

THE DAILY HAZARD

Campaigner corners killer company

Maureen Brennan, whose son died working for a McAlpine subcontractor in April 1990, has forced the Health and Safety Executive (HSE) to re-open the prosecution of his bankrupted employer. This is a major victory for Maureen after two years of campaigning.

The HSE originally prosecuted Michael Brennan's employer, J F McMahon Civil Engineering Ltd, in February 1991. There were flagrant breaches of the law, and the HSE said in advance that they would be asking the magistrate to refer the case to the Crown Court to obtain more severe penalties. But McMahon's went into liquidation before the first hearing and Maureen had the ordeal of sitting in court only to find that the case would be dropped.

It's not clear who decided to drop the case or why. The HSE and the magistrate have each accused the other. But it doesn't really matter. Both are part of the same system, and as Maureen says, 'The main issue is justice.'

'The director of McMahon's should not be allowed to escape a criminal prosecution,' says Maureen, 'simply because of the liquidation of his company.' Companies frequently escape this way, but they don't have to be allowed to. There have been successful prosecutions of liquidated companies for health and safety offences. The problem is that the expense of doing so is usually ruled to be against the 'public interest'.

Michael Brennan was just 19 when he was killed. Despite having no driving licence or training and little site experience, Michael was driving a dumper on a site in Watford. The dumper was overloaded and the brakes were

faulty, which, combined with the absence of stops at the end of its run, made it a death trap. It overturned, he was thrown off, knocked unconscious and crushed.

Maureen began her fight with the support of the London Hazards Centre and the Relatives Support Group, a campaign formed by families of people killed at work. She set out to find out why the case was dropped and succeeded in obtaining disclosure of significant documents from the magistrate's court.

Her next step was to try to get into the HSE's main annual press event, the launch of its Annual Report. She was refused entry because she wasn't a journalist but she and her supporters embarrassed John Rimington, Director General of the HSE, into speaking to her on the steps.

Maureen's campaign gained further impetus with the support of the civil liberties campaign Liberty and the construction union UCATT. The organisations joined forces and organised a press conference in October 1992 to highlight official inaction.

On 8 February 1993 the case was back in Watford Magistrates Court. Maureen's family were supported by members of the Construction Safety Campaign and UCATT who demonstrated outside the court. The prosecution was adjourned to 10 March 1993 pending a second review of the case.

November 1992 — 800 construction safety campaigners march to Parliament to protest to MPs about the construction industry's appalling safety record.



CPS probes construction deaths

Two construction 'accidents' in London have been referred to the Crown Prosecution Service (CPS) to see if manslaughter charges should be brought. Referral of health and safety cases to the CPS is very rare. Both cases involve British Rail.

One case concerns the collapse of a British Rail bridge at St. John's Station Lewisham in June 1992. The bridge was being prepared for demolition when it collapsed, killing Nicholas Scott and Frank Warren and injuring several others. The work was being carried out by BR subcontractor Tilbury Construction.

It has been reported that a BR Safety Officer was on site at the time, on top of which the whole incident was filmed by a BR film crew making a documentary on the safe demolition of bridges! Southwark Coroner, Sir Montague Levine, adjourned the inquest and referred the case to the CPS because of new evidence.

The second case is that of Tony Fishendon who was electrocuted when an electric current apparently arced from a BR overhead railway cable onto a scaffold pole he was carrying. Two children had been similarly seriously hurt nearby, 15 months before. Their grandmother, Jill Ffoulkes, has been campaigning for safety improvements in the area ever since. This is probably why the Coroner at St Pancras, Dr Chambers, referred the case to the CPS.

Meanwhile the death toll in the construction industry goes on unabated. On 22 December 1992 three heating engineers were working on the heating system of Selfridges department store in London's Oxford Street when a boiler exploded, dousing them with boiling water. Don Legge and George Flatman have since died of their injuries, though the third person is fortunately said to be recovering. George Flatman was a member of the Union MSF, which is investigating the incident.

A similar accident occurred in late January when a new boiler exploded at Celcon Brick in Sevenoaks, Kent. One man was killed and another seriously injured.

At the Rhone Poulenc factory in Dagenham there was a second construction death in three months when Timothy Delaney fell from a scaffold.

