

THE DAILY HAZARD

Campaign highlights need for stronger enforcement

Health and safety activists have long held that strong enforcement is the key to improving health and safety at work. Too high a proportion of employers and managers need a good kick up the backside before they are prepared to take their health and safety responsibilities seriously. This means prosecuting, fining and sending to prison negligent directors and senior management in cases where fatalities occur or where workers' health is put at risk.

Casualisation kills

Simon Jones was one of last year's casualties. He was killed on his first day as a casual worker at Shoreham dock on 24 April 1998. Legal action is pending while the authorities decide who to prosecute. In response to this death, a campaign was launched and on 1 September, which would have been his 25th birthday, protesters closed down the docks where Simon was killed and successfully insisted that all workers be sent home on full pay. Two days later, they occupied the offices of Personnel Selection, the employment agency that employed Simon on the day he died, and shut it down for the day. Again, workers were sent home on full pay.

Judges call for higher fines

There have been some recent signs of stronger enforcement. For example, Sainsbury's was fined £425,000 with £75,000 costs after the death of Maurice Disney, an employee who was crushed to death at their Basingstoke distribution depot. Moreover, in a widely quoted case, Regina v F. Howe and Son

(Engineers) Ltd, on 6 November 1998, the Court of Appeal ruled that:

- fines must be large enough to bring home to company managers and shareholders, the need for a safe working environment
- while fines should not generally threaten the earnings of employees or create the risk of bankruptcy, some offences are so serious that companies should probably not be in business
- the standard of care imposed by the legislation is the same regardless of company size
- death is an aggravating feature of any offence and penalties should reflect public disquiet at the unnecessary loss of life
- other aggravating features are the failure to heed warnings and deliberate breach of the law with a view to profit
- magistrates should think carefully before proceeding with cases where the appropriate fine may be greater than they have the power to impose.

The Health and Safety Executive said the judgement would 'greatly encourage our inspectors, who have often been disappointed by the low fines handed down in some very disturbing cases. Prosecuting inspectors will now be able to draw a court's attention to the judgement whenever it is relevant to a case.' The Chartered Institute of Environmental Health also welcomed the judgement. Assistant Secretary Mike Garton said: 'We strongly advise enforcement officers to use this judgement to support high

fines. Only through high fines will employers be deterred from allowing serious lapses in health and safety. Deterrence is what fines are about'.

But how consistently and forcefully will enforcement agencies act in the future? In 1997/98, there were 29,000 major injuries at work, yet the HSE only prosecuted in 952 cases and the average fine was a derisory £4,785. Progress will depend on how far safety reps,

trade unions and health and safety activists are prepared to go in campaigning for stronger enforcement and supporting campaigns like the Simon Jones Memorial Campaign.

For further information, leaflets, speakers and a model resolution, contact the Simon Jones Memorial Campaign, PO Box 2600, Brighton BN2 2DX. Phone/Fax 01273-685 913. Website: www.simonjones.org.uk Email: action@simonjones.org.uk

**PEOPLE LIKE SIMON JONES
GET KILLED AT WORK
ALL THE TIME
AND NOTHING
GETS DONE
ABOUT IT.
NOT THIS TIME.**

www.simonjones.org.uk

Simon Jones Campaign leaflet.

Resources

Safety, health and environmental hazards at the workplace.

A J P Dalton, Cassell, 1998. 0-304-33291-7. £19.99.
Alan Dalton has been campaigning, supporting safety reps, reading and thinking about health and safety and the environment for over two decades. This is an outstanding survey, packed with trenchant observations on the politics and practicalities of the subject. It also argues for adding pollution issues to the workplace health and safety agenda and summarises (with due scepticism) the current state of 'greening' in the UK workplace. There is a particularly valuable section on safety reps' rights.

Employment rights: a reference handbook (2nd ed.). Richard Painter and Keith Puttick with Ann Holmes, Pluto Press, 1998. ISBN 0-7453-1314-0. £19.99.

Health and safety reps and campaigners will generally have access to the health and safety information here. So the book's value lies in its comprehensive coverage of the broader collective and individual rights that have a bearing on the health and safety situation in any workplace.

Hazards At Work Manual, Trades Union Congress. The TUC has produced an update to this important looseleaf reference book. It is a partial update, with others following in subsequent years. The update costs £5 and is available from the TUC, Congress House, Great Russell Street, London WC1B 3LS. Tel: 0171-636 4030.

