



BECTU

BROADCASTING
ENTERTAINMENT
CINEMATOGRAPH &
THEATRE UNION



2005

**BECTU HEALTH AND
SAFETY HANDBOOK**

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This handbook has been produced as part of the joint S4T/BECTU SafetyNet project.

The SafetyNet project was designed to improve training and awareness, among BECTU members and theatre managements in Scottish Theatres, of Health & Safety issues and obligations. It included establishing a system for auditing health and safety in theatres as well as providing comprehensive training for safety reps and managers, and

has been a great success in addressing H&S issues on a constructive and informed basis.

It is to the credit of the Scottish Theatres Technical Training Trust (S4T) and BECTU Steering Group that this handbook has been produced in a format that allows it to be of use to all BECTU safety reps.

It is hoped that the positive work of S4T in this project can be taken as a good example of the benefits of collaborative working in the wider industry.

■ The TUC for all their help and support through their health and safety education programmes.

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GMB NATSUWT GPMU Unison T&G MSF

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Please note that this Handbook reflects health and safety regulations and guidance as at the time of publication.



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Being a good health and Safety Rep depends on your knowledge of your rights and how to use them. It is also about using your experience within the workplace and having the support of your members. With the right approach, some basic skills, knowledge and organisation you can become very effective as a health and safety representative.

Knowing your rights and how to use them will help you to ensure that your employer safeguards the health, safety and welfare of the BECTU members that you represent. It is your employer's responsibility to manage health and safety properly. Your role is to make sure that management fully complies with its obligations, through co-operation, discussion, and negotiation with you, the health and safety rep, on behalf of your members.

This handbook is designed to be used as a reference resource, it does not contain detail on every aspect of health and safety, or the problems that you will face in trying to achieve the highest standards of health and safety possible with in your workplace. The handbook aims to cover the basic aspects of your role as Safety Representative and to provide a guide on how to organise, research and find any further information necessary to be a successful health and safety rep.

BECTU is committed to the health, safety and welfare of its members and as representatives of its members, expects all safety reps to have achieved at least, TUC Stage One training in health and safety.



This training gives a broad basic understanding of health and safety, including, getting organised, health and safety law, resolving problems, workplace inspections, your place on the health and safety committee, dealing with accident investigation, etc. It will not only give you the confidence and knowledge necessary to fulfil your function as a health and safety rep, but will also help you gain the support of your members and the respect of your management.

BECTU sees the role of health and safety representative as vital and will endeavour to give you all the support, advice and assistance that you may need to fulfil this role.

Each year the government health and safety agency, the Health and Safety Executive (HSE) publishes its annual reports giving figures for the previous year of deaths, accidents, injuries, near misses and ill health brought about by work. These reports present the latest picture on risks and trends in workplace injury based on two main sources of information:

- Notifications made by employers and others to either the HSE or local authorities under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985/1995 (RIDDOR).
- Annual surveys by the Labour Force Survey (LFS).

The results of the 2000/01 Labour Force survey, published in the Health and Safety Executive's "Health and Safety National Statistics 2000/01 Study", show that the accident figures reported are just the tip of the iceberg. The full extent of accidents, injuries and work-related illnesses remains hidden because many of these accidents, injuries and illnesses are not reported to the HSE.

UNDER-REPORTED INCIDENTS

HSE figures indicate that employers report only about 40% of the incidents that they are legally required to report, leaving about 60% of injuries unreported. Those who are self-employed or freelance are even less likely to report incidents, with the HSE estimating a level of 90% of accidents, incidents, injuries and work-related ill-health not being reported.

The HSE also estimate that for every major incident resulting in more than three days lost from work and therefore

reportable under RIDDOR, there are seven minor injuries and 189 non-injury accidents.

Other incidents are not recorded because the reporting law does not require employers to report less serious accidents and many common occupational diseases, or because employees do not see the relevance of reporting "minor" incidents or injuries.

The figures suggest that a great many employers and employees are still not making health and safety a priority.

These reports can be found on the HSE website at www.hse.gov.uk under "statistics". There are also useful links to other sites such as the Labour Force web site.

Accidents and ill-health have an economic as well as a human cost – better workplace health and safety standards benefit everybody. Most accidents and incidents, whether reportable or not, are avoidable, the aim of both unions and employers should be to reduce, if not eliminate, foreseeable accidents and incidents from the workplace. To improve health and safety standards, organisations need to develop a positive health and safety culture. Managers and staff should be made aware that health safety is a serious issue. All companies, large or small, should be adopting a systematic approach to health and safety and integrating health and safety management in to all management activities.

Recent reports by the London School of Economics and the HSE, published in the TUC-backed *Hazards* magazine, give evidence that unions and union safety

“1.14 HEALTH AND SAFETY – It is the responsibility of Managers to draw up and publish a written Health and Safety Policy and to make risk assessments which are appropriate to the work place. Managers will consult fully with Union Health and Safety Representatives in accordance with the provision of the Health and Safety At Work Act 1974 and its associated regulations and codes of practice. Where appropriate, Managers will provide all

employees with training and, where necessary, suitable personal protective clothing and equipment. The employees shall comply with all training and instructions provided by the Managers in theatres and shall co-operate with Managers so as to enable them to comply with their statutory duties to health and safety.”

Taken from the BECTU/Theatrical Management Association Agreement

representatives help prevent 13,000 major injuries every year.

Through consultation with union safety representatives, managers can ensure the active commitment of their employees to health and safety issues and through co-operation and a recognition of the role played by safety representatives, appropriate policies and working practices can be developed to prevent workplace accidents and ill-health.

It is the responsibility of the employer, managements and individual managers to

implement health and safety strategies and policies, in line with current legislative standards.

It is the health and safety representatives' role to ensure that management fulfil those responsibilities to protect the health, safety, welfare and working environment of BECTU members.

FURTHER READING

“Successful health and safety management” HSG 65 ISBN0717612767

See also Chapters 6 and Chapter 7 below.

□ Civil law can be used by the individual, or individuals, to settle a “dispute”.

One type of civil claim is a claim for compensation by an employee who has been injured at work, against his/her employer. To succeed, the employee must show that his/her injury has been caused by a breach of duty by the employer. The duty can either be a “common law duty” (duties that have been developed by courts, such as the duty to provide a safe place of work, or to provide safe plant and equipment), or a statutory duty (such as the duties laid out in the “Six Pack” Regulations).

Compensation claims can also play an important role in highlighting areas of concern where health and safety management is lacking and so combating hazards that are unlikely to be the subject of a criminal prosecution. The principal statute laws in the field of health and safety at work are the Health and Safety at Work, etc Act 1974 (HSWA) and the “Six Pack” laws introduced in 1992.

If a company or individual breaks criminal law, then they can be expected to be prosecuted by the state (the Crown). In a health and safety incident this could be for a common law offence, such as manslaughter, or a regulatory offence, such as a breach of the HSWA.

Common law offences are investigated by the police and prosecuted by the Crown Prosecution Service (CPS). If the offence concerns a breach of the HSWA only, then the matter will be investigated and prosecuted by the Health & Safety Executive (HSE). Where there is an overlap between the general criminal law and HSWA offences, the lead in the prosecution is

taken by the police and CPS. In these circumstances the HSE will give “expert” advice and assistance. There is a protocol between the police, CPS and the HSE governing workplace deaths.

A BRIEF HISTORY OF UK HEALTH & SAFETY LEGISLATION

The UK was the first country to pass legislation protecting workers’ health, safety and welfare, in an 1802 Act. The first Factories Act in 1833 introduced government-appointed factory inspectors to enforce the new law, although there where initially only four of these. These inspectors were the forerunners of today’s HSE inspectorate.

The Factories Act was revised and updated at regular intervals until 1961 and certain sections remain in force today.

In 1970, the then Labour government appointed a commission of inquiry to conduct an in-depth review of health and safety legislation. The 1972 Robens Report, became the basis of the HSWA.

THE HEALTH AND SAFETY AT WORK ACT 1974

The HSWA is a ‘framework Act’, setting out general principles and structures for health and safety, with the legal detail provided by regulations issued under it.

Employers’ responsibilities

Section 2(1) of the HSWA requires employers to ensure “so far as is reasonably practicable” that they protect the safety, health and welfare of all of their employees and other persons from any health and safety hazards arising out of the work that

they control. It also requires them to have safe systems of work, and where they employ more than five employees, a written safety policy, brought to the attention of all employees.

It also makes provision for trade union safety representatives and safety committees, though this is covered in greater detail in the Safety Representatives and Safety Committees Regulations 1977, updated by the third edition in 1996 (SRSC Regs).

The fundamental principle upon which so much of health and safety law is based is on what is “reasonably practicable”. The test as to what is reasonably practicable was set out in the case of *Edwards v National Coal Board* (1949) 1 AER 743. This case established that the “risk” must be balanced against the “sacrifice” – in money, time or trouble – needed to avert or mitigate the risk. By carrying out this exercise through “risk assessment”, the employer can determine what measures are reasonable to take.

Information, instruction and training

Section 2(2) of the HSWA requires an employer to provide “such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees”. This general requirement is reinforced by many specific regulations, as well as the Management of Health and Safety at Work Regulations 1999 (MHSWR), specifically regulations 10 and 13.

