

THE DAILY HAZARD

Safety reps' rights: time for action

The HSE supports safety reps but can produce any number of excuses to avoid increasing their powers. That was the message 140 reps took away from a London Hazards Centre conference on 9 June.

Reps described their experiences in the morning session

- The Inner London Probation Service refused to assess the risk of violence for probation officers working alone in hostels at night. In a meeting with the union, the Principal Personnel Officer had to ask what a risk assessment was. No risk assessment was done for home visits and the Home Office claimed to be outside HSE jurisdiction.
- In one of Tower Hamlets Council's buildings, summer temperatures exceed 100 °F. Sickness was under-reported at first because the redundancy system was weighted according to sickness records. After two years of pressure from UNISON, the HSE served an improvement notice in October 1996. The Council took no action and in June this year the union was still waiting for the HSE to enforce this and two subsequent notices. In one office, the safety rep had to stop the job to force the Council to remove 10 bin bags full of rotting pigeons from ventilation ducts.
- A charity housing homeless people occupied buildings without surveying for asbestos: this led eventually to an emergency evacuation of a hostel.

'Partnership entails respect for each other's position. Our position is we want to stop bosses killing workers,' said George Brumwell, UCATT General Secretary and TUC



LONDON HAZARDS CENTRE/MIKE HOLLER

Delegates at the LHC reps' conference

delegate to the Health and Safety Commission, at the start of the afternoon session.

The demands from the conference

- Consistency from inspectors. Some reps were happy with the response from inspectors but there are too many failures.
- Employers who victimise reps should be prosecuted and it should not be left to the rep to initiate an industrial tribunal case.
- Contracting out is destroying health and safety committees in construction and local authorities. There must be formal site safety committees in which reps from all employers on site can participate.
- A Charter Mark for employers whose safety reps are satisfied with their health and safety performance

The excuses

David Morris of the HSE Policy Unit is responsible for the review of the Safety Representatives and Safety Committees Regulations. He

had been invited to brief safety reps on HSE thinking and hear reps speak about their problems and ideas. He said (and we say):

- giving new powers to reps would lead employers to dump their own responsibilities on the reps. *This happens already - how many reps have been asked to do the COSHH assessment because the boss can't understand chemicals?*
- even with the existing powers, reps 'can be seen as a threat' because they are 'better informed than many of their managers'. *It's time the managers trained themselves - or are reps supposed to dumb themselves down?*
- giving reps powers to stop a dangerous job would give bosses an opening to argue that reps who fail to stop dangerous work should be legally liable for resulting injuries. *As long as the law makes clear that reps have no liability, this can't be a problem.*
- roving reps would be resisted by employers' delegates in the Health and

Safety Commission. *We thought the HSC was there to be impartial.*

- no reforms would be made that might increase employers' costs. *The HSE has proved that safe workplaces reduce costs, and that employers shouldn't object to investing in safety.*
- the Consultation with Employees Regulations have failed so badly that he can't find a single 'representative of employee safety' to interview.

- there are rules for inspectors on keeping in touch with safety reps. *Many inspectors don't live up to them.*

What action next?

Labour ministers say they want to support safety reps. There have been advances, such as the scrapping of the 'minded to' notice system which safety inspectors hated. But serious reforms will be opposed by employers and bureaucrats and politicians are likely to give way.

A consultative document on safety reps' rights is to be issued in the autumn. It will be essential for safety reps to flood the HSE with responses. In the meantime, write to David Morris at the HSE with your ideas - he is drafting the document now. And get motions into your trade union machinery.

The latest version of the *Hazards Charter* contains the Hazards Campaign's proposals for reform. This has been compiled by safety reps at national Hazards Conferences over the past few years. Contact us for a copy and start fighting for support for it in your trade union.

Twice victimised - but fighting back

Construction worker Dave Smith tries to keep his head down and avoid trouble at work but he knows how dangerous construction employers and building sites are. Twice in the last year Dave, a member of construction union UCATT, has taken on the role of safety representative to try and do something about dangerous conditions on site and twice he's been victimised and sacked for his troubles.

The legal loophole the employers use is that Dave is an agency worker and therefore not an employee of any of the firms he actually works for.

Dave took his first dismissal to an Employment Tribunal (ET) which decided he was unfairly dismissed for raising safety issues. Costain, the defendants, appealed to an Employment Appeals Tribunal (EAT) who overturned the ET decision.

The EAT chair's views were that Dave was not a direct employee of Costain and so was not entitled to protection from discrimination under the law for being a safety rep. But the chair added that given current practices in construction of agency work and self-employment there will never be



LONDON HAZARDS CENTRE/NICK HOLDER

Dave Smith makes his point on the Schal picket line

any safety representatives in this very dangerous industry because they have effectively no protection.

