

THE DAILY HAZARD

Tenants halt mobile phone masts

Harvist Estate Tenants and Residents Association (HETRA) have persuaded Islington council to put the brakes on the erection of mobile phone masts in the borough. Tenants were worried about the two masts on the top of their flats and about Council plans to erect more. Ted Bedford, Chair of the Association, approached the Hazards Centre for advice on the issue. Using the information supplied by the Centre, the Association raised the issue with the Liberal Democrat run council, reminding them that in September 1999, the Liberal Democrat party conference voted overwhelmingly in favour of giving local people more control over where masts could be built and requiring applicants to present a 'health-risk' assessment.

'Thanks to you, we were able to get the Council to honour their commitment to suspend all mobile phone mast installation until the question of health and safety was answered,' said Ted Bedford. 'This should mean that no installation of masts will be made on residential buildings in Islington. We are still waiting for a response about the masts that had already been erected, but it would be logical for them to cancel the contracts with Orange and get the masts taken down.'

Official assurances queried

The Government claims that the guidelines published by the National Radiological Protection Board (NPRB), the government body responsible for setting and monitoring standards, are sufficient to protect the public. These say that people are safe if the area around the mast is fenced off and marked 'not accessible to the public'. Having netted £22.5 bn. with the sale of mobile telephone licences, the government is

unlikely to take a strong line in terms of following the precautionary principle.

However, the public is less and less inclined to take official guarantees at face value and, like the Harvist Estate tenants, many residents and communities across London have begun to feel they would prefer their local authorities to take a 'better safe than sorry' attitude. For example, tenants at Hawksley Court Estate, Stoke Newington, Hackney were so worried by what they felt to be an alarming surge of skin disorders after the installation of a mast, that hundreds turned out in March to block the path of a 100 tonne crane sent by the phone company Orange to install another mast on their roof.

The case for caution

Recent official reports have strengthened the case for caution. Last year, the Local Government Association (LGA), representing all councils in England and Wales, urged caution and greater powers for councils to stop mobile phone companies erecting masts. And in March, the Scottish Parliament's Environment Committee recommended local authorities to avoid placing phone masts on schools, hospitals and in residential areas. Prompted by a Parliamentary motion signed by 150 MPs calling for greater precautions and control, the government commissioned a report from Sir William Stewart of Tayside University. The Stewart report, published on 11 May, states: 'We recommend that in making decisions about the siting of base stations, planning authorities should have the power to ensure that the RF [radio frequency] fields to which the public will be exposed will be kept to the lowest practical



HACKNEY GAZETTE

This Orange mast sparked protests by Hackney tenants.

levels that will be commensurate with the telecommunications system operating effectively.'

Alasdair Phillips of the specialist advice organisation Powerwatch told *Daily Hazard*, 'Possible adverse health effects and property devaluation are good reasons to ask the cell-phone operators to site masts away from housing and on an industrial site, high office building, or in a rural location away from houses. If this is not possible, then the phone companies should now be forced to show that they have minimised the microwave levels in areas regularly used by members of the public.'

'Now is the time,' Phillips says, 'to fully assess existing base-stations and set precautionary guidance for new ones. We

need to ensure that the cellular operators show (i.e. prove to independent experts' satisfaction) that they follow the Stewart Report's recommendations. The 'lowest practical' signal levels will fall as technology improves and as we get more base stations - each one will cover a smaller area therefore will be able to satisfactorily work at lower power.'

Resources

- Powerwatch web site www.powerwatch.org.uk
- Electromagnetic Hazard and Therapy web site www.em-hazard-therapy.com
- Electromagnetic Hazard and Therapy help line 0897 100 800 (premium line at £1.50 per minute), changing soon to 09065 100 800

Rail safety rep unfairly dismissed but stays sacked

An Employment Tribunal has found RMT safety representative Sarah Friday was unfairly dismissed but didn't insist she get her job as a train driver back.

Sarah was sacked by South West Trains (SWT) in February for allegedly disobeying a manager's instructions but Sarah has always insisted this was a cover for her employer to be rid of an effective safety rep (see *Daily Hazard* no. 66).

Sarah's sacking led to three well supported strikes at Waterloo but SWT refused to re-instate her saying they would only do this if an ET recommended it.

Employed by SWT for the last 12 years, 10 of those as a train driver, Sarah took on the role of safety rep three years ago. In the last two years she has been arguing that the hours train drivers work actually driving trains are excessive and pose a risk to the driver and the general public. Sarah had argued for similar controls on train drivers' hours to those on heavy goods lorry drivers.

These discussions eventually led to a high level meeting with the HSE at which SWT was instructed to review its risk assessment process on drivers' hours of work. Had Sarah carried on and won her arguments it is likely individual train driving hours would have been restricted and more

drivers would have had to be employed.