Under Regulation 10 of the MHSWR, employers “shall” give to employees “comprehensible and relevant” information

on risks to their health and safety, identified by risk assessment, and the preventative and protective measures in place.

Regulation 13 of the MHSWR deals with capabilities and training of employees. Employers “shall” take into account an employee’s capabilities in relation to the work he/she is asked to do. Employers “shall” give health and safety training when the employee starts employment with the employer and if the employee is exposed to new or increased risks:

- when the employee is transferred to another job or their responsibilities change;
- new work equipment is either introduced or old equipment changed;
- new technology is introduced
- new systems of work are introduced or the old system changed.

Training has to be provided within working hours, adapted if there are new or changed risks, and repeated periodically as appropriate.

Contractors and freelance workers

Section 3 of the HSWA covers the protection of those not directly employed by or not in the employment of the employer, such as sub-contractors, visitors, students, children etc, from the health and safety hazards of work activity. It covers the self-employed, who are under a duty not to endanger themselves or others by their work. There is also a duty on contractors, sub-contractors and safety specialists to conduct their work safely.

Section 6 of the HSWA requires designers, manufacturers, importers and suppliers of any article or substance for use at work to ensure that it is safe and healthy for use.

Employees

Sections 7 and 8 of the HSWA concern the responsibilities of employees. All employees, while at work, must take reasonable care for themselves and for others who might be affected by their acts or omissions.

Where there is a legal duty or requirement on an employer, employees must co-operate, as far as necessary, to ensure that the employer can perform or comply with those duties or requirements.

There is another general duty outlined in Reg 14 of the MHSWR 1999.

Other provisions

Section 9 of the HSWA states that an employer cannot charge employees for anything done or provided for in order to comply with health and safety legislation, such as personal protective equipment.

Section 37 allows for the prosecution of the director, manager or similar officer of a company or organisation, where a health and safety offence has been committed with their “consent or connivance... or neglect”. The prosecution of senior managers for health and safety offences has been raised in the wider context of the debate concerning “corporate manslaughter” for workplace deaths.

The remainder of the HSWA deals with arrangements for the enforcement and administration of health and safety matters, the most important being the Health and Safety Commission (HSC), the Health and Safety Executive (HSE) and environmental health officers (EHOs)

The HSE has produced several free

summaries of the HSWA as well as some free guidance on the specific regulations, that reinforce the 1974 Act.

The HSE has also produced a guide for anyone dealing with contractors from the point of view of health and safety, looking in detail at the control of contractors through, policies, organisation, planning, monitoring and review.

THE HEALTH AND SAFETY COMMISSION

The HSWA established the tripartite (government/management/trade union) Health and Safety Commission (HSC). This body oversees the work of the Health and Safety Executive. Its chair is appointed, and other members are approved by the Secretary of State.

The key UK health and safety agency is the Health and Safety Executive (HSE), under the control of the Department for Environment, Food & Rural Affairs. The HSE is responsible for the enforcement of health and safety law in most UK workplaces, especially those considered to be “high risk”.

The HSE also transposes European Union health and safety law for enactment in the UK and sets out new and revised health and safety regulations, codes of practice and guidance notes.

THE HEALTH AND SAFETY EXECUTIVE

The HSE’s three main functions are:

- giving guidance and checking compliance with the law;
- inspecting and investigating the workplace for hazards;
- enforcing the law by means of enforcement notices and prosecution.

ENVIRONMENTAL HEALTH OFFICERS

Since 1974 local authority environmental health officers (EHOs) have been taking over greater responsibility for health and safety inspections and enforcement in workplaces considered to be “low risk”, in addition to their duties under the Public Health Acts and the 1990 Environmental Pollution Act.

Both HSE and EHOs have identical wide-ranging powers, given by Section 20 of HSWA.

They have the power:

- to enter and inspect premises at any time, if there is considered to be danger present;
- to take a police officer with them to the premises if they feel that they will be obstructed;
- to take such people and equipment as will be necessary for the purposes of investigation;
- to require parts of the premises or equipment to be left undisturbed for as long as necessary;
- to take measurements, photographs and samples;
- to seize, render or destroy any items that might cause danger;
- to take possession of articles and examine them;
- to get information, ask questions and take statements (under caution if necessary); and
- to inspect relevant documents.

ENFORCING HEALTH AND SAFETY LAW

Health and safety law requires enforcement. This enforcement, as has been established, is the remit of the HSE and EHO. However, neither is obliged to strictly follow

enforcement procedures in a linear manner. Dependent on circumstances and the case being investigated, officers might shorten the procedure or exercise more than one option, such as serving a prohibition notice and initiating a prosecution.

If the offence is minor, the enforcement officer might merely talk to the appropriate manager, supervisor or, more rarely, an employee, either by telephone or by visiting the workplace.

It is common practice for an enforcement officer to put his or her concerns regarding workplace hazards in letter form, often with recommendations for improvement and a suggested time scale. If this is done, the officer is obliged by law, under Section 28(8) of HSWA to give a copy of the letter to a representative of the employees as well as the employer. This representative would normally be the safety representative, but could be a shop steward or, as covered the Health and Safety (Consultation with Employees) Regulations 1996, in non-unionised workplaces a staff representative. It is therefore essential that the safety representative, or other union/staff representatives, identify themselves to the body responsible for enforcement within the workplace, as without the name of the safety representative they cannot provide this information. (See also Chapter 12 below.)

If enforcement officers are more concerned about the offences being committed and/or any immediate hazards, they can serve one of three types of enforcement notice:

- an improvement notice;
- a prohibition notice; or
- a deferred prohibition notice.

Improvement notices

An improvement notice may be served where the law is being broken but there is no immediate threat to life or health. The laws being broken, remedial actions to be taken, and time allowed for completion of the remedial work (at least 21 days but more often a number of months) will be specified.

Prohibition notices

If there is a risk of serious personal injury, enforcement officers can serve either:

- an immediate prohibition notice – this immediately stops the work activity to which it applies; or
- a deferred prohibition notice – in a small number of cases, immediate stoppage of the work being undertaken would cause danger in itself, such as a chemical process. In these cases a deferred prohibition notice would be served, stopping the named work process after a specified period of time.

Enforcement notices are the main means by which officers enforce health and safety legislation. Prosecution is the ultimate means of enforcement, but is only used as a last resort.

The enforcement policy issued by the HSC in January 2002 can be downloaded free from the HSE website.

Appeals against notices

The employer can appeal to an employment tribunal about the serving, or terms and conditions, of an improvement or prohibition notice. An improvement notice is lifted until the appeal is heard. However, a prohibition notice stays in force until the tribunal has heard the appeal.

EUROPEAN UNION LAW

Since the 1980s, an increasing amount of health and safety law within the UK has been developed and put into operation as a direct result of EU directives. The aim was, and still is, to harmonise health and safety standards throughout the EU by means of a “level playing field” approach, through the introduction of directives.

Fundamental to this approach is the principle of risk assessment. There has also been a shift in emphasis, away from prescriptive laws, such as the Factories Act 1961, that say how things should be done, to laws that set safety goals, saying what has to be achieved but not how it is to be done. One example is the move away from the use of personal protective equipment, and towards prevention, through the limitation, or elimination of hazards and therefore the minimisation of risk. Another is set out in the Manual Handling Operations Regulations, which says that manual handling operations should be avoided and, if this is not reasonably practicable, for the risk to be brought to the lowest level reasonably practicable.

The health and safety goals set out in these regulations include:

- health and safety cover for all workers, including “hidden” workers – those who work behind the scenes such as cleaners, maintenance staff and casual staff;
- risk assessments carried out by the employer, identifying hazards, and risks, their severity and possible consequences and the control measures necessary for prevention;
- the effective monitoring and control of hazards;

- the appointment of “competent persons” to carry out tasks such as risk assessment and hazard control;
- consultation with, and information for employees;
- effective and appropriate ongoing health surveillance; and
- the keeping of records and regular reviews.

The most important of these recent EU derived laws, or European Directives, were enacted into UK law as regulations through the 1974 HSWA and have become known as the “six pack”. They are:

- the Management of Health and Safety at Work Regulations (MHSWR) 1992, amended in 1999;
- the Workplace (Health, Safety and Welfare) Regulations 1992;
- the Health and Safety (Display Screen Equipment) Regulations 1992;
- the Provision and Use of Work Equipment Regulations 1992, amended in 1998;
- the Manual Handling Operations Regulations 1992; and
- the Personal Protective Equipment at Work Regulations 1992.

Most of these regulations are supplemented by Approved Codes of Practice (ACOPs), which flesh out the law outlined in the regulations.

An important publication that should also be mentioned at this point is the HSE guidance document “Successful health and safety management”, often referred to as HSG 65.

This publication is now being seen as the benchmark in relation to what measures the HSE expects employers to implement and work to.

RISK ASSESSMENT

The most important document concerning risk assessment is the ACOP to the MHSWR 1999 Regulations, providing useful guidance on the principles of risk assessment and what constitutes a “suitable and sufficient” risk assessment.

Paragraph 11 of the ACOP sets out what a risk assessment should usually involve:

“A risk assessment should usually involve identifying the hazards present in any working environment or arising out of commercial activities and work activities, and evaluating the extent of the risks involved, taking into account existing precautions and their effectiveness.”