Dave started work for another agency and was sent to a big Schal site in Brentwood. Schal is owned by Tarmac, recently

shown to be the worst performing company on health and safety in Britain by Channel 4's Dispatches programme.

In his first few months on site, there were six HSE reportable incidents. These included a broken arm; an excavator which turned over; a fork lift truck which turned over; a mobile crane positioned too close to the edge of a bank which started to slide down the slope before being rescued.

On Workers' Memorial Day, 28 April, an 18 year old glazier narrowly escaped death after falling three floors from an unprotected walkway. Dave approached his union official and took up the role of safety rep again. Two days after his credentials were issued, his

wages were reduced by £150 per week by a cut in his hours. No other worker had his hours cut.

Dave worked to his new timetable and started performing his safety rep functions including an inspection. The inspection report was ignored. People on site kept complaining to management about the unhygienic condition of the toilets but nothing was done. Dave gave the site bosses a petition signed by 150 workers complaining about the toilets but he was ignored. He was sacked the next day.

Since then Dave, with the support of the London Joint Sites Committee, has picketed the site at Brentwood where a good number of his colleagues have twice stopped work in an effort to get his job back. They have also picketed other sites in central London to put pressure on Schal. Dave says, 'All this talk about partnership in the construction industry is nonsense because as soon as any worker raises health and safety issues he is victimised and sacked. The big construction firms talk a safe job but in reality they're no better than the cowboy outfits.'

Breakthroughs on stress

Stress has moved right to the top of the health and safety agenda with the in-court award of £67,000 to Beverley Lancaster, a former employee of Birmingham City Council.

After 21 years' employment as a draughtsperson with an exemplary record, Beverley was compelled to switch to a totally new job involving frequent contact with members of the public. Training and support were promised but did not materialise. After a first bout of illness caused by work-induced stress, the promises were renewed but still not kept. Eventually Beverley was forced to retire on health grounds. Assisted by UNISON, she then successfully sued the Council; in a legal first, the Council accepted liability.

In another recent case with UNISON involvement, Cath Noonan, a former social

services worker with Liverpool City Council, received £84,000 in an out-of-court settlement. She was forced to retire on ill health grounds after suffering years of bullying and intimidation.

The interim findings of the Bristol University stress survey commissioned by the Health and Safety Executive are also guaranteed to make employers sit up and take notice. The researchers surveyed over 4000 people in paid employment randomly selected from the general population. They found that

- one in five respondents were 'very' or 'extremely' stressed at work and that nearly half were 'moderately' stressed
- about a quarter had suffered an illness caused or made worse by work in the preceding year.

- stress levels outside work were lower than in work
- stress factors included long and intense work, high workloads and lack of support.

The first tentative steps to beef up employers' duties on stress are now under way. The Health and Safety Commission (HSC) has published a Discussion Document setting out its own views and seeking those of interested parties. Replies were due in at the end of July.

The HSC is cautious in its approach, favouring no more than issuing improved guidance, the lowest level of official advice. It does not even support the publication of an Approved Code of Practice, which would have rather more force, and is positively against the introduction of Regulations which would bring in legal duties.

But the HSC may find it is not in step with other people in the field. At a special HSC conference in June on stress, representative of a very wide range of interests, more than half those present indicated that they would prefer to see Regulations brought in.

While it would be too much to expect significant movement from the HSC in the short run, recent developments have put more pressure on employers to reduce or eliminate stress on their employees. As in every area of health and safety, it is only regrettable that it has taken the broken health and careers of the victims to achieve this.

Further reading: Hard Labour: Stress, ill-health and hazardous employment practices, London Hazards Centre, £6.95 p & p. Also, send s.a.e. for free factsheet on stress.

CHEMICAL SAFETY LEGISLATION

There is a vast and ever increasing quantity of chemical safety legislation. In the first three months of 1999, for example, a new set of the Control of Substances Hazardous to Health (COSHH) Regulations and two sets of the Chemicals (Hazardous Information and Packaging for Supply) (CHIP) Regulations came into force along with new legislation on asbestos and major accidents.

All this legislation offers a measure of protection to workers and the public; safety representatives need to be informed about its scope. Reps also need to understand the limits of the law and realise it does not provide enough protection on its own, not least because it is badly enforced.

COSHH

The COSHH Regulations came fully into force in 1990 and were amended twice by 1999, though without changing the basic characteristics. They apply to virtually all workplaces and all chemicals except those with specific regulations of their own (see later). They do not cover compounds which are dangerous only because they have radioactive or asphyxiant properties, are at high temperature or extreme pressure, or have explosive or flammable properties. The Regulations come with an Approved Code of Practice (ACOP). Guidance on a number of specific industries has been published.