Jubilee line safety gain

Electricians working on the Jubilee Line Extension project have won important safety gains after a ten day unofficial strike in November. Workers surfacing after a shift at London Bridge had discovered by chance that the fire alarm system on site was not working properly. Instead of dealing with the complaints in a

responsible manner, the electrical contractor, Drake and Scully, tried to transfer 12 men, including the safety representative, to another site. So the men went on strike and successfully resisted all attempts to portray them as greedy saboteurs of this prestige project. Under the deal, the 12 men will

stay at London Bridge and there will be a full safety inspection of the site by engineering union AEEU safety officials and Health and Safety Executive inspectors. Documents leaked during the strike showed that there have recently been dangerous safety breaches and 'high-potential' near misses on the project.

Hazards Centre helps Tooting man win benefit

'I am writing to thank you for all your help in this case. The Benefits Agency finally agreed on 1 October 1998 that the epoxy resin used by my client is a sensitizer for occupational asthma. We would not have got this decision without your help'. Sally Causer, Tooting Citizens Advice Bureau.

Most people injured or made ill by their work do not receive any compensation because the systems which are supposed to award it are both unfair and inaccessible. That is why we were pleased to hear from Sally Causer at Tooting CAB that the Centre was able to help her client prove his asthma was caused by the substances he used at work. Having initially been turned down by the Benefits Agency, he was reassessed and awarded £62 a week disablement benefit, backdated to 1995. He is also now to pursue a personal injury claim against his former employer.

Could your job give you asthma?

Occupational asthma can be encountered in most industries.

Below are listed some of the hazards in a number of industries. The list is not comprehensive.

Health services

- glutaraldehyde
- formaldehyde
- drugs
- latex rubber gloves

Construction

- mineral fibres
- paints
- wood dusts
- asphalt fume
- diesel exhaust fume

Engineering and metal industries

- soluble oils and cutting fluids
- cobalt, nickel, chrome
- degreasing chemicals
- soldering fumes

Food and agriculture

- cereals and flour
- tea and coffee bean dust
- seafood
- chickens

Cleaning

- floor strippers
- graffiti removers
- disinfectants

Textiles

- fabric dusts
- dyestuffs

Office work

- photocopiers
- emissions from furnishings and fittings

From **Asthma at work: causes, effects and what to do about them.** Rory O'Neill. TUC and Sheffield Occupational Health Project. 1995. ISBN 1-874751-02-1. £6 from Hazards, PO Box 199, Sheffield S1 4YL, tel: 0114-276 5695.

Dates for your diary

26-28 March 1999

From Charter to Action: National Hazards Campaign Conference

For more details, write to Hazards 99, c/o Fire Brigades Union, SW Regional Office, 148 Muller Road, Horfield, Bristol BS7 9RE. Contacts: Pete Fryer 0117-957 3649 or Judith Connor 0117-931 2121 x 273. Email: peter_fryer@bristol-city.gov.uk.

28 April 1999

Workers' Memorial Day: Remember the Dead, Fight for the Living

Contact your union or hazards centre for information on local events.

17-19 September 1999

7th European Work Hazard Conference, Edinburgh.

For more details, write c/o Lothian Trade Union and Community Resource Centre, Basement, 26/28 Albany Street, Edinburgh EH1 3QH. Tel: 0131-556 7318. Email ltucrc@msr.ccis.org.uk

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WORKING TIME Part 2: Long working hours

This factsheet deals with the health effects of long working hours and the Working Time Regulations which came into force on 1 October 1998. Part 1 dealt with the health effects of shift work and night work.

UK workers work longer hours than those in any other European Union state. The UK average for men in fulltime employment is 45.8 hours per week (EU average 41.3) and for women 40.6 hours per week (EU average 39.0). Some 2.7 million UK workers usually work over 48 hours per week with an average of 56 hours. This is about twice the proportion of any other European country.

Health effects

Evidence on the link between long working hours and heart disease has been available for over 40 years. One study found that workers on more than 48 hours per week were twice as likely to have heart attacks as similar workers on 40 or less hours per week. A study of young heart patients found that 25 per cent had two jobs and 45 per cent worked more than 60 hours per week.

Long hours are also associated with mental health disorders. A number of studies have shown a link, especially where other stress factors have been present. A correlation has also been found with sleep disorders, substance abuse and relationship problems.

Studies have been conducted on fatigue and its effect on both performance and safety. There is definite evidence that productivity declines with increasing working time beyond eight hours per day and that accident rates increase. Exposure limits for chemicals are based on eight hour working periods. Any increase in working time and the consequent reduction in recovery time significantly increase the risk of exposure.