Commenting on the support from her colleagues during the dispute, Sarah said: 'That was brilliant. The union was pretty good too as they gave us the facilities and support to run our campaign. We also had good support from both RMT Assistant General Secretaries and a few members of the National Executive were fabulous.'

SWT's aim was to shift the focus away from health and safety to the disciplinary issue. The employer even took out three adverts in the *Evening Standard* to push their view. Sarah said that SWT were actively campaigning among the workforce to undermine her support: 'company days' normally intended for updating employees on new laws, safety procedures etc. were used, she said, to put over the SWT view of the dispute.

The ET decision was that although Sarah was unfairly dismissed she was over 60% personally responsible. Sarah's legal team then settled the case for £16,000 compensation.

'This was an absolute fudge by the ET. It is ridiculous and outrageous,' said Sarah. 'The outcome of the tribunal completely justified our decision to take industrial

action before the ET. The company were continually questioning why we were doing it but when you get to a tribunal there is only a masquerade of fairness. We proved we were right to try and get reinstatement by means other than the tribunal.'

Although Sarah is not happy with the decision of the tribunal, and wanted her job back, she isn't

too downhearted. 'With hindsight we might have balloted the whole of SWT earlier but the dispute was well supported at Waterloo and generated some very good publicity. We need unions to be stronger. If there had been a stronger safety campaign after the Paddington disaster, possibly with industrial action, then I don't think I would have been sacked.'

Asbestos management: have your say

Following the ban on the use of asbestos, the asbestos which remains in workplace buildings throughout Britain will have to be prevented from killing yet more people. The Health and Safety Commission (HSC) has now published proposals for tightening up the law.

The proposals do not go as far as the Hazards Charter or the Construction Safety Campaign have been calling for, so this is campaigners' and trade unionists' one chance to try and influence the policy makers before the law is adjusted. You have until 20 October. The Centre's comments will be on our website soon.

● Comments on the consultative document to Ian Gooday,

Health and Safety Executive, HDC, Rose Court 6SW, 2 Southwark Bridge, London SE1 9HS by 20 October 2000.

● *Proposals for amendments to The Control of Asbestos at Work Regulations 1987; a new Approved Code of Practice; and a minor amendment to the Health and Safety (Enforcing Authority) Regulations 1998*, ref. CD159, and a summary, *A summary of Proposals for the Control of Asbestos at Work Regulations*, ref. MISC 226, free from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 2WA, tel 01787 881165, fax 01787 313995, www.hsebooks.co.uk. The document is at www.hse.gov.uk/condocs/.

Workers' Memorial Day



Workers' Memorial Day on 28th April was once again marked around the world with rallies and other events. In London, the MSF union organised a march to the HSE headquarters, accompanied by The Big Red Band. The Simon Jones Memorial Campaign made their presence felt at the HSE.



MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS

A new version of the **Management of Health and Safety at Work (MHSW) Regulations** came into force in December 1999. In conjunction with the **Health and Safety at Work Act**, the MHSW Regulations specify the core duties of employers and employees on occupational health and safety. The amended Regulations supersede and extend previous versions and incorporate other legislation. The Regulations are published with an **Approved Code of Conduct (ACOP)** which has special legal status (courts will take account of adherence to the ACOP in prosecutions for breaches of health and safety law) and with **Guidance** (adherence to Guidance is not compulsory). This factsheet lists the significant changes in the amended Regulations.

With some exceptions, the **Fire Precautions** (Workplace) Regulations 1997 are subsumed into the MHSW Regulations. Requirements concerning general fire precautions continue to be enforced by the fire authorities.

There are numerous references to the role of **safety representatives** and other employee representatives in the ACOP and Guidance with stronger indications that consultation with such representatives is required.

All workers are covered by the Regulations, including mobile and home workers, excepting seafarers and young people performing temporary or short-term work in family businesses or domestic service (Regulation 2).

The requirements for general **risk assessments** are maintained and it is made clear that where a review of a risk assessment shows that changes are required, these changes must be carried out (Regulation 3). The ACOP defines the nature and purpose of risk assessments in greater detail than previously. It provides a clearer indication of what constitutes a suitable and sufficient assessment. Risk assessments should identify the period of time for which they will remain valid. They should take account of the views of employees and safety representatives. They should a) identify the hazards, b) identify who might be harmed and how, c) evaluate the risks from the identified hazards, d) record the significant findings in a

retrievable form, and e) provide for review and revision. The record should be retrievable for use by the employer in reviews and for safety representatives and other employee representatives and visiting inspectors. Regulation 4 provides a Schedule on the principles of **preventive and protective measures**. This replaces similar material in the ACOP of previous versions of the Regulations. The principles are:

- avoid risks
- evaluate risks which cannot be avoided
- combat risks at source
- adapt work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a pre-determined work-rate and to reducing their effect on health
- adapt to technical progress
- replace the dangerous by the non-dangerous or the less dangerous
- developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment
- give collective protective measures priority over individual protective measures
- give appropriate instructions to employees.