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Government axes TUC training

Tens of thousands of health and safety training days for trade union safety reps are under threat. Employment Minister Gillian Shephard announced in December that the Government intends to cut the education grant to the TUC, 40% of which is spent on health and safety courses. Neither the TUC nor

the Health and Safety Executive (HSE) was consulted prior to the announcement of the phasing out of the Trade Union Education and Training Grant (TUET), this year worth £1.7 million, which will finally be abolished in April 1996. Individual trade unions also stand to lose education grants totalling three quarters of

a million pounds over the three years from April 1993.

Norman Willis, TUC General Secretary, sees the move as 'a vicious and calculated blow designed to destroy state support for good union practice.' It seems that the only significant contribution the UK Government has made to the *European Year of Health and Safety at Work* is to remove funding for hundreds of high quality training courses serving thousands of workers each year.

The HSE's Deputy Director David Eves commented in early January, 'The Health and Safety Commission is actively considering the consequences of the Secretary of State's decision on this matter, with a view to continuing to give support to the role of safety reps in the future.' Even the employers' organisation, the Confederation of British Industry, hitherto not well known for backing trade union activity, has been writing to the Department of Employment, raising questions about the cost to industry of providing alternative education. Clearly, the CBI

recognises the valuable contribution to workplace health and safety made by trained reps.

All the existing health and safety legislation, and the 1993 Regulations from Europe have clauses requiring the provision of information, training and consultation for workers and their representatives. Furthermore the 1977 Safety Representatives and Safety Committees Regulations contain a duty on employers to allow trade union safety reps paid time off to attend trade union training courses to learn what functions they have and how to carry them out.

A TUC delegation including Mr Willis, and General Secretaries Bill Morris of the TGWU and Jimmy Knapp of RMT have met with Mrs Shephard to kick off the union campaign to reinstate the grant. They don't believe the decision is final, but it will take vigorous campaigning to prevent its implementation. Ensure your union makes its voice heard, write to Gillian Shephard and the TUC.



Euro-regs extend safety reps rights

The best feature of the new Euro-legislation is the *Schedule* (see box) in the *Management of Health and Safety at Work Regulations* which gives extended rights to safety reps and committees. MSF reps at Imperial College have been quick to raise the issues with their management and have already achieved upgrading of the training for 'competent' persons, all of whom will be sent on National Examination Board in Occupational Safety and Health (NEBOSH) courses.

The union has also been successful in getting hold of the risk assessment for the nuclear fusion research project (possibly of general interest to London's citizens) and is getting involved in the biological screening of technicians taking part in research into hepatitis B. Progress has been chalked up in securing improved training in manual handling and in modifying management proposals on the assessment of VDU workstations.

Elsewhere in the University of London, the managements seem less willing to play ball. At Birkbeck College, the management tried to cut NALGO out of the assessment of the VDU workstations of library and admin staff. Far from consulting in good time, the management only advised the union of its proposals two days before a key safety committee meeting. The NALGO reps were able to use the Schedule to make the management take a more reasonable attitude to consultation. With this kind of management practice becoming more and more the norm in the public sector as much as the private, safety reps need to be aware of their new rights and be prepared to resist management attempts to undermine or bypass them.



THE SCHEDULE

The following regulation shall be inserted after regulation 4 of the Safety Representatives and Safety Committees Regulations 1977 — 'Employer's duty to consult and provide facilities and assistance

- 4A (1) Without prejudice to the generality of section 2(6) of the Health and Safety at Work etc. Act 1974, every employer shall consult safety representatives in good time with regard to —
- the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the safety representatives concerned represent;
 - his arrangements for appointing or, as the case may be, nominating persons in accordance with regulations 6(1) and 7(1)(b) of the Management of Health and Safety at Work Regulations 1992;
 - any health and safety information he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions;
 - the planning and organisation of any health and safety training he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions; and
 - the health and safety consequences for the employees the safety representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.
- (2) Without prejudice to regulation 5 and 6 of these regulations, every employer shall provide such facilities and assistance as safety representatives may reasonably require for the purpose of carrying out their functions under section 2(4) of the 1974 Act and under these Regulations.