Put simply a “risk assessment” is the application of common sense, requiring the answers to a few obvious questions:

- What does the task or process require the worker to use or do?
- What are the hazards involved?
- What are the risks or possible consequences, the likelihood of harm, incident or injury occurring?
- What is the potential severity of that harm, such as any resultant injury or adverse health effect?
- How many people might be affected by the hazard?
- What control measures are needed for prevention?
- Are those control measures adequate, or could the hazard be better controlled by taking a different approach?

A hazard can be defined as anything with the potential to cause harm. This can include articles, substances, plant or machinery, methods of work, the working environment and other aspects of work

organisation. A risk is the chance, the likelihood, great or small, of potential harm from that hazard being realised, the possibility of danger not actual danger.

Therefore, risk assessment should not be based on the employer’s past accident record. The fact that an accident has not so far occurred in your workplace does not reduce the chances of one happening.

There are eight main pieces of health and safety legislation that require risk assessment to be carried out, in addition to specialist regulations covering specific, high-risk, activities, such as the use of ionising radiation. The HSE have identified five key elements of risk assessment:

- looking for hazards;
- identifying those at risk – those who may be harmed and how;
- evaluating the risk and the adequacy of current control measures, if any;
- recoding the findings; and
- reviewing the findings periodically and revising the assessment as necessary, for example if the nature of the work undertaken changes.

Regulation 4 of the MHSWR 1999 is particularly relevant when setting out a course of action, following a risk assessment, covering appraisal of the assessed risk and outlining the control measures that should be applied:

- avoid risks;
- evaluate the risks which cannot be avoided;
- combat risks at source;
- adapt the work to the individual, especially as regards the design of workplaces, choice of work, equipment and the choice of working/production method,

with a view to alleviating monotonous work and work with a predetermined work rate, to reduce their effects on health;

- adapt technical processes;
- replace the dangerous by non-dangerous or the less dangerous;
- develop a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and influence of factors relating to the working environment;
- give collective protective measures priority over individual protective measures; and
- give appropriate instructions to employees.

Regulation 5 of the MHSWR 1999, covers “risk management”, an ongoing process that includes, policy, planning, implementation and monitoring:

- *policy*: aims and objectives to be achieved, information by risk profile or risk assessment outputs and defining measures for success or failure;
- *planning*: the steps to be taken to manage the identified risks;
- *implementation*: rolling out and executing the plan;
- *monitoring*: checking on progress against objectives through audit, performance measurements, incident/accident investigation and management review.

This approach is further covered in ‘Successful health and safety management’ HSG 65. It is an important document to consider when looking at the way an employer deals with risk management and their compliance with Regulation 5 of the MHSWR.

One question that is frequently asked by

safety representatives is what their legal position would be if they were asked by their employer to undertake risk assessments. Basically, provided that the rep acted to the best of his or her abilities there could be no comeback on them with regards to risk assessment.

Regulation 7 of the MHSW Regulations imposes the duty on the employer to have someone within his own organisation carry out the necessary risk assessments. This person must have the appropriate expertise and training and be provided with the appropriate information to undertake the task. Advice from outside consultants should be the exception rather than the rule.

Often the union safety representative will be the person who has most knowledge about health and safety issues employed within key areas of the workplace. Safety representatives who have undertaken TUC courses will have specialist training not provided by the employer. On these grounds the employer may wish to involve the safety rep in the completion of risk assessments. The involvement of safety reps in the risk assessment process should be encouraged as part of the managements duty to consult.

However, safety reps might feel uncomfortable being asked to carry out risk assessments as the "risk assessor", as this can lead to a conflict of interests. Regulation 7 of the MHSW Regulations also makes it clear that it does not matter who carries out the risk assessment, the employer is not only responsible for the appointment of "competent persons" to carry out risk assessment, but is also responsible and liable for that risk assessment. These duties and responsibilities are further outlined and

clarified by Regulations 10, 13 and 21 of the Management of Health and Safety at Work Regulations.

OTHER SAFETY LEGISLATION

There are other safety requirements that do not come directly under the umbrella of the HSWA that safety representatives should be aware of.

The Fire Precautions Act 1971 requires certain types of premises to have a fire certificate, and outlines steps an employer and/or occupier must take to reduce the risk of fire in their property. The Act passed theatres by in many senses, as they do not require a certificate because of the fire authority's involvement with the licensing process. However, workshops or other departments not in the licensed premises would be subject to the full requirements of the Act.

The introduction of the Workplace (Fire Precautions) Regulations 1997 and their amendments in 1999 have moved things on, as fire legislation is now seen as part of occupational health and safety legislation. Now all premises, including temporary ones, whether licensed or not, require the occupier, owner or employer to carry out a fire-risk assessment and put into place the measures to reduce the fire risk as much as reasonably practicable.

Safety representatives should be aware that all fire legislation is undergoing a Home Office review, although any changes are likely to be adopted only in England and Wales immediately.

Licensing law is also relevant to safety issues. Any employer whose business involves public entertainment within its

premises (whether it is a regular feature or temporary) must apply for a public entertainment licence (PEL). This includes showing of films in cinemas, plays and opera in theatres, as well as music events and any other similar entertainment.

The local authority has the responsibility to enforce the licensing legislation and can attach conditions to the licence that it feels are reasonable for the safety of the public and the good running of the premises or event. Local authorities must ensure that the premises are safe and comply with all relevant legislation and guidance.

Under licensing law, the authority can impose conditions that are governed by a duty of "reasonableness", which is arguably more stringent than the "so far as reasonably practicable" standard that qualifies the general duties upon employers under the HSWA.

CIVIL LIABILITY

Until 27 October 2003 a breach of the Management of Health and Safety at Work Regulations did not give rise to any civil liability; it could only be enforced in the criminal courts, for example, by a prosecution by the HSE. However the Management of Health and Safety at Work and Fire Prevention (Workplace) (Amendment) Regulations 2003, which came into effect on 27 October 2003, removes the restriction.

So with effect from that date it is possible for employees to claim damages from their employer in a civil action where they suffer injury or illness as a result of the employer's breach of the Management of Health and Safety at Work Regulations. This is likely to

be of limited impact because of the difficulty in proving that the injury was caused as a result of a breach of those Regulations.

FURTHER READING

HSE guidance on risk assessment gives more detailed information on the five elements outlined here, available from HSE Books:

A guide to risk assessment requirements: common provisions in health and safety law, INDG218, available free on-line from HSE Books, ISBN 0717612112

Five steps to risk assessment, INDG163, available free on-line from HSE Books, ISBN 0717615650

Five steps to risk assessment: case studies, HSG183 1998, ISBN 0717615804

Health risk management: a practical guide for managers in small and medium sized enterprises, HSG137, ISBN 0717609057

The '6 Pack' Regulations, available from HSE Books:

Management of Health and Safety at Work Regulations 1999 Approved Code of Practice, L21 1999, ISBN 0717624889

Provisions and Use of Work Equipment Regulations 1998 Approved Code of Practice and Guide, L22 1998, ISBN 0717616266

Manual Handling Operations Regulations 1992 Guidance on Regulations, L23 1998, ISBN 0717624153

Workplace (Health, Safety & Welfare) Regulations 1992 Approved Code of Practice, L24 1992, ISBN 0717604136

Personal Protective Equipment at Work Regulations 1992 Guidance on Regulations, L25 1992, ISBN 0717604152

Health & Safety (Display Screen Equipment) Regulations 1992 Guidance on Regulations, L26 1992, ISBN 0717604101

Other relevant regulations: available from HSE Books:

Safety Representatives and Safety Committees (Regulations) 1996, L87, ISBN 0717612201, also known as the

“Brown Book”
Successful health and safety management, HSG 65, ISBN0717612767

A guide to the Health and Safety (Consultation with Employees) Regulations 1996, L95, ISBN 0717612341

See also chapters 14 and 15 below



The Safety Representatives and Safety Committees Regulations 1977, revised in 1996 (SRSC), and accompanying Code of Practice and Guidance, as amended by the Management of Health and Safety at Work Regulations 1999, lay down the legal rights of the safety representative and the facilities that should be provided to enable the safety representative to use those rights.

The SRSC Regs are contained in the “Brown Book” (there is a copy in your Reps Pack). The Code of Practice expands upon the Regulations and along with the Guidance gives advice on interpretation and implementation.

APPOINTMENT OF SAFETY REPRESENTATIVES

As set out in the SRSC Regulations, Reg 3, a health and safety representative:

- is elected by fellow members of a recognised trade union to represent them on matters of health, safety and welfare at work;
- may represent members of other recognised unions through mutual agreement between unions and if so requested (see section 2-3 of the *TUC Hazards @Work* folder, multi-union situations);
- is not liable in law for any duties beyond those common to all employees;
- has rights established in law; and
- is not “appointed” by their management but functions independently of the management on their union’s behalf (such persons, appointed by management to oversee health and safety, would usually carry the title of health and safety officer and would have a different role and responsibility under the law).

Dependent on the nature of work undertaken, for example, if a person worked at many different workplaces, under Regulation 8 of the SRSC Regs, they may be appointed as safety representative by their union rather than by a single employer’s workforce. This regulation sets in place the principle for “roving safety reps”, and allows for the representation of workers at other workplaces and in other work areas than their own. The regulation was initially formulated to give protection to actors and musicians, but in future with the proposed introduction of ‘roving safety reps’ or ‘workplace safety advisors’ could also be applied to safety reps in other industries.