An association between long working hours and stomach disorders, musculoskeletal disorders and damage to the immune system has not been conclusively demonstrated by research so far but it seems reasonable to assume that long hours will certainly increase the risk of musculo-skeletal disorders.

The most extreme consequence of long hours is sudden death from overwork, known in Japan as *karoshi*. This can arise from a variety of causes including strokes, heart attacks and suicides. A study of over 200 victims identified a mixture of work and lifestyle stressors as being responsible with long hours playing a central role. The phenomenon is recognised in

Japan as a basis for compensation but has not received any official recognition in the UK.

Working Time Regulations

These Regulations implement the European Union Working Time Directive and came into force in the UK on 1 October 1998. With some specific exclusions, they apply to all workers including freelancers, agency workers and trainees. The exclusions are transport workers, doctors in training, including junior hospital doctors, domestic workers and various occupations including fishing, police, army and civil protection personnel. Court decisions will be required to determine the standing of various groups within these categories.

The main provisions of the Regulations are:

- **Maximum working week.** The Regulations prescribe a maximum working week of 48 hours averaged over a 17 week period. Employers and unions may enter into collective, written agreements to extend the reference period from 17 up to a maximum of 52 weeks. Workers may opt out voluntarily from the 48 hour limit by giving written notice to their employer. The employer must maintain written records of the hours worked which Health and Safety Executive or local authority inspectors can inspect on request. The Regulations are vague on what constitutes working time and court decisions will be required on whether such matters as on-call or standby arrangements, travelling time, work at home, and time off for union duties come within the scope of the legislation.
- **Night work.** A night worker is defined as someone who works for at least three hours during night time. Night time is defined as a period of at least seven hours including the period from midnight to 5 am (11 pm to 6 am in the absence of a collective agreement). Night workers should not perform more than eight hours work in any 24 hour period. Night workers are entitled to free health assessments at appropriate, regular intervals. However, it is not obligatory for the assessment to be carried out by a doctor. Where workers suffer from certain conditions (diabetes, some heart, stomach, chest and sleep disorders, some conditions requiring medication on a strict timetable), the employer may offer a transfer to day work; this is not an absolute obligation.
- **Rest periods.** Adults are entitled to at least 11 consecutive hours, and young workers 12 consecutive hours, rest in each 24 hour period. Adults are entitled to an uninterrupted rest period of at least 24 hours in each seven day period. This can be interpreted to mean two separate days off or a two-day break in a fortnight. Adults who work more than six hours per day are entitled to an uninterrupted break of at least 20 minutes. This break must occur within the work period and not at the beginning or end. Young workers are entitled to an uninterrupted 30 minute break if they work more than 4.5 hours per day.
- **Holidays.** Workers are entitled to three weeks paid leave in any holiday year starting on or before 23 November 1998. This rises to four weeks paid leave after 23 November 1999. The entitlement arises after a worker has been employed for 13 weeks continuously. Some three million workers stand to benefit from these provisions. Workers are entitled to compensation for any leave untaken when they leave their jobs. Holidays can be taken by giving appropriate notice or by negotiation.
- **Enforcement.** The requirements on the maximum week and night work are enforceable by HSE or local authority inspectors. Employers can be prosecuted as with other safety legislation. Claims over rest periods, breaks and holidays must be taken by individual workers to Employment Tribunals.

Immediately on the introduction of the Working Time Regulations many employers invited, with varying degrees of pressure, their employees to sign a waiver opting out from the 48 hour maximum working week. Some have successfully resisted this move, for example, members of the entertainment union BECTU employed by Carlton Productions, the television company. No-one should sign a waiver at the very least until they have sought advice from their trade union or from a solicitor expert in employment law.

Many conflicting claims about the effectiveness of the Working Time Regulations have been made by the Government, employers and unions and there are workers who will undoubtedly benefit especially from the holiday provisions. But overall, the standards are so low, the exceptions so broad, the absolute obligations on employers so few, and the opportunities for opt-outs so large that the overall impact of the legislation may be slight. However, many unions are using the Regulations as a starting point for negotiations on aspects of working time. Consultations on further legislation have been started by the European Union Commission but it is likely to be many years before this is translated into UK legislation.

International developments

The European Metalworkers' Federation adopted a Charter on Working Time in 1998 together with a plan for having it implemented. The main feature of the Charter is the demand for a maximum working time of 1750 hours per year. UK engineering workers are to revive their campaign for a 35 hour week in 1999. The German engineering union IG Metall wants a 32 hour week with no loss of pay when its agreement with the employers runs out in 2000. France has legislated for a 35 hour week which applies to firms with more than 20 workers from 2000 and to smaller companies two years later. In Italy, a legal working week of 35 hours will apply to companies with more than 15 employees from 2001.