NOISE AND HEARING LOSS

The dangers

Almost 2 million UK workers are at risk from excessive noise (HSC estimate). 30 per cent of industrial workers have some work-related hearing loss. Occupational deafness is the second most common reason for industrial injury benefit claims.

The dangers are clear in industries such as mining, tunnelling, quarrying, heavy engineering, iron and steel production, textiles, and driving heavy vehicles (trucks, construction vehicles). But noise is also a hazard for white-collar workers such as office workers and teachers.

Permanent hearing damage is first noticeable around frequencies of 4000 Hz (high-pitched speech) and gradually spreads to other frequencies. Both ears are affected roughly equally.

Noise can also cause tumours in the ears, dizziness or complete loss of balance, ringing in the ears, hoarseness, as well as stress involving difficulties with concentration, fatigue, tension, and irritability.

Vibration, exposure to some chemicals and drugs can reinforce the damaging effect of noise. Some drugs (including aspirin) and other chemicals can affect hearing directly.

Factors in noise damage

Intensity (loudness) results from the sound pressure of vibrations. The sound pressure is measured in A-weighted decibels (dBA). A-weighting adjusts for the human ear's varying sensitivity to different frequencies. The decibel scale is logarithmic, so every 3 dBA doubles the noise and every 10 dBA means a ten-fold increase: 90 dBA is 10 times louder than 80 dBA, and 100 dBA is 100 times louder. Speech is about 50 dBA. The noise level in factories averages 80-100 dBA. Jet engines run at about 130-140 dBA.

Frequency The human ear can hear frequencies between 16 Hertz (Hz) and 20,000 Hz. Speech frequencies are 250-4000 Hz. High frequency sounds are the more dangerous.

Duration Longer exposure increases the damage.

Nature Noise can be stable, fluctuating or intermittent. Impulsive noise (such as hammering) is particularly harmful.

Damage begins at or before 85dBA. After exposure to 85dBA for 8 hours a day for 15 years, 5 per cent of workers will show

hearing loss. The same length exposure to 90dBA will damage 14 per cent of workers; and to 95 dBA, 24 per cent of workers.

The law

The 1989 Noise at Work Regulations say employers must reduce the risk of hearing damage to the lowest level reasonably practicable and maintain all equipment. The Regulations set two action levels, at 85 and 90 dBA.

At 85 dBA employers must:

- assess noise exposure from processes and maintain records
- provide information, instruction and training for workers
- use noise reduction equipment supplied by manufacturers
- advise workers that they are entitled to ear protectors
- provide these to workers who ask for them and ensure they are maintained and repaired.

Workers must use protective equipment other than ear protectors and report defects in equipment.

Manufacturers and suppliers of equipment must supply information on the noise likely to be generated.

At 90 dBA employers must:

- reduce exposure to noise by means other than ear protectors
- mark ear protection zones
- provide ear protectors to all exposed persons and ensure they are used in ear protection zones.

Employees must use the ear protectors which have been provided.

Holes in the regulations

The Regulations, which are based on a European Directive, have serious flaws:

- the 85dBA Action Level places very weak obligations on employers, despite clear evidence that 85 dBA causes permanent damage
- they omit the Directive's requirement for a programme of technical and work organisation measures to reduce exposure
- they frequently dilute requirements with the phrase 'as far as reasonably practicable'

In 1991/92 there were only nine convictions with an average fine of £286. The main effect of the Regulations has been to increase the use of ear defenders, not to eliminate sources of noise.

Union action: substitution and control

Union representatives should develop their own action programme aiming for substitution and control of noisy machines and processes:

- replace the machine or process by a quieter one
- reduce the noise by fitting silencers, dampening vibration, improving lubrication, minimising metal to metal contact
- maintain bearings, gears, lubrication
- block the noise path or insulate the machine or building
- move the machine or process away from people or vice versa
- limit the length of exposure
- reduce the number of people exposed
- ensure new machinery is properly designed to reduce noise — set a limit of 75 dBA for new machines

Ear protectors should only be used as a temporary measure until noise is removed, reduced or isolated, because:

- they interfere with communication and isolate the wearer
- they place the onus for safety on the worker rather

than the employer

- they can lead to complacency about the noise problem
- they can easily be damaged or deteriorate
- a lot of expertise is needed in their correct choice, use and maintenance

Using surveys

Union representatives should demand that their management surveys all suspect areas and provides the results to the union. Surveys should be carried out in typical conditions, with all noisy processes in operation and with as few people present as possible as the human body is a great noise absorber.

