

THE DAILY HAZARD

Will new consultation rights undermine role of safety reps?

In May 1995, Secretary of State Michael Portillo asked the Health and Safety Commission (HSC) to prepare Regulations that would reflect European Court judgments relating to employer consultation with employees. The HSC has now issued a consultative document (CD 96) proposing information and consultation rights for non trade union workers on health and safety. The consultation period closes on **16 February 1996** and the government plans to have the Regulations in force by October. The question is whether this represents an opportunity to broaden action on health and safety or whether the government is seeking to undermine the current effectiveness of safety reps and trade unions in the workplace.

Limited functions proposed for new reps

The CD proposes a more limited range of functions for reps elected under new Regulations. They do not include rights to inspect or investigate accidents, potential hazards and complaints. However, Draft Reg 7 refers to the right of the elected rep to receive 'reasonable costs associated with training including travel and subsistence costs'. This is an improvement on the Safety Representatives and Safety Committees (SRSC) Regulations 1977 which make no reference to these costs. Draft Reg 21 gives facilities to elected reps (lists of employees, communications, distribution and photocopying) and provides access to senior management in a way not specified in the SRSC Regs.

The legal position of union safety reps

CD 96 makes no attempt to weaken existing legal standards

for trade union safety reps and the SRSC Regulations continue in force. The proposals do not provide for the appointment of reps where there is an existing arrangement with the union safety rep even if there are workers not in the union. Existing patterns of representation could have been broken up if a significant number of non-members demanded their own representative. However, the Government's hidden agenda may be the further erosion of trade union rights. With the new system up and running, the government could proceed to 'round down' trade union safety reps' rights to the weaker functions now being proposed for non union workplaces.

Arguments against the proposals

- Safety representation has increasingly been an important reason for people to join or remain in a union. By extending representation rights to non-union staff there is a risk of undermining some of the benefits of trade union membership.
- Non-union reps will have no power to fundamentally influence safety and the consultation will continue to be a token exercise.

Arguments in favour of the proposals

- All workers should be given the basic right of consultation and representation on health and safety. At the moment, these rights are restricted to workplaces where trade unions are recognised by the employer.
- Unions can use the consultation procedure to raise demands on health and safety at workplaces where they are not recognised.

Need to improve SRSC Regs

The Trades Union Congress (TUC) welcomes the HSC's proposals but prefers to wait for 'more auspicious circumstances' to take things further. However, unions should be using the opportunity presented by this consultation exercise to call for improved rights for safety reps under the SRSC Regulations. This was certainly the unanimous opinion held by safety reps attending a discussion at the Hazards Centre in November.

The meeting called for amendments to CD 96:

- remove employers' discretion on the question of organising representation
- elections should be triggered by five per cent of employees requesting such an election
- elections should be run by an independent body
- newly proposed elected reps should have legal immunity
- new reps should have parity with union safety reps
- TUC should offer training to such reps, employers should pay

In addition, it called for the following improvements in trade union safety reps' rights:

- extend remit to cover environment
- pay subsistence and travel expenses when reps are on courses
- provide full cover while reps are on courses or carrying out their duties
- give automatic access to senior management
- appoint roving safety reps where appropriate
- recognise union safety reps rights independently of whether the union is recognised
- give right to apply to an industrial tribunal when enforcement agencies do not issue improvement or prohibition notices
- permit reps to be elected by the whole workforce
- give time off with pay to allow attendance on outside bodies such as industry committees
- provide right of access to independent expertise
- inspectors should notify reps prior to inspections
- right to accompany inspectors during inspections
- notification of accidents and diseases
- right to reinstatement if victimised

These issues will be discussed further at the national Hazards Campaign conference in April 1996 and unions will hopefully promote further discussions among their own members at a national, regional and local level.

- Non-union reps elected under new Regulations will soon see the need to have union support and the whole process will encourage an increase in union membership.

Guidance free from HSE Books on 01787-881165. Comments should be sent to Dr J Cruickshank, HSE, Room 720, Rose Court, 2 Southwark Bridge, London SE1 9HS by 16 February 1996.

The Future of Union Workplace Safety Representatives £5 from TUC, Congress House, Great Russell Street, London WC1B.

Draft Proposals for Health and Safety Consultation with Employees: Regulations and

Union reps act against asbestos in Camden ...