Under Regulation 2 of the SRSC Regs, safety reps working as an employee, employed by one employer, would have similar rights, if that employer had more than one workplace, or expected their employee to work at different workplaces, for example touring companies and venues.

Regulation 2 states that the definition of “workplace” in relation to a safety representative means “any place or places where the group or groups of employees he or is appointed to represent are likely to work or which they are likely to frequent in the course of their employment or incidentally to it”. However, if employees are expected to work at workplaces not owned or managed by their employer, the safety rep should be certain to follow the proper channels of communication. It would be advisable to raise any issues of concern, request any documents, or make other arrangements for inspections or investigations through their employer, not directly to the owner/manager of the

premises where they, or those they represent, are being asked to work on the behalf of their employer.

Some freelance and casual members might not qualify as “employees” and might not be eligible to act as safety representatives. This is a gap in the law that might be addressed in the future (for example, by means of roving safety representatives). This does not prevent such members seeking a voluntary agreement from the relevant company/employer for them to undertake the de facto role of a safety representative.

Regulation 3 (4) of the SRSC Regs suggests that “so far as is reasonably practicable”, a safety rep should have been employed by an employer for two years, or at least have two years’ experience in similar employment. However, if it is not “reasonably practicable”, if no one with that length of employment or experience is able to stand for the position, then someone with less experience, or length of service, can be appointed.

Once elected by BECTU members in your workplace, you should ensure that the full-time union officer responsible for your workplace and BECTU head office are informed of your election as a safety representative. You can then be put on to the mailing list and provided with full union support, such as advice, health and safety information and materials, and details of relevant training courses, etc. You will also be issued with a BECTU safety representative’s accreditation card.

Once you have completed your initial safety training, you should also request that BECTU head office put you on the training

database and on their mailing list for the union safety bulletin.

You should ensure that your employer is notified in writing of your appointment as BECTU safety representative. It is important to give this written notification, so that your full legal rights come into effect. A sample letter of notification is contained in Chapter 5 below.

You should also inform your enforcing authority (HSE inspector or environmental health officer) of your appointment and ask that they contact you when visiting your workplace. See chapter 12 below.

It is important that you know and work closely with other BECTU elected representatives from your workplace or branch, especially with other safety reps. You are not expected to work in isolation and will need the help and support of fellow members, stewards, safety reps and union officials.

There is a contact list of BECTU officers in Chapter 15 below and at the front of the monthly BECTU journal *Stage, Screen and Radio*.

TERMINATION OF APPOINTMENT

When does a safety rep cease to be a safety rep?

- When the trade union that appointed or elected them notifies the employer in writing that the appointment has been terminated.
- When the person appointed or elected as safety rep is no longer employed at that workplace, although if they represent employees at more than one workplace, they may continue to do so provided that they still work at one of those workplaces.

- When the person appointed or elected as safety rep resigns – Reg 3(3).

WHAT CONSTITUTES A WORKPLACE?

The definition of “workplace” given in the SRSC Regulations is broad. In relation to safety representatives it means “any place or places where the group or groups of employees that he or she is appointed to represent are likely to work, or which they are likely to frequent in the course of their employment or incidentally to it”.

Safety reps can therefore inspect any part of the workplace in which their members work, as well as any other area of the workplace they may frequent.

This would also apply to any other premises in which the employer expected the employee to work, such as touring venues.

There is no set number of safety reps per workplace or number of employees. The SRSC Guidance notes 8 & 9 suggest that the following factors be taken into account:

- the total number of employees;
- the variety of different occupations;
- the size of the workforce and the number of locations;
- the operation of shift systems; and
- the types of work activity and their dangers.

WHAT RIGHTS DOES A SAFETY REPRESENTATIVE HAVE?

Most of a safety rep’s “functions” are detailed in the SRSC under Regulations 4 to 7, although some “rights” are covered under other legislation, such as the HSWA, the MHSWR, and the Trade Union Reform & Employment Rights Act 1993.

While fulfilling their functions, safety reps have the right to:

- investigate potential and actual hazards and dangerous occurrences – Reg 4(1);
- investigate colleagues’ complaints – Reg 4(1);
- examine the causes of accidents – Reg 6(1);
- present colleagues’ concerns to the management – Reg 4(1);
- carry out workplace inspections – Reg. 5 & 6;
- such facilities and assistance required to exercise the right to inspect – Reg. 5(3)&6(2); and
- receive information from the employer to enable you to carry out health and safety functions – Reg 7.

In particular, information you should receive includes:

- plans, reports and proposed changes concerning health and safety in your workplace;
- accident and incident records;
- technical information concerning potential hazards and precautions proposed; and
- results of monitoring or sampling measurements and surveys undertaken by management to check workplace health and safety.

In addition you should be have the right to:

- inspect, copy and collect relevant information employers are required to keep by law regarding health and safety – Reg 7(1);

You should also be consulted in good time by the management –Reg 4(a)(1) – with regard to:

- introduction of measures that may affect

the health and safety of the employees you represent;

- employer's appointment of competent persons – Reg 6(1);
- health and safety information required by law to be provided to employees;
- planning/organisation of health and safety training required by law to be provided to employees;
- requirements for the setting up of a safety committee – Reg 9(1);
- attendance at safety committee meetings – Reg 4(1)(h); and
- reasonable facilities and assistance, including time off with pay, to carry out safety rep's functions – Reg 4(2)

The latter include:

- private consultation with members;
- access to telephone and internal mail;
- use of notice boards;
- access to reference materials, health and safety publications;
- such facilities and assistance required to carry out the functions of a safety rep – Reg 4(a)(2);
- paid time off for training – Reg 4(2);
- protection in law against victimisation for carrying out safety reps' functions – Reg 3 of the Trade Union Reform & Employment Rights Act 1993.
- the right to consult with enforcement agencies – Reg 4(1)(f); and
- the right to receive information from enforcing agency inspectors – Reg. 4(1)(h).

For further information see TUC Hazards @Work Folder section 2.

THE DUTY OF THE EMPLOYER TO CONSULT

The HSWA makes it clear, in Section 2(6), that "it shall be the duty of every employer to

consult any such (safety) representatives, with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures".

This is a legal duty placed on the employer.

This duty to consult with safety reps has been extended by the introduction of Regulation 4A of the SRSC Regs. and detailed in the Schedule to the MHSWR 1992, requiring the employer to consult "in good time" over a variety of health and safety issues.

This Regulation was added to meet the requirements of the EU Framework Directive 1989/391 [Article11].

Items for consultation "in good time" are:

- the introduction of any measures that may substantially affect health and safety;
- the arrangements for appointing "competent persons" to assist with health and safety and the implementing of procedures for serious and imminent risk;
- any health and safety information the employer is required to provide by law;
- the planning and organisation of health and safety training; and
- the health and safety implications of the introduction (or planning) of any new technology.

YOUR LEGAL POSITION

The SRSC Regulations state that none of the functions of a safety representative are legal duties or responsibilities for health, safety or wellbeing at work. As this is the case, they cannot be liable at either criminal or

civil law for anything they may do, or fail to do, as safety representatives.

However this protection does not exempt safety reps from their legal duties as employees. All employees, under Sections 7(a) and (b) of the HSWA, have a duty to take reasonable care of themselves and others, and to co-operate with the employer as far as necessary to enable the employer to carry out statutory duties in health and safety.

All employees, under Section 8 of the HSWA, are required not to interfere with or misuse anything provided by the employer in the interests of health, safety or wellbeing.

Safety reps and all employees also have a duty under Regulation 14 of the MHSWR to use any machinery, equipment, substances etc., in accordance with their employer's training/instruction. They also have a duty to inform the employer of any serious and imminent danger to health and safety, and any failing in the employer's protective measures for health and safety.

Safety reps who hold supervisory/management positions may find a conflict of interest with regards to enforcement of working systems and responsibility for health and safety against the introduction of improved health and safety from the union perspective, or it may make the introduction of improvements easier. However this conflict is resolved, the important issue is to ensure the health and safety of all union members, and any others who might be affected including yourself.

The Trade Union Reform and Employment Rights Act 1993 provides that safety representatives should suffer no detriment for performing or proposing to perform their functions as safety representatives.

The Act also extends employment protection to all employees in health and safety cases.

Safety representatives also have further protections against the employer failing to fulfil their duties under section 4(2) of the SRSC Regulation, as covered in Regulation 11 of the SRSC Regulations.

If you have reason to believe that you have been or are being victimised by your employer for carrying out your functions as a safety representative, for example by denial of pay rise or promotion, by cuts in pay or overtime, or by disciplinary action, you should seek advice from a full-time union official immediately.

An employee or safety rep who has been victimised, selected for redundancy or dismissed, regardless of their length of service, hours of work or age, can take their case to a tribunal.

A case can be brought to a tribunal if the employer has taken action against the employee or safety rep as a result of his or her:

- carrying out, or proposing to carry out, health and safety activities for which they are designated by their employer;
- performing, or proposing to perform, any function as an official or recognised safety rep or safety committee member;
- bringing to their employer's attention, by reasonable means, in the absence of a representative or committee who could do so on their behalf, a reasonable health and safety concern.
- leaving, or proposing to leave, the workplace, or any dangerous parts of it, in the event of danger that they reasonable believe serious and imminent and that they could not reasonably expect to avert, or,

while the danger persists, refusing to return; and

- In the circumstances of danger, which they reasonably believe to be serious and imminent, taking, or proposing to take, appropriate steps to protect themselves from danger.