References

Labour Force Surveys and Eurostat.

Health and safety problems associated with long working hours: a review of the current position.

Anne Spurgeon, J. M. Harrington and Cary L. Cooper, *Occupational and Environmental Medicine*, 1997, n.54, 367-375.

Long working hours and occupational stress-related cardiovascular attacks among middle-aged workers in Japan.

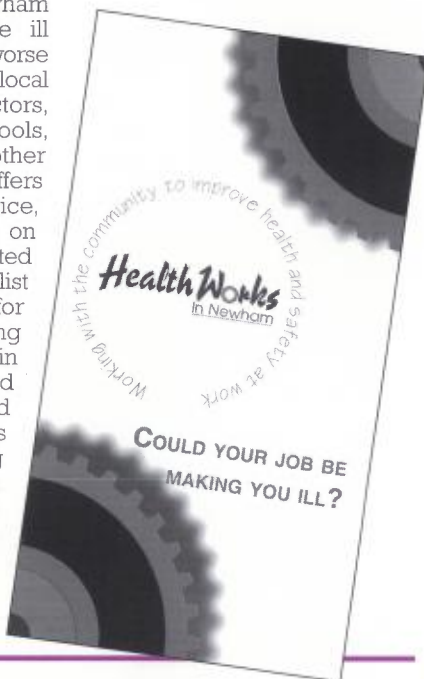
T. Uehata, J. Hum. Ergol. (Tokyo), 1992, n.20, 147-153.

Health Works in Newham

The London Hazards Centre is delighted to see the emergence of a new local authority funded primary health care initiative in the occupational health field. Health Works is an independent organisation supported by the London Borough of Newham and the East London and The City Health Authority. It aims to raise awareness of work related health problems in Newham and prevent and reduce ill health caused or made worse by work. It works with the local community, family doctors, health workers, schools, employers and other organisations. It offers confidential advice, information and support on the prevention of work related ill health. It can offer specialist advice and support for homeworkers and young people. If you work in Newham, be sure to use and support this promising and valuable local resource. It is a timely and encouraging initiative coming so soon after the demise of the Camden and Islington Occupational Health Project. Hopefully, other local authorities in

London will be able to learn from Health Works in Newham and establish similar services.

For free and confidential advice and information, contact Health Works in Newham, Alice Billings House, 2-12 West Ham Lane, Stratford, London E15 4SF. Tel: 0181-557 6161. Fax: 0181-557 8869. Email: Healthworks@Newham.gov.uk.



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E-mail: mail@lhc.org.uk

for your password. Organisations with which we exchange information can also get access.

We'd like to thank UNISON and Poptel whose support has allowed us to set up this site.



LONDON HAZARDS CENTRE
Interchange Studios
Dalby Street
London NW5 3NQ
Tel: 0171-267 3387
Fax: 0171-267 3397
lonhaz@mcr1.poptel.org.uk
www.lhc.org.uk

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- ▼ **Protecting the Community: A worker's guide to health and safety in Europe**. May 1992. Now only £2
- ▼ **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

* Price to community groups/tenants associations/trade unions when ordered direct from the Centre. Add £0.50 post and packing up to each £5 worth of books. Discounts for 10 or more copies. Cheques to 'London Hazards Centre Trust Ltd'. For a list of factsheets contact the Centre or send SAE.

London Hazards Centre health and safety training

London Hazards Centre courses are aimed at people interested or involved in workplace or community health and safety. Our trainers draw on experience of advising and supporting safety representatives and voluntary organisations to provide practical training which you can apply in the workplace.

One day courses will be held on the following Thursdays:

- 21 January **General Health & Safety**
- 18 February **VDU Assessments**
- 18 March **General Health & Safety**
- 15 April **Violence at Work**

The general course covers hazard spotting at the workplace, the law, employer and employee responsibilities,

safety representatives and safety committees, getting information and organising and negotiating to achieve best practice. Participants will learn about the identification of hazards and how to organise to eliminate them, as well as gaining a firm grounding in basic health and safety law.

Cost: £40 per person

Venue: Interchange Studios, Dalby Street, Kentish Town, London NW5 (Full access for people with disabilities)

Times: 10.00 to 4.30

We can also design and run training at the Centre or your own site. We run local courses with several voluntary service councils and local authorities. Topics we teach include VDU assessment, chemicals, construction, asbestos, and stress. Call us to discuss your needs.