Social workers employed by the London Borough of Camden are refusing to work in a building contaminated by asbestos. The social workers were intended to operate from the Tottenham Mews Resource Centre, W.1, as part of a multi-disciplinary team with other workers employed by the Camden and Islington Health Trust, the owners of the building. But when the social workers discovered that significant amounts of asbestos were still present in the Resource Centre even after renovation, they voted as a Unison shop to refuse to work at the Centre.

They demanded that the management arrange a complete and independent survey of the polluted premises before they would return to the Resource Centre. They pointed out that the extent, location, stability, vulnerability and present state of the asbestos in the building were not known. The management accepted the situation and agreed to the Resource Centre being vacated until the problem was sorted out.

The main problem was that Camden management was

unable or unwilling to provide the information the UNISON members needed to satisfy themselves about their health and safety concerns. Though the Health Trust is the landlord, this does not relieve LB Camden of its statutory duty to safeguard its own employees and to provide information to union representatives on health and safety matters affecting their members. This right enjoyed by safety representatives also includes the right to take copies of relevant documents. In this instance, the Camden management seemed very hazy about what was going on in the Resource Centre and unaware of the obligation to disclose information. Kevin McCarthy, UNISON shop steward for the social workers, said, 'We don't know what the real situation is. What we are asking for is basic information. But one thing is sure: we are not going back into that building until we're absolutely convinced that it's safe.'

The Centre's Asbestos Hazards Handbook is now available. See details on back page or ask us for an order form.

... and permethrin in Kensington

CPSA and UNISON members suffered more than the Monday morning blues when they arrived for work recently at the Benefits Agency at Charles House, Kensington. In fact, quite a number developed skin rashes and at least one had to seek medical treatment. It turned out that Rentokil sprayers had been into the offices the previous Saturday and applied the pesticide permethrin in an organic solvent. Permethrin is widely used for indoor application for a wide variety of insects. It is often dismissed as practically harmless but does cause skin irritation and also a peripheral nervous system condition known as parathesia.

Union representatives went into action right away and got the management to agree to the most affected offices being vacated. The management also agreed that these offices should be tested for pesticide residues in order to establish when it was safe for staff to go back into them. The unions were determined to ensure that a reputable company was chosen to carry out the tests before they could recommend members to

go back to their normal desks.

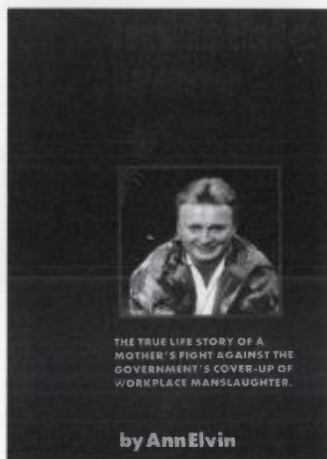
The unions were neither informed nor consulted about the spraying operation as they should have been under the Control of Substances Hazardous to Health (COSHH) Regulations. These Regulations, which came fully into force in 1990, require employers to assess the risks of any operation involving chemicals and ensure a safe work method is adopted. Pesticide applications, very common in offices, are covered but very often the legal duty to comply with COSHH is simply forgotten even if the management ever knew about it in the first place. Even though the work is often carried out by a contractor, the main employer is not freed from the obligation to safeguard staff and consult with union representatives. Union representative Andrew Ward at the Kensington Benefits Agency said about the incident, 'We are now going to redouble our efforts to ensure this sort of work is carried out properly in all the offices in our District.'

Free insecticides and COSHH factsheets available from the Centre.

Bereaved mother tells her story

On the morning of Friday 11 November 1988, Ann Elvin's 24 year old son Paul was on his first day at work constructing shop fronts in Euston Station. He received a 25,000 volt shock from an overhead electric cable and died in hospital the following day. Three months after his death, Paul's girlfriend Lorna gave birth to their daughter, Kylie.

After years of campaigning, Ann has now written a personal and moving account of her fight for justice for her son and his daughter. She looks at the UK authorities' failure to protect people at work and highlights how the system is biased towards protecting the interests of negligent employers.



Ann tells how she fought to find out the truth about why her son died and against attempts to cover-up who was responsible for his death. She also tells how she helped to set up a support group to help other families.