Employers must carry out an assessment of the risks of chemicals to the health of their employees. The assessment must be reviewed if there is reason to believe it is no longer valid or if there is a significant change in the work to which it relates. Whoever does the assessment must be competent to do so. Safety reps are entitled to be consulted about assessments and to receive all the information on which they are based. Employers must introduce appropriate measures to safeguard the health of exposed workers. The first priority is to eliminate the use of toxic materials. If that is not reasonably practicable, employers should introduce suitable control measures. Only as a last resort should they provide personal protective equipment (PPE).

Control measures should be fully and properly used. They should be periodically maintained, examined and tested to ensure they are in working order. PPE must be kept clean. Records of tests and inspections must be kept for five years.

Monitoring of exposure must be performed when required to protect health and records must be kept for 40

years for identifiable employees. Health surveillance of employees should be carried out in certain circumstances.

Employees and those carrying out risk assessments must be given information, instruction and training to enable them to carry out their duties safely.

Compliance with the COSHH Regulations has always been poor. Enforcement is weak and surveys have shown that many managers are unaware of their duties.

Under COSHH, occupational exposure limits (OELs) to chemicals have status in law. There are two types of OEL: Occupational Exposure Standards (OESs) (workers must not be exposed to levels above the OES) and Maximum Exposure Limits (MELs) (for more dangerous compounds; exposures must be kept below the MEL and as low as reasonably practicable). Lists of MELs and OESs are published annually and are periodically reviewed. Many OELs lack a rigorous scientific basis.

Carcinogens and biological agents

Specific ACOPs have been published on carcinogens and on biological agents. The Carcinogens ACOP defines higher standards of risk assessment, exposure or control, monitoring, health surveillance, and the provision of information, etc. than for general chemicals. It also prohibits the use of certain substances without an Exemption Certificate.

Biological agents are classified into one of four groups according to the risk of infection. Detailed containment requirements are specified for each group. Detailed guidance is given on the factors to be taken into account in a risk assessment and on the control measures which should be applied as a result of this assessment.

Requirements for the maintenance, examination and testing of PPE and for the information to be provided to employees are higher than for general chemicals. Employers must keep lists of employees exposed to the more dangerous agents. Employers must notify the Health and Safety Executive (HSE) of the use and transport of biological agents.

CHIP

The CHIP Regulations first came into force in 1994; five subsequent sets of amendments were published by 1999. They require suppliers and manufacturers of chemicals to identify the hazards of the chemicals they

provide, provide information about the hazards of chemicals via labels and safety data sheets, and package chemicals safely. Requirements for the transport of chemicals are covered by the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations which were once part of CHIP.

Part of CHIP 99, the Approved Supply List, classifies more than 2500 substances according to their health and safety effects; they appear on labels as pictograms, risk phrases (R phrases) and safety phrases (S phrases). Suppliers must classify chemicals not on the list; guidance on this is given in the Approved Classification and Labelling Guide.

Safety data sheets must be provided with all dangerous chemicals and must contain information under the following headings:

- identification of the substance/preparation and company
- composition/information on ingredients
- hazards identification
- first aid measures
- fire fighting measures
- accidental release measures
- handling and storage
- exposure controls/personal protection
- physical and chemical properties
- stability and reactivity
- toxicological data
- ecological data
- disposal
- transport information
- regulatory information
- other information

Safety data sheets vary widely in quality and should never be treated as an authoritative source of information. Their compilation by the end users of chemicals does not in itself constitute a COSHH assessment.

Lead, asbestos and pesticides

Those chemicals which were separately regulated before COSHH came in continue to have their own legislation. The latest version of the Control of Asbestos at Work Regulations came into force in 1999, somewhat extending the duties of employers to prevent the exposure of their employees to asbestos and to assess their likely exposure. At the same time the Asbestos Licensing Regulations were also tightened up: these cover the requirement of contractors to obtain licenses to work with asbestos. The Asbestos Prohibitions Regulations cover the import, use or supply of asbestos. A more or less total ban on asbestos is expected in 1999. The regulation of work with lead has a long

history and the latest legislation came into force in 1998. This further reduced the maximum permissible level of lead in blood and strengthened the duty of employers to take measures to prevent exposure.

In addition to duties under COSHH, the use of pesticides is also covered by the Food and Environment Protection Act, the Control of Pesticides Regulations and the Plant Protection Products Regulations. Each year the HSE, in conjunction with the Ministry of Agriculture, publishes a list of pesticides approved for use.

Major accidents

Planning for emergencies and major accidents involving dangerous chemicals is covered by Control of Major Accident Hazards Regulations.

Planned legislation

The European Chemical Agents Directive must be implemented in the UK before May 2001. It is similar to COSHH but will require new legislation on emergencies, fires and explosions.

