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1. Time off for safety rep functions

Restricting time-off for safety reps functions is becoming an issue again, given a number of recent enquiries. So once again, let's make it clear.

The Safety Representatives & Safety Committees Regulations 1977 Regulation 4(2) impose this duty on the employer: "An employer **shall** permit a trade union safety representative to take **such time off** with pay during the employee's working hours **as shall be necessary** for the purposes of performing his functions under section 2(4) of the 1974 Act" [and the functions specified by Regulation 4(1)(a-h)] (Our emphasis).

The reason it is like this is simply that it is impossible to say how long some activities will last. Although the concept of "reasonability" is not part of that duty, (it is not "reasonable time off" that the employer has to permit) nevertheless UCU reps always behave with some reference to what a reasonable amount of time is. Reps are entitled to fall back on the exact terms of the Regulations – see the Background page, final paragraph, in the SRSC Regulations booklet.

Employers in any doubt about this should be given a copy of the SRSC Regulations booklet suitably indexed for them. Invite them to also read Guidance Paragraph 42 associated with

the Regulation, it is aimed specifically at them.

Regulation 11 provides for safety reps to apply to an Employment Tribunal in cases where an employer fails to permit such time-off. There have been few cases that relate to time-off for functions; the most recent appears to be ASLEF vs London Underground in 2007. The employer refused the safety rep time-off to undertake a quarterly workplace inspection; the ET upheld the complaint, and the employer had to pay £11,500 compensation, with costs of £4,470. It's obviously better for the employer to just say yes. Anyone wants a copy of the judgement, drop me an e-mail and I'll send you one. jbamford@ucu.org.uk

I'm told that some employers will only permit time-off to be taken against non-teaching time. UCU advice is that time-off for safety rep functions should be in the proportion to the variety of tasks that make-up your workload. So, if you spend two-thirds of your time at work teaching, and one third preparing, marking etc., then time off should be so proportional. That means in order to cover the cost of a replacement teacher your employer will need a budget allocation. Employers may need to be reminded that safety rep functions are statutory functions, and where an employer is required to undertake statutory functions related to their organisation, they will have allocated a

budget to cover it. Make sure your employer understands this statutory function also needs a budget.

2. Whatever happened to our lunch hour?

Popular culture and official concern have both highlighted the importance of breaks from work during the working day. Even in the worst days of Victorian capitalism workers had a lunch hour, they often went home, and mill hooters or clock chimes called them back to the workplace at the end of it. Today, supermarkets are still amongst the employers who insist their full time workers take an hour for lunch during the day, although they are not paid for it.

In our sector I'm told of cases where there has been a steady erosion of the lunch hour towards half-an-hour, one employer even suggested 20 minutes – the standard in the 1998 Working Time Regulations (WTR) for a 6-hour work period. A combination of the poor WTR standard putting downward pressure on conditions and employer desire to exploit staff to the maximum have been principal factors in the decline of the lunch hour.

Similar attacks on conditions have included the practical abolition of the tea break; even in the days before FE college incorporation this was a source of conflict. A three-hour class that included a 15 minute break for students was classed by some employers as 2.75 hours contact time, not three. Do four of those a week and the employer has another hours teaching free of charge. There was a time when workers would aggressively defend their tea-break, now more and more seem to be resigned to get a plastic cup of warm liquid from a dispenser and take it back to their desk.

At least two standards can be applied. Under the **Workplace Health, Safety & Welfare Regulations**, Regulation 25 requires employers to provide suitable and sufficient rest facilities at readily accessible places, and where necessary

for reasons of health or safety in the case of a new workplace, extension or conversion, one or more rest rooms, or in other cases (i.e. existing workplaces) rest rooms or rest areas; and a place for workers to eat food. The ACoP associated with the Regulation isn't a great help, but does confirm that rest rooms should be separate rooms in new or amended buildings. The ACoP says that eating facilities should include the facility to get a hot drink and includes an electric kettle as one way to satisfy this standard – UCU recommends that as the best option, rather than a vending machine, but not as good as a proper kitchen area. The ACoP also says that canteens can fulfil the function provided employees are not required to purchase food, but that doesn't keep us away from contacts that impinge on our rest & recovery time over lunch.