Paul Elvin's death was not an isolated case. There are several hundred workplace fatalities every year in the UK. Even though the Health and Safety Executive recognises that management is to blame for the vast majority of these deaths, employers are allowed to

continue playing Russian Roulette with workers' lives.

Invisible Crime: the True Life Story of a Mother's Fight Against the Government's Cover-up of Workplace Manslaughter. £5 + £1.50 p&p from Ann Elvin, 8 Chalfont House, Keetons Rd, London SE16.



*Ann Elvin lays a wreath for her son Paul at Euston Station
Photo: Stephen Bishop*

Provision and Use of Work Equipment Regulations (PUWER) 1992

These regulations, if fully implemented by employers, would do much to reduce the injuries suffered by workers daily. More than 100,000 UK workers who were injured in 1994 were using defective or inappropriate work equipment.

Many employers do not know that PUWER exists and because of weak enforcement it will be up to workers and their Safety Representatives to monitor how employers implement the regulations and to report instances of non-compliance to the enforcement agencies, namely the local council's Environmental Health Department or the regional office of the Health and Safety Executive.

Examples of dangerous work equipment

- Badly designed hand tools such as screwdrivers, handsaws, drills and knives which strain wrists and cause carpal tunnel syndrome, etc.
- Air powered machine tools that do not have fail-safe cut outs.
- Unguarded power tools or machine tools.
- Items used to jury-rig a job.
- Badly organised workstations.
- Assembly lines running at speeds they were not designed for.
- Photocopiers that are not regularly maintained and emit ozone.
- Sewing machines with elbow operated speed controls that cause RSI.
- Printing machines causing unnecessary bending of the wrists to load the card/paper feed-hoppers.

Where PUWER Applies

Regulations 1 to 10 came into force for all work equipment in all workplaces on 1 January 1993.

If the equipment was owned or rented by the firm/organisation before 1 January 1993, employers are exempted from implementing regulations 11 to 27 until 1 January 1997.

Where there is an overlap between the general standards set by PUWER and specific standards set by other regulations (e.g. the Display Screen Equipment Regulations 1992) then compliance with the specific regulations will mean that the standards set by PUWER are met. The Regulations do not cover crew

on sea-going ships under the control of a Master.

The nation's armed forces may be exempted by a specific exemption certificate signed by the Secretary of State for Defence.

The Regulations do apply to offshore oil and gas installations, diving support vessels, heavy lift barges and pipe-lay barges.

The Regulations

All employers, and the self-employed, have a duty to make sure that all work place equipment complies with the Regulations (Reg 4).

Equipment must only be used for the tasks for which it was designed (Reg 5).

PUWER must be implemented alongside Reg 3. of the Management of Health and Safety at Work Regulations 1992 (every employer must complete Risk Assessments of all work tasks involving the use of equipment).

Maintenance

The equipment must be efficiently maintained (Reg 6).

Employers must ensure that maintenance of equipment is conducted safely and equipment must be shut down where appropriate (Reg 22).

Information

Written information and instructions must be provided on the proper use of the equipment. It must be in a form that is comprehensible to workers e.g. in the first language of workers or in a form readily understandable by those who may be dyslexic or have impaired literacy skills (Reg 8).

Such information and instruction must be backed up by training in the safe use of work equipment (Reg 9).

All markings required by legislation must be clearly visible and warnings or warning devices incorporated into work equipment for reasons of operator safety should be

unambiguous, easily perceived and easily understood (Reg 23).

Guards and protection

Machinery must have fixed guards or, if that is not practicable because the technology does not exist, then other forms of guard or protection devices e.g. push sticks on circular saw benches. If none of this is practicable, information, instruction, training and supervision must be provided (Reg 11).

Employers must take action so as not to expose workers to risks arising from (Reg 12):

- articles or substances falling or being ejected from work equipment (e.g. dust from grinding machines)
- the rupture or disintegration of the equipment (e.g. abrasive wheels)
- the equipment catching fire or overheating
- the unintended or premature discharge of any article, gas, dust, liquid, vapour or other substance which is used, produced or stored by the equipment

- explosions of the equipment or any article or substance used, produced or stored in the equipment

Workers should be protected against burns, scalds and cold sears likely to be caused by any part of work equipment or articles or substances used, produced or stored by equipment (Reg 13).

All fixed and mobile equipment must be stabilised to prevent it from collapsing or overturning (Reg 20) and there must be sufficient light, suitably provided, for workers to use machines safely (Reg 21).