This list does not constitute a hierarchy; employers may choose from the menu as they deem appropriate.

The ACOP gives advice on the planning, organisation, control, monitoring and review of health and safety arrangements by employers. They are encouraged to take into account the views of employees and safety representatives (Regulation 5).

In selecting **competent persons** for the performance of health and safety tasks (those with sufficient knowledge, training and expertise of relevant health and safety factors) employers should give preference to people in their employment over competent persons not in their employment, such as consultants (Regulation 7). External specialists can be used if required or a combination of internal and external personnel may be appropriate (ACOP,

Regulation 7). Mistakes by competent persons do not free employers from liability for breaches of statutory duty (Regulation 21).

Employers must maintain contact with **external services** particularly as regards first aid, emergency medical care and rescue work (Regulation 9). The ACOP requires employers to establish written procedures for workers to follow when faced with serious and imminent danger and which acknowledge that situations arise when workers must act on their own initiative in proceeding to safety. Employers should explain clearly when workers should stop work and move to a place of safety.

An employer who employs a **child** below school-leaving age must inform the parent or guardian of the child of the risks and the safety requirements derived from the risk assessment (Regulation 10).

Host employers must ensure that people **working on their premises** who are self-employed or who work for other employees receive relevant safety information. This can be done by providing them with information directly or providing it to their employers, in which case the host employer must check that the information is passed on (ACOP, Regulation 12).

Managers should be aware of relevant legislation and should be competent to manage health and safety effectively (ACOP, Regulation 13). All employees, including senior management, should receive relevant training (Guidance, Regulation 13).

Employers must carry out an assessment of the risks to **new and expectant mothers** and to their babies. When necessary on health and safety grounds, employers may change the working conditions or hours of work of new and expectant mothers. Employers may suspend on full pay new and expectant mothers from work if their safety cannot be protected in other ways (Regulation 16). Employers may suspend on full pay new and expectant mothers who work at nights upon the production of a medical certificate (Regulation 17). An employer need not take any action until an employee notifies them that she is pregnant, has given birth within the previous six months, or is breast feeding (Regulation 18).

Employers need to identify suitable alternative work that is available and offer it to new and expectant mothers rather than suspend them if preventive and protective measures are

insufficient. Notification of an employer of pregnancy for the purpose of any statutory requirement, such as statutory maternity pay, constitutes sufficient notice under the MHSW Regulations. The employer must introduce appropriate safety measure immediately on notification. The employer can request confirmation of the pregnancy by means of a medical certificate and can discontinue safety measures if this is not produced within a reasonable time (ACOP, Regulations 16-18).

The duty of employers to perform risk assessments is extended specifically to cover **young workers** (Regulation 3). This must take account of their lack of experience, the absence of awareness of existing or potential risks, or the fact that they have not yet fully matured. Employers may not employ young people for some types of work unless it is necessary for training, there is competent supervision and the risk is reduced to the lowest level reasonably practicable (Regulation 19). Risk assessments need to be carried out before young people begin work (ACOP, Regulation 19).

Resources

Management of Health and Safety at Work: Management of Health and Safety at Work Regulations 1999, Approved Code of Practice & Guidance. ISBN 0-7176-2488-9, £8.00 from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 2WA; tel 01787 881165; fax 01787 313995

THE CENTRE ON THE WEB

www.lhc.org.uk

Do you know that you can go to the Centre's website for copies of *Daily Hazard* articles and factsheets, as well as our Hazards Handbooks series?

Contact us for a password (You have to be in an affiliated organisation, or a personal subscriber).

If you're in UNISON, you can get into the site using the password for the UNISON health and safety pages.

The site also contains news about health and safety campaigns, the Centre's training programme, and other information about the Centre.

Direct action for health and safety justice

Simon Jones was killed on his first day as a casual worker at the Shoreham dock of the Euromin company after being sent there by the employment agency Personnel Selection.

This excellent and very moving video is a record of the activities of his family and friends who have campaigned for justice for Simon and for those responsible for his death to be brought to book.

The campaign has seen occupations of the DTI HQ in London and Southwark Bridge where the HSE HQ is located. These and other actions were taken to try and force action from government departments and to get recognition of the root causes of Simon's death. One of the sacked Liverpool dockers puts it clearly when he says this was 'an accident waiting to happen' following the casualisation of UK docks. The campaign's slogan 'casualisation kills' is very well illustrated.

While the campaign hasn't yet achieved all its aims, it has made an enormous impact on the world of safety at work. The Crown Prosecution Service have since been told to review their reasons for not taking manslaughter charges against either employer in this case. We will have to wait and see whether they change their mind and what might happen if they don't.