An employee or safety rep claiming victimisation or dismissal for health and safety activities must present their claim to a tribunal within three months of the original action.

For further information see *TUC Hazards @Work Folder* section 1, Health and Safety and the Law, and section 2, Safety Representatives and Safety Committees

POINTS FOR NEGOTIATION

Although safety reps' rights are legal entitlements, some details, particularly about taking time off and facilities needed to fulfil the safety reps' functions, must be negotiated.

Amount of time off

This is not specified in the regulations. They refer to "such time off with pay during employees' working hours as shall be necessary".

The safety rep's interpretation of what might be necessary might vary greatly from that of the employer, or might vary because of the nature of the working environment. It will depend on the types of hazard, size of workplace or area that the safety rep covers, the number of members covered and the nature of the work they undertake.

The safety rep might also have extra responsibilities, also be a steward, or have diverse work patterns, such as shift work.

When negotiating time off with the employer it is best not to agree a specific number of hours, but a basic principle based on the "as necessary" formula.

If difficulties arise when trying to secure time off, use the normal grievance procedure to resolve the matter, under advisement from your full-time union officer.

Leaving the job

The employer may insist on a procedure of being notified before a safety rep carries out any functions involving time off. Although this is reasonable for regular or predictable events, such as inspections and training courses, it should not be used to restrict safety reps from tackling issues that are presented at short notice, such as accidents or imminent potential hazards.

The employer should be notified if possible, but it is better to negotiate release at short notice into your formal agreement to ensure that safety reps are free to attend accidents or incidents immediately without causing further conflict with managers.

It is important that both members and the employer notify the safety rep immediately in the event of an accident or serious incident occurring.

Like all union representatives, the safety rep is best able to carry out their functions if management agree to provide cover for them whilst they are engaged in these activities. Without this agreement representatives are often put under pressure to remain on the job and become reluctant to take the time off that they need in order to be effective.

ACCESS TO INFORMATION

The SRSC Regulations, under Regulation 7(2), state that an employer must "make available to safety representatives the information within the employer's knowledge, necessary to enable them to fulfil their functions and also sets out exemptions from disclosure". The type of information to be made available is clarified in the accompanying Code of Practice.

Information to be made available includes:

- information on the plans and performance of the organisation and any proposed changes that may affect health and safety;
- technical information about hazards and necessary precautions, including

information provided by manufacturers, hygiene measures, etc;

- information and statistical records on accidents, dangerous occurrences and notifiable diseases.
- any other information relevant to health and safety at work, such as measures to check the effectiveness of health and safety arrangements, including audit results, consultants' reports, health monitoring, risk assessment and reviews; and
- Information on articles and substances issued to home workers.

The Guidance Notes for Regulation 7 also outline the duty on employers to provide information under the HSWA 1974 and the MHSW R 1992-99.

UNION ORGANISATION WITHIN THE WORKPLACE

If you work with a team of safety representatives, coordinate your efforts to cover the maximum number of issues, rather than covering the same ground.

If you are the only safety rep in your workplace, prioritise outstanding health and safety issues – you cannot do everything and your members will be more impressed by one success than by no progress, or failure.

Liaise with union stewards, for support and practical help with negotiation skills, the grievance procedure, etc.

Many in the entertainment industry work in multi-union workplaces; Safety reps should coordinate with those from other unions over issues that affect the whole workplace.

Above all gain the support of your members.

LOCAL ORGANISATION CHECKLIST

- Are there enough safety representatives to cover all union employees?
- Has the employer been informed in writing of elected safety reps?
- Has the full-time union official responsible for your workplace and BECTU head office been informed of elected safety reps?
- Are safety reps carrying out regular inspections of the workplace – at a minimum of three-monthly intervals?
- Do members know who their safety reps are?
- Do members know what issues to take up with their safety reps?
- Do safety reps have regular discussions with members about health and safety issues?

- Are safety reps investigating potential hazards, incidents and safety concerns raised by members?
- Are safety reps raising issues and problems with the employer?
- Do safety reps have enough time off to carry out their functions and attend training courses?
- Have all safety reps attended health and safety training courses?
- Do safety reps and stewards meet regularly?
- Is health and safety on the agenda of all union meetings?
- Do all safety reps know what information is available and how to access it?

FACILITIES CHECKLIST

In order to carry out your role as a safety representative you will need to negotiate with your employer for facilities.

Facilities are not necessarily provided automatically; if you don't make your employer aware of your rights under the SRSC Regulations (see also Chapter 3, above), then you may encounter difficulties when undertaking your role as a safety rep.

By notifying your employer and negotiating for facilities, such as paid time off for training and health and safety work, a clear system will be put in place for you to carry out your functions. You will find it much easier to open a dialogue with your employers, as they will understand what you are doing and why, allowing you to concentrate on the important issues of union members' health, safety and welfare.

Facilities that you will need include:

- agreed paid time off to fulfil your role as a safety rep;

- agreed paid time off for training;
- somewhere secure to keep your papers, files, reference books, etc.
- a place to consult with members in private;
- access to a telephone;
- access to notice boards, internal mail and other communications systems in your workplace;
- access to typing and copying facilities;
- use of a quiet area (union room) to write letters, read reports, etc; and
- access to a computer and e-mail.

ORGANISE AND PRIORITISE

Once you have your facilities in place you will need to organise a filing system to keep track of the information you gather so that it is easily accessible.

Suggested file system:

- correspondence between you and your employer;
- correspondence with members, regional officials, and national officials;
- safety committee papers and minutes;
- employer's safety policy, specific health and safety agreements and safety procedures;
- specific files on particular hazards;
- employer's risk assessments;
- data sheets on substances, machinery, etc used in the workplace;
- checklists and inspection reports, records and audits;
- incident investigations;
- accident records and statistics;
- course files from health and safety training and training information;
- union publications;
- TUC publications and leaflets;

- HSE publications;
- regulations and codes of practice; and
- Industry-specific guidance.

Having this information readily to hand will make you more efficient and your efforts more effective, particularly when presenting a case to your employer.

Make sure that you keep a diary of important dates, union meetings, safety committee meetings, inspection dates, incidents, accidents and other events.

Note follow-up action to be taken by yourself or dates by which your employer is due to respond to a particular issue.

Also keep minutes of meetings attended, interviews with union members, group discussions of specific issues, etc.

GETTING SUPPORT FROM MEMBERS

One of the keys to getting improvements in workplace health and safety is to gain and keep the support of your members.

Apathy regarding health and safety is not just a management trait. Gaining the interest of members is one of the safety rep's hardest tasks.

Understanding the reasons behind your member's lack of interest can help.

The problems

- workers may take hazards for granted, seeing them as part of the job;
- they may believe that accidents are caused through carelessness without looking at the bigger picture or the real causes;
- they may have hidden hazards such as noise, fumes, dust, etc, to contend with, whose detrimental effects on health are not always immediate;

- workers may associate health and safety with management control, pointing to too many rules and restrictions, and too much protective equipment;
- they may believe that complaining about health and safety issues might affect their job security or promotion prospects;
- they may believe that “it will never happen to me”; and
- most important, they may have complained about an issue and seen no results.

Talking to members, responding to their concerns and involving them in proposed changes is the first step towards gaining their interest and raising their awareness of what their support for you can do for them; such as improving the quality of working life, reducing stress and creating a better working environment.

Involving and mobilising members

- ensure that safety reps talk to new workers during their induction.
- make use of noticeboards to communicate;
- use notices, leaflets, posters, bulletins and progress reports;
- change and update information regularly to encourage members’ interest;
- make sure that members know you are their safety rep;
- talk to members;
- inform them of hazards;
- discuss their concerns;
- arrange meetings to keep members informed, and encourage discussion and feedback;
- report back on issues and successes;
- involve members when planning your

approach to tackling issues;

- talk to members during inspections;
- talk to members after incidents;
- ensure privacy and confidentiality;
- conduct regular workplace inspections;
- conduct surveys to find out more about the concerns of members;
- encourage members to be aware of hazards and to report them to you;
- investigate potential hazards, incidents and safety concerns raised by your members.

You should keep a high profile in the workplace and publicise:

- the results of investigations;
- the results of inspections;
- ongoing negotiations and their outcome; and
- most importantly, successes and achievements.

Often workers’ main concerns will be job security and earnings, so reassure members that you understand this and do not talk about health and safety in isolation from these concerns.

RECRUITMENT

The success of the safety rep not only improves the working conditions of existing members but also raises the profile of BECTU in the workplace and proves the benefits of being a BECTU member.

Health and safety is a useful tool for recruiting new members, but recruitment is also essential to the successful union safety campaign. The higher the membership, the more leverage can be applied to introduce improvements and the more benefits those members receive.

5 TRAINING FOR SAFETY REPS

IMPORTANCE OF TRAINING

Appropriate training should be taken at the earliest opportunity after being appointed as a safety representative. The importance of training cannot be stressed strongly enough; it will give you the knowledge, skills and confidence necessary to undertake your new role.