A simple noise survey can be done using a hand held noise survey meter, preferably an

integrating type which can show average levels, or a personal dosimeter. Depending on the situation, you may want to survey:

- daily personal exposure (intensity and duration)
- average noise intensity
- peak intensity.

Instruments must be checked for correct measurement every time they are used, and they should come with a simple calibrator which does this. They must meet British Standards 6402 (dosimeters), 5969:1981 (peak levels), BS 6698 (integrating) or 5969 (simple sound level).

The London Hazards Centre has meters which can be borrowed by union branches, as do some of the other hazards centres and groups.

Measurement and compensation for hearing loss

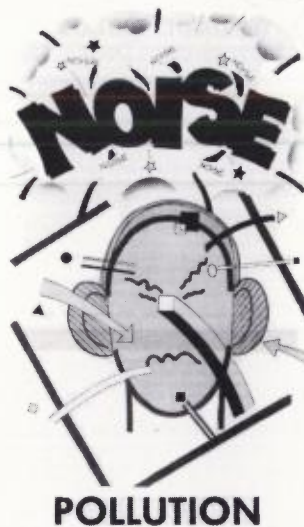
Hearing loss is measured by audiometry. The subject sits in a soundproof booth wearing headphones and each ear is tested by playing sounds of different frequencies at about 50-60 dBA. The noise level is reduced until the subject can no longer hear the signal. This level is their 'threshold of hearing'. A plot is made of their hearing threshold at each frequency giving the 'audiogram' and this is compared with the profile for normal hearing. A difference of 20 dBA or more from the normal audiogram, especially in the 3000-4000 Hz range, indicates significant hearing loss.

Provision of audiometry by the NHS is completely inadequate and this has led to the European Commission threatening to prosecute the British Government. But it is offered by a number of Hazards organisations, including the Birmingham Health and Safety Advice Centre, the Sheffield Occupational Health Project and the London Hazards Hearing Project.

Compensation for occupational hearing loss is poor. Ford has paid out over £6 million to workers at Dagenham in recent years but that only represents about £2,000 per claim settled. ASLEF, the train drivers' union, has agreed a scheme with British Rail which provides just over £8,000 for total deafness.

No-one should proceed with a compensation case without taking advice from their union or from a lawyer experienced in personal injury claims. Some of these will provide a free initial interview.

The message is clear: prevention is better.



European TUC Conference

What do John Smith from Lancashire and Peter Frolich from Dusseldorf have in common? Both died of asbestos-related illnesses. Every year eight thousand workers are killed in accidents across the European Community, and a further ten million die from occupational diseases.

Clearly, working conditions in Europe leave much to be desired. EC health and safety legislation is designed to address some of the more neglected areas, for example the Directives on hazardous substances, noise, asbestos, manual handling and VDUs. But how are the Directives being interpreted by the member states, and more importantly, how are

they being implemented and enforced in the workplace?

The European Trade Union Confederation (ETUC) held a major conference in London on 17-19 February 1993 to consider these questions and to compare experiences so far. The main focus was on basic health and safety organisation, defined by the Framework Directive. According to Willy Buschak, Confederal Secretary of the ETUC, only five of the twelve EC member states have so far implemented this 'Magna Carta of health and safety law' and the UK has been notably half-hearted in its interpretation.

'The UK has a peculiar approach to the Directives,' Mr Buschak told the *Daily Hazard*.

'They interpret them as giving the maximum standards they have to meet, whereas the Directives are clearly laying out minimum requirements.'

The ETUC is unhappy with the Framework Directive itself, and is campaigning to extend it to provide all workers with:

- the right to have an elected trade union safety representative
- information on everything related to their working environment
- access to an independent, preventive occupational health service

All UK unions should be supporting these objectives. Does your union? Get your resolutions in now!

Sign up for Summer training



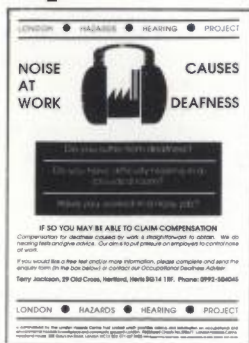
From May to July 1993 the Hazards Centre is running a series of inexpensive, one-day courses designed to equip safety reps and anyone involved in workplace health and safety with the knowledge and information to bring about improvements in their workplace.