A permit to work system must be implemented where a specific risk to workers is identified by risk assessment (Reg 7).

Controls

Equipment must have controls for starting and controlling the use of equipment where that is appropriate (Reg 14). For example, a pair of manual scissors does not need a 'start button' but electrical shears would.

Equipment must have, where appropriate,

control(s) to stop the equipment safely (Reg 15). Equipment must have, where appropriate, emergency stop controls (Reg 16). All controls on or of work equipment must be both clearly identifiable and visible (Reg 17).

All equipment control systems must be fail-safe. For example, if the control system fails it must be able to be stopped by a 'stop' or 'emergency stop' device (Reg 18).

Powered equipment must be able to be isolated from its source of energy (the electricity, gas, air or water that drives it) and the means of isolation must be clearly identifiable (Reg. 19).

Action

- Formulate action plan
- Inspect all work equipment
- Report flaws to employers
- Report negligent employers to enforcement agencies
- Refuse to work with unsafe equipment

Work Equipment: Guidance on Regulations; £5 from HSE Books on 01787-881165.



Safety Reps Open Evenings

Wednesdays from 6pm to 8pm

Safety representatives are invited to visit the Centre on Wednesday evenings to use the library and discuss workplace issues with staff.

The first open evening was on 25

October, and the experiment will run until 24 January 1996. The Centre will not open on the evenings of 20 and 27 December and 3 January.

American health and safety expert in London

Chuck Levenstein, editor of the American trade union health and safety journal *New Solutions* and Professor of the Work Environment Department, University of Massachusetts, will be at the Safety Reps open evening on Wednesday 10 January.

The Republican Party has launched a vicious attack on United States health and safety regulations. What happens in the States is bound to influence Britain so come and listen to what Chuck has got to say.



Safety reps visiting the Centre as part of their Stage 2 TUC course.

LONDON HAZARDS CENTRE TRAINING COURSES

Date

Tuesday 30th January
Thursday 15th February
Tuesday 20th February

Course

Hard Labour — Getting to grips with Stress at work
Reproductive hazards
Health and Safety Law

Courses will be held at Interchange Studios. There is full access.

London Hazards Centre training courses are included in the London Boroughs Grants Committee Training Bursary Scheme at a rate of 50% of the normal price. For further information on training or any of the London Hazards Centre services, please ring 0171 267 3387.

PUBLICATIONS

The Asbestos Hazards Handbook: a guide to safety at work, in the community and at home £12 (£5 direct to trade unions, community groups, tenants' and residents associations when ordered direct from the Centre)

- ▲ **Hard Labour: Stress, ill-health and hazardous employment practices.** August 1994. £6.95.
- ▲ **VDU Work and the Hazards to Health.** August 1993. £6.50
- ▲ **Protecting the Community: A worker's guide to health and safety in Europe.** May 1992. £9.95
- ▲ **Basic Health and Safety: Workers' rights and how to win them.** June 1991. £6.00
- ▲ **Sick Building Syndrome: Causes, effects and control.** June 1990. £4.50
- ▲ **Fluorescent Lighting: A health hazard overhead.** March 1987. £2.00*/£5.00
- ▲ **Toxic Treatments: Wood preservative hazards at work and in the home.** January 1989. £5.95
- ▲ **After the Sprayer: investigation and treatment of ill-health caused by wood preservatives and how to get help.** January 1992. Factsheet. £1.00
- ▲ **Factpack:** Set of factsheets from the Daily Hazard. £5.00
- ▲ **Daily Hazard** complete run: £25.00

* Price to community/tenants/union groups.

Add £1.00 post and packing up to the first £10.00 worth of books, add an additional £1.00 up to each subsequent £10.00 worth. Discounts for 10 or more copies. All orders must be accompanied by a cheque made payable to London Hazards Centre.

HAZLIT is London Hazards Centre's library database on the Poptel Geonet electronic mail system. For information about on-line access, contact the Centre.



LHC provided a session on health and safety at work, during a ten week course organised by Women's Link for women 'returning to work'.

SEND US YOUR PRESS CUTTINGS

You can help by sending us any press cuttings of local campaigns, accidents, inquests, prosecutions or any other health and safety information from your local newspapers, trade magazines, etc. If you think you can regularly check a particular publication, let us know — phone and ask for Tim or Chris.



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