Only after receiving training will you become a fully accredited BECTU safety representative.

Continuing and future training is also an essential part of your role as a safety rep. It is necessary to have the broadest possible understanding of health and safety issues, to keep up to date with changing legislation and to fine-tune your knowledge of specialist issues of relevance to your workplace.

HSE guidance to safety reps is that “as soon as possible after their appointment safety representatives should be permitted time off with pay to attend basic training facilities approved by the TUC or by the independent trade union which appointed the safety representatives.

“Further training, similarly approved, should be undertaken where the safety representative has special responsibilities or where such training is necessary to meet changes in circumstances or relevant legislation.

“A trade union... should inform management of the course it has approved and supply a copy of the syllabus, indicating its contents, if the employer asks for it. It should normally give at least a few weeks’ notice of the safety representatives it has nominated for attendance.

“The number of safety representatives

attending training courses at any one time should be that which is reasonable in the circumstances.

“Unions and management should endeavour to reach agreement on the appropriate numbers and arrangements and refer any problems that may arise to the relevant agreed procedure.”

LEGAL RIGHTS

Under Regulation 4(2) of the SRSC Regulations, employers have a legal duty to give properly appointed safety reps time off with pay for training (see chapter 3 above, and Section 2-5/2-6 of the *TUC Hazards @Work* folder).

This training includes basic and advanced courses provided by the TUC or BECTU and further specialised training courses where a safety rep has special responsibilities or training necessary due to changes in circumstances or legislation.

The SRSC Regulations state that part of the function of the safety rep is to “undergo such training in aspects of those functions as may be reasonable in all the circumstances” and that the time off for training should be paid time off, Reg 4(2)(b).

TUC COURSES

The TUC organises accredited courses on a regional basis at local colleges, so there should be no difficulty in attending a course locally. They also offer on-line courses for those who have difficulty locating an easily accessible college course in their area (though the employer should still provide time off without loss of earnings to complete on-line courses).

The Stage 1 and 2 courses are arranged

on a day-release basis over a 10-week period, or block release of two five-day periods.

Full information on courses available, and start dates, can be obtained either from the full-time union official responsible for your workplace, BECTU head office, or from TUC regional education services, see Section 2-7 of the *TUC Hazards @Work* folder.

Stage 1 course

The Stage 1 course is designed as an introductory course for all newly appointed safety reps or those who have not previously attended TUC health and safety training.

Topics covered by the course include:

- the trade union approach to health and safety;
- safety reps' role and functions;
- health and safety law;
- negotiating on health and safety issues;
- identifying hazards;
- key issues and specific hazards such as manual handling and chemicals;
- investigating hazards and carrying out inspections;
- raising members' awareness of health and safety issues and gaining their support;
- establishing and working with a health and safety committee; and
- sources of information available to safety reps.

Stage 2 course

The Stage 2 course is designed for safety reps who have completed the Stage 1 course and have further experience of dealing with health and safety in the workplace. The course expands upon the knowledge and confidence gained from Stage 1 and takes

a more in-depth look at specific issues of concern to those reps attending the course.

Stage 3 course

This course is a higher-education entry-level course, accredited by IOSH.

The course fine-tunes the safety rep's role and abilities regarding health and safety, concentrating for the most part on personal experience in the form of assignments and project work.

BECTU COURSES

As well as its joint training initiative with S4T, BECTU works with other training initiatives around the country, to bring high-quality training, in health and safety and other areas, such as technical training and development, to its members and representatives.

Facilities

The cost of the TUC courses is met by the TUC, and courses are free to any union member whose trade union is a TUC affiliate.

BECTU courses are financed and paid for by the union.

As undertaking training is part of a safety rep's functions, any books or materials required for the course are necessary to facilitate the safety rep completing the course. Therefore, under Regulation 4A 2 of the SRSC Regs, the employer should pay for them, although some may be reluctant to do so.

Your employer cannot deny you access to training; in-house courses offered by your employer should not be accepted as a substitute for trade union training and only

taken in addition to trade union training, with trade union training taking priority.

Joint training courses run through such initiatives as "Theatre Safety Net" by BECTU and S4T, are designed to promote awareness of managers' and safety reps' particular responsibilities and through effective use of the joint health and safety committee, cooperation and negotiation, to reach agreement on the best methods of controlling and preventing risks in the workplace.

Release for training

A standard letter of notification of your appointment as a BECTU safety rep and request for release for training is given in the box on the right. It can be adapted as necessary for your needs. Your employer should be given sufficient notice of your intention to attend a course.

It is important to keep written records of your correspondence with your employer, keep a copy of your letters and to require a written response from them.

If you have any difficulty obtaining paid release for training, contact the BECTU official responsible for your workplace immediately for advice and support.

SAFETY REPS ON PART-TIME CONTRACTS

Safety reps who are employed on a part-time basis have no legal right to payment for time spent fulfilling their functions, attending meetings or attending training outside their normally contracted hours. As training for employees is in the interest of the employer, they should attempt to

MODEL NOTIFICATION OF ELECTION/ REQUEST FOR RELEASE

TO: [*name of manager*]
FROM: [*name of safety representative*]
DATE:

I am writing to notify you that I have been appointed as a BECTU health and safety representative.

In order that I can carry out the role of health and safety representative I am required to undertake TUC health and safety representative training, stage one.

Therefore, I am requesting paid time off from work to attend a course at College on...../...../....., as provided for in Regulation 4(2)(b) of the Safety Representatives and Safety Committees Regulations 1977.

Please confirm in writing that this request is accepted.

Yours sincerely,

negotiate a compromise agreement for time with pay for training.

SHIFT WORKERS

Cover will need to be negotiated for shift workers who come in to work to fulfil their functions, or attending meetings or who attend courses while off duty.

Sufficient allowance should be made so that they maintain rest periods. Those working overnight will need the night off before and on the day of a day-release course.

REPORTING AND RECORDING INCIDENTS

Safety representatives must ensure the full and proper recording and reporting of all workplace health and safety related incidents, such as dangerous occurrences, accidents, diseases and near misses.

Employers must set up suitable procedures for the proper reporting of health and safety related incidents in the workplace, and employees must be encouraged to report all such incidents.

Since research into accident prevention has shown that the average workplace will have a large number of near misses for each actual accident, it is especially important to attempt to record such near misses and act upon the information gathered.

ACCIDENT AND INCIDENT STATISTICS

Recording incidents and monitoring the frequency of accidents, the types of injuries, near misses or dangerous occurrences and the area of the workplace in which these incidents took place, allows safety reps to build up a "map" of the workplace. This workplace mapping gives a clear picture of accident black spots, and areas for concern and improvement. There are many ways of ordering and presenting this type of information – by workplace, area, work activity or operation.

Incident statistics, combined with workplace inspections, incident investigation and statistics from similar industries, provide valuable diagnostic information for the safety committee. They also become effective tools when campaigning for improvements in workplace safety, making presentations

to management, or boosting the support of members.

More information on national accident, injury and ill health statistics can be found on the HSE website (see Chapter 15 below).

RIDDOR

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires employers to record the following details of any accident, dangerous occurrence or disease at work:

- the date and time of the accident or dangerous occurrence;
 - the personal details of the person/s affected;
 - their name;
 - their occupation;
 - the nature of their injury or condition;
 - the place where the accident or dangerous occurrence happened; and
 - a brief description of the circumstances.
- For diseases, the following is required:
- the date and diagnosis of the disease;
 - the occupation of the person affected; and
 - the nature of the disease.

Records should be kept for a minimum of three years and the accident book should be readily available to any injured party or their representative.

What is covered by RIDDOR?

Every person in the workplace – employees, the self-employed, trainees, customers, contractors, casual labour and visitors – is covered by RIDDOR.

All major and serious accidents and injuries, where a person is hospitalised for 24 hours, or cannot return to work for three

or more days must be reported. And any specified dangerous occurrence, such as the collapse of scaffolding, or of a hoist or crane, should be reported to the relevant enforcement authority by the quickest practicable means, and followed up within seven days by the relevant completed form.

If in doubt, it is better to report or seek guidance from the enforcing authority, the HSE or EHO, than not.

Report forms for RIDDOR are available from the HSE and contain both F2508 forms for injuries and dangerous occurrence and F2508A forms for reportable diseases.

The HSE also produce a leaflet – HSE31 Everyone's guide to RIDDOR Code A, ISBN 0717624412

See also the TUC Hazards @Work folder; section 3, Dealing with Accidents.

INVESTIGATING ACCIDENTS, NEAR MISSES AND DISEASES

The timely, accurate and in-depth investigation of incidents, accidents, dangerous occurrences, near misses within the workplace and diseases caused by work processes or activities, can ensure that the appropriate action is taken to prevent their repetition and that any injured party obtains the proper compensation.

Provided that it is safe to do so, safety reps have the legal right, under Regulation 6 of the SRSC Regulations, to inspect following a notifiable accident, occurrence, or disease. The regulations also make it clear that "the employer shall provide such facilities and assistance as the Safety Representative may reasonably require". These facilities are basically the same as those to be provided for the purpose of workplace inspections,

the most important being the facilities for independent investigation by the safety rep and private discussion with employees. This does not preclude the employer or the employer's representative from being present in the workplace during the inspection/investigation, it simply means that the safety rep has the right to run a separate investigation from that being conducted by the management. Often it can be beneficial to combine resources and share information with management, throughout your investigation, but keep anonymity for any employees that are interviewed and bear in mind that the finished report might be used by the union in an insurance claim against the employer.