As well as focusing on specific health and safety topics, each course will cover the relevant new regulations arising from EC directives which came into force in January 1993.

- 11 May 1993: Office hazards
- 25 May 1993: Tackling violence at work
- 10 June 1993: Lifting and handling
- 24 June 1993: Chemical safety and COSHH
- 8 July 1993: VDUs and RSI
- 22 July 1993: General health and safety regulations

The courses cost £40.00 plus VAT per person per day. See the leaflet enclosed with this issue for further information and a booking form.

London Hazards Hearing Project



The London Hazards Centre has become involved in an exciting new audiology project offering free hearing tests and legal advice to retired, redundant and unemployed industrial workers in London and the South/East, who now suffer from deafness caused by noisy working conditions. Working with Occupational Deafness Adviser Terry Jackson, who has considerable experience of this work, and local firms of solicitors, the project aims to assist individuals with compensation claims for noise-induced hearing loss.

Similar projects have been carried out by hazards groups in a number of different regions in the UK with considerable success. This work is part of a wider health and safety campaign to draw attention to the real cost of inadequate safety measures in the workplace.

Workers' International Memorial Day 28 April 1993

Workers Memorial Day originated in Canada, spread to the USA and is now an established event here in Britain. Workers throughout Britain are organising events for 28 April 1993 to commemorate those people killed, disabled and injured by work. The British slogan is **Remember the Dead — Fight for the Living!**

In London, the Campaign Against Hazards In London (CAHIL) is organising a demonstration outside the Health and Safety Commission (HSC) and Health and Safety Executive headquarters, Baynards House, Chepstow Place, London W2 on 28 April 1993. CAHIL supporters, workers, safety reps, trade union officials and relatives of those killed will gather there at 10.00am to hold a protest at 10.30am.

For further information Londoners should contact CAHIL on 071-485 2981. For events elsewhere in Britain phone: 021-236 0801.

PUBLICATIONS

Repetition Strain Injuries update available. The London Hazards Centre has just published a four page supplement to their book *Repetition Strain Injuries — Hidden harm from overuse*, originally published in 1988. The supplement, *Out in the Open* includes details about recent legal battles over compensation claims; the changes in state disablement benefits; and the *Management of Health and Safety at Work and Display Screen Equipment Regulations* that came into force on 1 January 1993. *Out in the Open* also includes suggestions for taking action at the workplace to safeguard workers from RSI. *Out in the Open* £1.00 or free with *Repetition Strain Injuries*.

- ▲ **After the Sprayer: investigation and treatment of ill-health caused by wood preservatives and how to get help.** Factsheet. £1.00 (minimum order £2).
- ▲ **Hazards Networker.** Documentation bulletin. Subscription £10*/£20/£50 (commercial)
- ▲ **Basic Health and Safety: Workers' rights and how to win them.** £6.00
- With **Protecting the Community: A worker's guide to health and safety in Europe**, £13.00 (£15.95 if purchased separately)
- Office Pack: all 4 office hazards publications below — £12.00
- ▲ **Sick Building Syndrome: Causes, effects and control.** £4.50 ●
- ▲ **Repetition Strain Injuries: Hidden harm from over-use.** £3*/£6.00 ●
- ▲ **VDU Hazards Handbook: A worker's guide.** £5.45 ●
- ▲ **Fluorescent Lighting: A health hazard overhead.** £2*/£5 ●
- ▲ **Toxic Treatments: Wood preservative hazards.** £5.95
- ▲ **Health and Safety for Women in Cleaning and Catering.** £2*/£5.00
- ▲ **Asbestos Factpack** (People's Asbestos Action Campaign). £3*/£5.
- ▲ **Strategies for COSHH: seminar briefing and report.** £2.50
- ▲ **Factpack:** Set of factsheets from the *Daily Hazard*. £5.00.
- ▲ **Daily Hazard** complete run: £25

*Price to community/tenants/union groups.

Prices include postage. Discounts for 10 or more copies. Minimum order £2.00



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