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Registered Charity No: 293677

The campaign poster sums it all up: 'People like Simon get killed every day and nothing gets done about it. Not this time.'

Not this time: The story of the Simon Jones Memorial Campaign (video) 30 mins. Copies available for £5.00 from: Simon Jones Memorial Campaign, PO Box 2600, Brighton BN2 2DX; www.simonjones.org.uk

Steering clear of asbestos

Asbestos: It's still a killer, a brief but very useful video from the GMB, is simply a series of photographs, mainly of asbestos products, with a voice over. It certainly achieves what it says it will do, which is to show lots of examples of where asbestos might be found and what it looks like.

There is brief detail of what asbestos is, why it is dangerous and the reality of the health risks. One minor complaint is that it doesn't clearly state that asbestos can only be identified by microscope, not by visual inspection. But it does give some very good clues as to where and what might be asbestos.

Although it doesn't cover asbestos law or safe removal procedures it does clearly state the HSE line that if someone suspects something is asbestos they should stop work and if it is asbestos it should be removed under controlled conditions.

It is a valuable training aid for people who work in the construction industry, those involved in building maintenance and control, union reps wanting to know more about where asbestos may be in their workplace, TUC and NEBOSH tutors.

At the same time, the Health and Safety Executive has published a new video, 'How Are You Today?', in two parts. The first is aimed at workers in building-related occupations; the second at employers who will have the new duty to manage asbestos. A technical guide - 'Asbestos Essentials' - is also being prepared for building workers undertaking minor - but potentially dangerous - work with asbestos.

Asbestos: It's still a killer. Video, 6 mins. Free to GMB members; for price to members of other unions phone GMB health and safety office 020-8947-3131.

How Are You Today? introductory price £49.50 from HSE Videos, PO Box 35,

Wetherby, West Yorkshire LS23 7EX, tel 01937 541010 or fax 01937 541083.

Don't let Best Value grind you down

In too many town halls, Best Value (known by some as Son of CCT) is leading to the further erosion of health and safety services, as cost-cutting managers interpret value in the sense only of cash. A new publication from IOSH Services, *Safety Means Business*, aims to help local authority managers engaged in Best Value audits and benchmarking Health and Safety services to make some sense of the process. And there is a lot of information here which safety representatives and trade union safety committees in local government will find useful.

Despite the business jargon, the publication reads reasonably easily. It starts with an easy to understand précis of the best value process, and relates this to Health and Safety services by clearly describing exactly what they should include.

The sections dealing with Service Level Agreements and Costing of Services include a seminal description of Case Management. 'In Best Value terms, it is not sufficient to be competitive on price alone; value-for-money should also be demonstrated. This can only be done with a costing system which clearly identifies the cost for specific health and safety services, where these services are measurable against known targets, and are transparent in terms of traceability and evidence tracking for audit purposes.'

Just how this sort of advice will go down with Town Hall CCT-lowest-quote-wins junkies remains to be seen. However, the Institute is clearly doing its best to ensure that quality health and safety services survive the Best Value process.

The quality of information provided in the appendices makes it very clear that the publication was well researched. The first appendix describes seven models of systems and structures, currently used in providing safety services in local authorities, as well as an intelligent critique of the strengths and weaknesses of each system, and the management support and policy provision required to make each one work.

Other sections provide specifications and standards for competence, model service level agreements and examples of process mapping.

Although most of the information is already available from other sources, the layout and presentation in the context of Best Value is very good. For safety representatives active in areas where the Best Value process has already kicked in and health and safety services are subject to audit, this is essential reading.

Safety Means Business: Best Value and Benchmarking For Health and Safety Services in Local Authorities. £5.95 incl. p&p from IOSH Services, 47 Water St, Lavenham, Suffolk CO10 9RN; tel. 01787-249293, fax -248267, claire@lavenhamgroup.co.uk

Government launches safety strategy

The government has just published a 44 point action plan resulting from the Revitalising Health and Safety consultation last year. It contains many of the points previously discussed such as higher fines in the courts, prison for negligent bosses, removal of Crown Immunity etc. We hope to see some action on these now. Included for the first time are targets on reduction of harm such as reducing fatal and major injury accidents by 10% by 2010.

Revitalising health and safety - strategy statement, June 2000, free from DETR Free Literature Service 0870 1226 236 or www.detr.gov.uk/hsw.

Corporate killers to face jail?

The government has published its consultation document on reform of the law of manslaughter, including proposals for an offence of corporate killing. Such a law could lead to negligent employers being jailed for killing or injuring employees or members of the public and is a key demand of the Hazards Charter. Comments to the Home Office by 1 September 2000.

Reforming the Law on Involuntary Manslaughter: the Government's Proposals, from Gerry Ranson on 020 7273 2291 and www.home.office.gov.uk/consult/invmans.htm