There is a growing acceptance that good accident investigation requires investigators to discover not only the immediate causes but, more important, the underlying causes. So the findings of the accident investigation should be linked into the risk assessment process.

Accident investigation checklist

- ensure that you have an agreement with the employer that you will be notified immediately that an incident occurs;
- get to the scene of the incident as quickly as possible;
- ensure that any injured person receives or has received first aid;
- if necessary, ensure that the emergency services are called;
- ensure that someone known to the injured person accompanies them to hospital;
- ensure a near relative or friend is informed;

- if the accident is serious, ensure that the employer contacts the relevant enforcement authority immediately by telephone or fax;
- the management should have systems in place to ensure that all this happens automatically, therefore, the safety reps' role should be that of monitoring and checking that the proper procedures have been followed;
- ensure that nothing is disturbed at the scene, other than on safety grounds, until investigations are complete;
- take photos and make sketches;
- take detailed notes on the work environment in relation to its contributing to the incident;
- make measurements, if appropriate;
- if possible, interview the accident victim and any witnesses as quickly as possible. If the accident is serious, recording the interviews may be preferable;
- establish the circumstances that lead up to the accident and circumstances surrounding the incident;
- what happened afterwards?
- get names, addresses and contact telephone numbers of the witnesses and note the date and time of their statements;
- take into account other contributing factors for all those involved, such as: the number of hours worked, shift patterns, the age and experience of those involved, their training and any information or instructions they have been given for the task they were set, any protective equipment they were wearing, or not.

Also include:

- any legal standards applicable;
- any previous accidents or near misses in the same work area, task or similar;

- details on the maintenance of the workplace and equipment, etc.
 - information on similar accidents in other companies and organisations, and on any relevant health and safety literature.
- You should:
- write a report as quickly as possible, while events are fresh in your mind, even if it is only a rough draft;
 - make sure that a member of management has filled out the appropriate RIDDOR form and sent it off, and that the accident has been recorded in the accident book;
 - communicate the findings of your investigation to those in management who can act upon the findings. The conclusions drawn should be constructive and seek to prevent a reoccurrence, not apportion blame;
 - communicate the findings of your investigation to those members of staff who may have been affected by the incident, especially any who were injured;
 - carry out a thorough review to ensure that recommendations given are acted upon;
 - send a copy of your report, conclusions and recommendations to the relevant enforcement authority, after informing the employer of your intention to do so;
 - keep the relevant enforcement authority apprised of progress regarding improvements;
 - if a compensation claim by the injured member is likely, ensure that a copy of the report, conclusions and recommendations is sent to your full-time union officer to be passed on to the solicitor dealing with the claim; and
 - be prepared to offer any support or

representation to the injured party, or any other member involved in the incident, as necessary.

THE WORKING ENVIRONMENT

The working environment can be a major contributing factor to the number and type of accidents and incidents that occur at work.

The Workplace (Health, Safety and Welfare) Regulations 1992 set out minimum standards, though it is desirable to aim for higher standards. Some workplaces and processes, such as construction, have Regulations of their own setting minimum standards.

The W (HS & W) Regulations

Regulation 4: The employers' responsibilities – employers must take in to account everyone who works in or visits their premises, such as contractors and the self-employed. Where premises are shared, management responsibilities are also shared.

Regulation 5: Maintenance – all workplace machinery and equipment should be well maintained, through a regular system of inspection and records should be kept of any maintenance carried out.

Regulation 6: Ventilation – all workplaces must be well ventilated.

Regulation 7: Temperature – a reasonable working temperature must be maintained inside work buildings. A "reasonable temperature" being 16°C for most types of work and at least 13°C for work involving severe physical effort.

Regulation 8: Lighting – lighting must be sufficient, suitable and natural as far as is

reasonably practicable. Emergency lighting must be supplied where failure would cause danger.

Regulation 9: Cleanliness – workplace and furnishings must be kept sufficiently clean. Floors should be clean. Waste must not be allowed to accumulate.

Regulation 10: Workspace – workrooms must have sufficient floor area, height and unoccupied space. The guidance given is a minimum of eleven cubic metres per person, not counting any height above three metres. Fixtures fittings and furniture must be taken into account.

Regulation 11: Workstations and seating – seating must be supplied where necessary and must be suitable for those working and the work they are doing.

Regulation 12: Floors – floors must be suitable, not slippery or uneven, and kept free from obstruction. Handrails must be provided on staircases and secure fencing where there is a risk of falling from a height of more than two metres.

Regulation 13: Falls – suitable and sufficient measures should be taken to prevent people from falling and being struck by falling objects.

Regulations 14–16: Windows and moving walkways – clear doors should be marked to prevent people from walking into them. Windows must be safe to use and operate.

Regulation 17: Traffic – workplaces must be organised to allow the safe circulation of pedestrians and/or vehicles.

Regulation 18: Doors – doors and gates must be safely constructed and meet set specifications.

Regulation 19: covers escalators.

Regulation 20: Toilets – toilets must be kept

clean, well maintained and well lit, with toilet paper, hanging space for coats, and separate provision for women and men. Access for disabled should also be taken in to account.

Regulation 21: Washing facilities – washing facilities must be suitable, sufficient and conveniently located. Facilities must be kept clean, ventilated and well lit. If more than one person is using them, there should be separate facilities for women and men.

Regulation 22: Water – an adequate supply of clean drinking water and cups must be provided.

Regulations 23–24: Clothing – suitable and

sufficient accommodation for clothing must be provided, as well as changing facilities where special clothing is worn.

Regulation 25: Restrooms – suitable and sufficient rest facilities must be provided in readily accessible places. These rooms should make provision for the protection of non-smokers. Provision must also be made for workers to prepare hot drinks and warm food, and eat meals.

FURTHER READING

HSE *Workplace Health, Safety and Welfare: a Short Guide for Managers* INDG 170

WHO IS RESPONSIBLE?

The Health & Safety Executive estimates that 90% of all accidents could have been avoided and that 70% of workplace accidents could have been prevented by positive management action.

Many organisations and companies in the arts, entertainment and media industry still fail to comply with most health and safety legislation and there is widespread ignorance among managers of health and safety regulations.

Often basic safety procedures are inadequate, with disastrous consequences. Many accidents could be avoided simply through the introduction of suitable preventative measures.

It is a proven fact that managements that work in cooperation with union safety representatives have a far lower accident rate.

The first step for any safety rep is to reduce the risk of accidents and ill-health in the workplace.

This can be achieved through a combination of pressure and cooperative working with management. It is crucial to remind managers of their responsibilities under the law, point out the positive benefits to their company of accident prevention, and to encourage managers to set up safe systems of working. Using risk assessment, accident statistics, and workplace inspections can help to identify problem areas in the workplace and formulate an appropriate course of action.

There is also a duty to educate the staff in health and safety awareness. This falls not only to the management but also to the safety rep (see also chapter 2 above).

LEGAL DUTIES ON MANAGEMENT

Under the Health & Safety at Work, etc Act 1974 (HSWA), employers have the major responsibility “to ensure, as far as is reasonably practicable, the health, safety and welfare of his employees”. This is the basis of all health and safety legislation.

Although health and safety tasks may be delegated to employees deemed to be “competent” to carry them out, the responsibility still rests with the management.

The employer’s duties are specified in greater detail in the Management of Health & Safety at Work Regulations 1999 (MHSWR), including among other duties, the requirement to carry out risk assessments, (Reg 3) and to consult safety reps (Reg 17).

Other management duties, with regards to safety representatives, facilities, inspections and joint safety committees, etc, are covered by the Safety Representatives and Safety Committees Regulations 1977 (SRSC Regs).

For further information, see *TUC Hazards @Work Folder*, section 1, Health and Safety and the Law, and section 2, Safety Representatives and Safety Committees.

THE EMPLOYER’S APPROACH TO HEALTH AND SAFETY

The HSE’s guidance document HSG 65 lays out in detail how the employer should put in place measures to control and maximise effective health and safety management. The message it conveys is a simple one: “organisations need to manage health and safety with the same degree of expertise and to the same standard as other core business activities, if they are effectively to control risks and prevent harm to people.”

The basis of HSG 65 is the “POPMAR” approach to safety management (“Policy, Organisation, Planning & Implementation, Measuring Performance, Audit and Review”). In relation to each of these the employers have to consider:

Policy What the organisation’s general approach to health and safety is, and what general duties and responsibilities people have.

Organisation What detailed responsibilities people have, how safety is communicated throughout the organisation, effective co-operation between staff and employer and how competence for staff is determined.

Planning & Implementation How in practical terms, risk to health and safety are managed to the lowest reasonably practicable means – that is, how the organisation deals with risk assessment and actions for improvement.

Measuring Performance What targets the organisation sets to make sure it knows how well it is doing in health and safety – usually including the number of accidents, but other measures could be number of risk assessments and how many improvements have been completed on time.

Audit An impartial, thorough and usually independent assessment of the whole safety management system to identify areas of further improvement.