Further information

Chemical Hazards Handbook: A workers' guide to chemical hazards and how to avoid them, London Hazards Centre, 1999, ISBN 0 948974 15 X, £7 to trade unions and community organisations

Hazardous Substances at Work: A safety reps' guide, Labour Research Department, 1996

HSE publications on legislation: Control of Substances Hazardous to Health Regulations 1999,

comprising the General COSHH ACOP, the Carcinogens ACOP and the Biological Agents ACOP, 1999, ISBN 0 7176 1670 3

Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations 1999, S.I. No. 1999/197, ISBN 0 11 080410 4

Control of Lead at Work Regulations 1998, S.I. 1998/543
Control of Asbestos at Work (Third Edition) Regulations 1999, ISBN 0 7176 1673 8

These titles are available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 6FS; tel 01787 881165; fax 01787 313995

Pesticides 1999: Your guide to approved pesticides, 1999, ISBN 0 11 243048 1, available from the Stationery Office, mail orders PO Box 276, London SW8 5DT; tel orders 0171 873 9090; fax orders 0171 873 8200

New staff join the Centre team

Two new members of staff join the Centre in the summer to deliver the second and third years of the Voluntary Sector Training Project, funded by the National Lottery Charities Board. Diana Shelley joins us from UNISON, and Mumtaz Mahmood moves to London from Leeds where she has been working in health promotion.

Diana and Mumtaz join Shonagh Methven in delivering nearly one

hundred courses to more than 500 voluntary organisations based in Greater London. The courses will be followed up, in 2000-2001, by health and safety advice and support, which will be offered to each voluntary organisation which takes part in the training courses. The Centre workers will work with each organisation to make the workplace and practices safer for workers and service users alike.

Revised Hazards Charter now available

Since it was first published in 1997 the Hazards Charter has proven its worth, with many of its key demands now adopted as policy by major unions and the TUC. With new opportunities of achieving changes in Government and HSE policy the Hazards Campaign decided to revise and reissue it.

This revision takes on board comments made by safety representatives at the 1999 Hazards Conference. It develops ideas on further rights for workers and safety reps as well as arguing for stronger

enforcement by the HSE, EHOs and the courts.

The Charter sets out a basic programme of 'health and safety demands on Government'. If you agree with the changes proposed, then take the relevant issues to your members, your branch, your union conference and the TUC Congress. The Charter needs to be turned into action.

Copies of the new edition are available from the London Hazards Centre or the Greater Manchester Hazards Centre, 23 New Mount St, Manchester M4 4DE, tel: 0161 953 4037.

Online? Have you visited the LHC website at www.lhc.org.uk

'I would like to congratulate you on your website... invaluable as a safety representative with the GMB'

As well as news and background on the centre our website contains two databases:

● HAZLIT

union, campaign, medical and official documents summarised from our point of view

● HAZTEXT

full searchable text of our books, factsheets and newsletters.

'Very useful for myself and the reps on the TUC courses I tutor... this is a database operating for them'

If you're an affiliate/subscriber you have free access to these databases.

E-mail us at 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.



Interchange Studios
Dalby Street
London NW5 3NQ
Tel: 0171-267 3387
Fax: 0171-267 3397
mail@lhc.org.uk
www.lhc.org.uk

London Hazards Centre receives grant funding from the Bridge House Estate Trust



Registered Charity No: 293677

Asbestos banned at last

As we go to press, news has broken that the European Commission has finally decided to bring in a virtually total ban on white asbestos. The EU Directive on dangerous substances and preparations will be updated and member states will have until the beginning of 2005 to bring their national laws into line. While asbestos already installed is not affected by the change in

legislation, no new uses will be permitted.

Most EU countries already ban asbestos but the UK government has been hawking for the last two years for fear of legal action by asbestos-producing countries. Now Michael Meacher, the Environment Minister, has given a commitment to bring in a ban; there must be no further delay.

HEALTH AND SAFETY COURSES

London Hazards Centre courses are aimed at people involved in workplace or community health and safety. Courses are activity-based and aim to provide practical training for safety representatives and voluntary organisations.

One-day courses will be held on the following Thursdays:

- **14 October**
Introduction to Workplace Safety Management
- **21 October**
VDU Hazards & Display Screen Equipment Assessments

- **28 October**
Five Steps to Risk Assessment

- **4 November**
Tackling Stress at Work

Cost: £40 per person

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

Times: 10.00 am to 4.00 pm

We can also design and run customised training courses at the Centre or your own site. Call us to discuss your needs.

PUBLICATIONS

SPECIAL OFFER!

Buy our new **Chemical Hazards Handbook** and:

- ★ get any of our other publications at half price! ★
- ★ or take all other publications for only £20! ★

- ▼ **Chemical Hazards Handbook**. May 1999. £15/£7*
- ▼ **RSI Hazards Handbook**. January 1997. £12/£4.50*
- ▼ **The Asbestos Hazards Handbook**. December 1995. £12/£5*
- ▼ **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. 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.