Historically statutory provision of eating facilities comes from factory legislation and the need to have a clean place to eat where the work area may be contaminated by toxic substances, dust or water. Where the workroom is not contaminated, the ACoP allows employers to permit that to be used as the place to rest and eat, thus evading the provision of separate areas, although this can conflict with Regulation 25. The ACoP also says that workers should not be subject to excessive disturbance during breaks (Para. 225), for example by contact with the public. If that's the case in the ACoP, then for our members, contamination can be redefined in a wider context, to include out-of-working-hours contact with students or the intrusion of managerial activity such as meetings into the lunch break, for example. Reps and members should monitor such things; lack of rest and relaxation during the working day increase work-related stress levels.

Under the **Working Time Regulations** Regulation 12(2) provides that a rest period negotiated under a collective agreement would meet the requirements of the Regulations; the 20 minute provision is effectively a default,

so better provision arrived at by a collective agreement with the employer over-rides it. Further, under Regulation 12(3) the employer cannot require a worker to stay at their workstation during their break, but that does suggest there needs to be a suitable place for those on a break to go, so that's another reason to set a collective bargaining objective of maintaining a decent lunch break and good facilities in which to enjoy it.

3. Health and Safety seminars

a) For HE reps only

An introduction to HAZMAP

Birmingham UCU Regional Office
Thursday May 5 2016: 11:00 am – 3:30 pm.

HAZMAP is the monitoring and audit tool developed by the Universities Safety & Health Association (USHA) for use by university H&S professionals. This is an opportunity for UCU safety representatives to understand how this tool is used, and what USHA recommends for effective workplace audits. Scott Trim from Coventry University and USHA has kindly offered to facilitate the seminar. UCU will pay reasonable travel expenses and provide lunch.

There 18 places available on a first come – first served basis.

To apply, send an e-mail to jbamford@ucu.org.uk confirming you have the support of your Branch or LA. Closing date 27 April 2016

b) For all UCU safety reps

Organising for H&S in the workplace

UCU Head Office
Wednesday 25 May 2016. 11:00 am – 4:30 pm

The seminar is open to all UCU Safety reps. There are 40 places available, and delegates will be taken on the principle of first come – first served.

UCU will pay reasonable travel expenses and provide lunch at the event.

Rob Vondy, the HSE's new Head of Stress Policy has agreed to come and outline the latest HSE thinking for us, and agreed to a Q&A session afterwards. We will also run some topic group discussions on organisational development in the workplaces, and take a wider perspective on worker health & safety from Hilda Palmer Chair of the national Hazards Campaign.

Application details and form will be circulated to the list shortly.

4. News from the TUC

a) Biennial Safety Reps survey

The 2016 TUC biennial health and safety representative's survey is now under way. The survey enables unions and the TUC to better understand the issues facing representatives and monitor the state of our organisation. It is available in both paper and on-line formats and I have already circulated the form; copies have been inserted into Hazards magazine, so subscribers have it. We will take copies to UCU Congress. The online survey form is at <https://www.tuc.org.uk/HS2016>

The closing date for completed returns is 1 July.

Previous surveys have shown some quite concerning results in terms of trade union organisation - for example, about half of safety reps spend less than an hour a week of safety rep activities, and fewer than half (44%) conduct 3 or more workplace inspections a year - one of the most important safety rep functions; perhaps worse, over 20% report not having conducted a single workplace inspection in the preceding year. More experienced reps seem to be the ones that spend most time and conduct most inspections – so it seems that confidence comes with experience.

Previous surveys have also shown that employers are not meeting the duty imposed on them to consult in good

time with safety reps on a wide range of issues - the 2014 survey showed that 50% of safety reps reported their employers only consulted occasionally, and 22% said the employer never consulted. Even when prompted by a request, 8% still didn't ever consult. There are some lessons to be learnt from this.

Go to:

<https://www.tuc.org.uk/sites/default/files/HealthandSafetySurvey2014.pdf> for the 2014 results.

b) New recruitment & involvement materials

Updated guidance is aimed to help the union encourage existing members to become more involved with H&S issues, and use successful improvements to recruit potential members.

