear to have suddenly become "our fault" yet again. It does make you wonder how average life expectancy has kept rising as sedentary occupation has mushroomed over the past 20 years or more.

I think I need a sit down now!

6. Shared responsibility for risk assessment

Our members in prison education have constant problems with identifying who is responsible for risk assessments. Their situation is complicated by the fact that they work for an employer (the college) who sub-contracts work in a third party's premises (the prison). So

it's easy for the employer to say that it's the prison's responsibility to do the risk assessment. That's not correct.

In May 2010 we circulated an HSE press release which reported the case of Lincoln FE College, who has been prosecuted after a window-cleaner fell four metres, and suffered broken ribs and a serious back injury. He was employed by a window cleaning company who were contracted to clean windows at the college. In November 2008 the window cleaner climbed onto the roof of the main reception building using a ladder and was leaning against the building reaching over to clean nearby windows, when he fell. He spent a week in hospital and was off work for months. He was permanently disabled as a result.

His employer was prosecuted by HSE in October 2009 after pleading guilty for its role in the incident and was fined £2,500 and ordered to pay costs of £2,948.20. On 11 May 2010, the college pleaded guilty at Lincoln Magistrates' Court to a breach of the Management of Health and Safety Regulations 1999 Regulation 3; failing to conduct a suitable and sufficient risk assessment. They were fined £1,500 and ordered to pay £9,500 costs.

<http://www.hse.gov.uk/press/2010/coin-0810.htm>

After the verdict, the HSE inspector who prosecuted the college said: "Lincoln College had a legal duty to check its contractors had proper procedures in place but failed to do so." She added: 'Employers and organisations that hire contract staff have a joint responsibility to ensure the safety of all staff who work on site, to avoid serious incidents such as this.'

<http://www.hse.gov.uk/press/2010/coin-0810.htm>

UCU is aware of other similar cases, where institutions have failed to control the activities of contractors, and HSE has taken enforcement action by issuing an improvement or prohibition notice.

HSE publishes records on prosecutions and enforcement notices, but the quality of the information isn't great – some actions are not recorded; details are limited; and they sometimes get the dates wrong – two cases against City of Bristol College are listed as happening in 2003 and 2005 for example; they happened in 2007 and 2008, so be careful if you use the information <http://www.hse.gov.uk/enforce/prosecutions.htm>

Regulation 12 of the Management of Health & Safety at Work Regulations 1999 requires co-operation between the host employer and the contractor doing the work. So you should be consulted when your employer is thinking about bringing contractors on site; and you should be involved in the risk assessment process in respect of the work the contractors are being brought-in to undertake.

7. Bullying as a management technique of choice

I hear a whisper that bullying has again reared its ugly head in a university that hit the headlines a few years ago. The conventional wisdom, promoted by HSE,

ACAS, CIPD *et al* is that bullying is counter-productive in terms of staff morale and performance, when it comes to managing employees. There have been cases where this approach has been described as “a robust managerial style” by an employer, and that prompted UCU to produce a little checklist a couple of years ago “Bullying or robust managerial style”. A number of UCU safety reps told us that this document had proved useful as a starting point to investigate the incidence of bullying in their workplaces, download here: http://www.ucu.org.uk/media/docs/9/0/Robust_management_style_or_bullying_factsheet.doc

When workloads increase as a result of unilateral decision-making by the employer or when the employer imposes changes in the organisation of work without talking to the union, then employers will often resort to less acceptable means of making staff comply with the new conditions; that's the point at which people often cease to be able to cope with the pressures on them.

Dave Beale and Helge Hoel at Manchester Business School have published three useful articles on bullying as a deliberate approach to managing staff; I'm happy to provide more information if you let me know you would be interested in that.

John Bamford

UCU Health & Safety Advice

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