Workplace health and safety is one of the main reasons that people join a trade union, and this material is a practical way of introducing the "organising approach" into safety rep activity. UCU also promotes the importance of that approach.

To encourage current union members to be more interested in health and safety issues, the guidance suggests unions should:

- involve members in identifying hazards at work, finding solutions and dealing with problems
- continue to increase the number of trained health and safety reps, ensuring they are representative of their workplaces
- deal with problems as early as possible when they are manageable, rather than leaving them to get worse

We are designing some materials to help UCU reps promote the organising approach, and have drafted the first two guides – one on temperature and one on workload. We'll circulate these as soon as they have been finalised.

Go to:

<https://www.tuc.org.uk/HandSandOrganising> to download the TUC materials. They are also available in other formats. You can use them in local training events.

c) Trade union bill progress

Thanks to those of you who let me know they DID know a member of the House of Lords, and forwarded the TUC briefing I sent round. An amendment to remove the clause on facility time in the public sector (including health and safety representatives) was overwhelmingly agreed. However the Government may try to restore it in the Commons so the campaign in support of trade union representatives continues.

The TUC press release on the Trade Union Bill is here:

<https://www.tuc.org.uk/union-issues/trade-union-bill/triple-whammy-defeat-government-over-trade-union-bill-says-tuc>

5. Change at work can damage your health and work

Personnel Today's round-up of occupational health research reports two articles concerning change at work – one of the HSE Stress Management Standards – that will be of interest to UCU reps. I'm sure you'll recognise the findings.

A review of research into the effects of organisational restructuring, regardless of whether or not it involves redundancies, has a negative effect on employee wellbeing, according to a systematic review of longitudinal studies. The majority of the 39 papers examined for the review showed a negative impact over both the short and long term, although some groups of workers, including those with "high organisational status", reacted less negatively to the change. Factors that intervened in the general negative relationship between organisational change and employee wellbeing include: job control; communication and

provision of information; job insecurity; and acceptance of change.

De Jong T et al. "The impact of restructuring on employee wellbeing: a systematic review of longitudinal studies". Work & Stress, vol.30, issue 1, 2016.

A second paper, while not referring specifically to adverse health effects, demonstrates that employees who feel their job security is threatened will suppress personal values and pretend to embrace the employing organisation's values as a coping strategy, according to survey-based research. So-called "facades of conformity" are more likely to be used by younger workers when faced with increased job insecurity, and are in turn, associated with an intention to leave the job.

The study highlights the importance of employers fostering a workplace environment that encourages authenticity. It also suggests that older workers, faced with job insecurity, are more likely than younger ones to express divergent points of view.

Hewlin PF et al. "Creating facades of conformity in the face of job insecurity: a study of consequences and conditions". Journal of Occupational and Organizational Psychology, first published online 18 January 2016.

6. Workers Memorial Day 28.4.16

As ever, activities planned around the country, see:

<https://www.tuc.org.uk/WMD2016>

The Hazards Campaign will send you free posters, A3 and A4, to put up at work. The WMD purple ribbons – the 'forget-me-knot' – are available for .30p

each + a SAE, or £30 a hundred post free. Order forms and other information here:

Manchester Flyer for #IWMD16:

<http://www.gmhazards.org.uk/wordpress/wp-content/uploads/2016/04/Manchester-iwmd16-flyer-2a-pub.pdf>

Ribbon order form:

<http://www.gmhazards.org.uk/wordpress/wp-content/uploads/2015/04/WMD-Order-Form-2015.doc>

Poster order form:

<http://www.gmhazards.org.uk/wordpress/wp-content/uploads/2016/04/WMD-Poster-Order-Form-2016.doc>

7. Fire evacuation procedures

I want to find out what arrangements are in place for lecturers to ensure that all their students get out of the building safely during a fire or other emergency evacuation. This question has been raised in respect of the replacement of paper registers by recording attendance on-line on a classroom terminal. In the days of paper registers, lecturers would take the document with them when they left the building and call a register at the assembly point to ensure everyone in the class had left the building.

How do employers deal with this where no paper recording exists? Any information gratefully received. I'll report something in the next issue of H&S News.

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