Review A management assessment of activity in all the areas above, plus any failures such as accidents or poor enforcement inspection reports to identify further action for improvement.

This publication is now being seen as the benchmark in relation to what the HSE expects from employers.

As David Eves, then deputy director general of the HSE said in the report of the Ladbroke Rail Inquiry No. 2: “When the HSE first published HSG 65, it wanted to describe a framework for managing health and safety effectively. There now seems to be an emerging international consensus on the essential elements of a health and safety management system.”

And as Lord Cullen noted in the Second Report on the Ladbroke Grove accident: “There is a clear link between good safety and good business.”

Management approach checklist

- Does your employer have a written policy for health and safety?
- Do you have a copy?
- Was the union involved in making it?
- Has your employer appointed competent persons, under the ‘Management Regulations’?
- Is the health and safety policy reviewed and updated regularly OR when problems or changes occur?
- Is each manager’s responsibility clearly defined in written form, including that of top management and the board of directors?
- Does your employer provide suitable and adequate health and safety training for all staff?
- Does your employer use the services of health and safety specialists?
- Are they properly qualified?
- Do they consult and cooperate with safety reps?
- Does your employer consider and risk assess for health and safety before new equipment, substances or procedures are introduced?

- Do they consult with safety reps in advance?
- Is there a joint safety committee involving union and employer?
- Are decisions on health and safety jointly made?
- Does it help safety reps resolve health and safety issues?
- Is your employer aware of its legal obligations?
- Do they have copies of the relevant legislation, codes of practice, advice and guidance?
- Do they discuss the implications and implementation of these with safety reps?
- Are they put into practice?

Procedure agreements

- Agreement on health and safety

procedures must be negotiated and put into place to resolve outstanding and future issues.

- Keep copies of all existing agreements.
- If appropriate seek the support of your full time union official to negotiate procedures.
- If agreement cannot be reached then the matter should be taken through the grievance procedure.
- The views and wishes of union members should be the priority when negotiating procedures.

FURTHER READING

HSE *Successful health and safety management* HSG 65 ISBN0717612767

8 RESOLVING H&S WORKPLACE ISSUES

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□ REDUCING THE RISK

There are two main ways of dealing with hazards in the workplace.

One is to work around them, inform workers that they exist and provide personal protective equipment (PPE) as the only control measure. This is called the “safe person” approach, and is often preferred by the employer.

The second is to tackle the hazard at source. This is called the “safe place” approach, and is the one followed by trade unions and recommended by EU health and safety directives.

The “safe person” approach might seem simpler, more immediate and cheaper, but it shifts responsibility away from the employer and on to the worker. In the long term it is not effective and does not prevent accidents.

PPE should only be used as a last resort and, in addition to other preventative measures, if the hazard cannot be further controlled in any other way.

The “safe place” approach is based on prevention and is therefore much more effective in reducing risk by controlling or eliminating the hazard.

Identifying the issue is the first step. A full list of environmental, welfare and workplace hazards, check lists and specific preventative measures are listed in the *TUC Hazards @Work* folder. See also chapter 2, above, under Risk Assessment.

IDENTIFYING THE HAZARDS

Although some problems might be immediately obvious, others are harder to identify. There are a number of ways to identify potential hazards: by inspections, surveys, issues raised by members, studying

accident and ill-health records, etc. Other hazards might have gone undetected because they are subtler in nature, such as temperature, lighting, shift patterns and stress.

Hazard check list

Physical hazards:

- Unsafe systems of work
- Unsafe plant or machinery
- Manual handling operations
- Electricity
- Fire
- Trips/slips, falls, etc

Hazardous substances:

- Chemicals, such as paints, solvent, cleaning solutions, aerosols, etc
- Dust
- Fumes
- Gases

The working environment:

- Temperature, too hot, too cold
- Air quality
- Ventilation
- Lighting quality
- Exposure to noise
- Cleanliness of the workplace
- Badly maintained buildings
- Access to rest areas, canteen facilities, etc

Psychological welfare:

- Stress
- Repetitive work
- Harassment
- Lack of control
- Long hours
- Lack of incentive

- Boredom
- Shift work

Ergonomic hazards:

- Does the job force people to work in unnatural or awkward postures, such as bending, kneeling or twisting?
- Is work equipment and work environment designed suitably for the job?

INVOLVE YOUR MEMBERS

Once you have drawn up a list of hazards in your workplace you will need to prioritise, dealing with the most likely to cause serious harm first and those to which there may be an immediate solution.

Involve union members exposed to the potential hazard; they may have useful information about the problem, or you may need to inform and convince them that there is a problem.

Raise the issue at meetings, ask members to keep a diary of events as evidence, involve members in surveys and ask their opinion on the preferred solution to the issue. Report back on any progress and keep consulting with members throughout the process.

Gather information

A great deal of the information you will need on specific hazards is covered in the *TUC Hazards @Work* folder. You will also find sources of further information at the end of each Section and under Section 32, 33, and the Appendices. The HSE also produces comprehensive information on specific hazards. When trying to prioritise precautionary and protective measures, consult Regulation 4 of the Management of

Health and Safety Regulations 1999.

Look at your employer’s documentation, such as safety policies, operating procedures, safe systems of work, maintenance records, risk assessments, and COSHH assessments. Speak to your union official. Check if the issue is covered by an agreement. Are there any industry standards or “best practice” agreements? Check the law and guidance.

THE EXTENT OF THE PROBLEM

Determine whether the problem is a one-off that can be resolved easily, or a long-term, broader problem. Does the problem pose an imminent danger or is the risk relatively minor? How urgent is it that action be taken – do you need to resolve the problem immediately or can it be put on your future action list?

Consider whether the problem can be resolved locally or whether it needs to be raised at the health and safety committee.

Are there wider implications, industry wide, that need to be raised with your branch, or union official, divisional health and safety committee or higher still?

Prepare your case

- Decide what you want to achieve, removing the hazard completely is not always possible. Try to reduce or limit it as much as possible, but don’t accept the argument that it cannot be tackled at source.
- Decide whether there is room for compromise without loss of protection for your members.
- Once all available information has been gathered set it out in an easily readable

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format, categorise and section-up the information so that it is easily accessible and presentable.

- Write up a report based on your findings – the better your presentation to the employer, the more likely they are to take you seriously.
- Be aware of procedures, such as the grievance procedures, and be prepared to use them if necessary.
- Try diplomacy first, but set time limits for action, making it clear that you expect a response by a set date. Send reminders and don't let the issue drop.
- If you attend meetings with the employer to discuss the issue, keep notes of the meeting and confirm these minutes in writing.
- Keep a copy of all correspondence.
- Seek the support of other safety reps and Stewards in your workplace.
- Make sure any proposed changes are fully discussed and agreed upon before implementation of changes.
- Negotiate a written procedure for dealing with any recurrence of the issue, such as safe systems of work, regular reviews of the issue and how well it is being controlled.
- Be sure that both you and your members are kept informed of any introduction or implementation of changes.
- Make sure that all new procedures, equipment or other proposed changes are thoroughly risk assessed before their introduction.

The employer must have procedures in place for health and safety, allowing you direct contact to the manager who can make decisions regarding the hazard identified, and requiring them to consult with the safety

rep and deal with the issue promptly.

These procedures must allow jobs to be stopped where there is imminent risk of personal injury.

Controlling the risk

At source: If the risk cannot be completely eliminated, the next best course of action is to control it at source. This can be achieved by introducing control measures – limiting exposure, introducing local exhaust ventilation, introducing engineering controls to reduce noise levels, etc.

By isolation: If elimination or control at source is not possible, or if there is still a risk to health after control measures, the hazard should be isolated – noisy processes located separately from other production processes, reducing the number of workers who might be exposed and introducing PPE, etc.

By applying safe systems of work: This is essential to control risks that cannot be eliminated. Safe systems include permits to work, lock-off devices and isolator switches to ensure that only authorised persons use plant and machinery, special training for workers who may be exposed to a particular hazard, etc.

Often a combination of measures will prove most effective.

ARGUMENTS SUPPORTING A HEALTH & SAFETY CONSCIOUS APPROACH

There are clear legal arguments to support an improved and effective health and safety culture in the workplace (see specific Approved Codes of Practice in the Management of Health and Safety at Work Regulations 1999 summarised in the *TUC*

Hazards @Work folder). There are also sound economic reasons for improving health and safety in the workplace.

Check list

- Fewer accidents will save money.
- Better health, safety and welfare standards will save the cost of covering workers off sick, and decrease sickness and absenteeism.
- Fewer accidents mean less disruption and less damage to property and equipment.
- Better health, safety and welfare standards mean higher productivity, better morale among workers and better industrial relations.
- More efficient working practices mean less waste and savings in time and raw materials.
- Replacing toxic substances with safe ones can reduce costs.
- Installing safe systems usually involves one-off spending, offset by savings

in the long run.

- Proper health, safety and welfare procedures mean fewer prosecutions and fines and less adverse publicity

Health and safety is about negotiating real improvements in the working environment not about securing monetary gain for doing a dangerous job.

Difficulties

If managers disregard your concerns about a hazard, or say it is safe or non-hazardous, ask them to put it in writing and be sure that your concerns to them are also in writing.

Discuss the difficulties with other safety reps and stewards or contact the union officer responsible for your workplace. They might be able to suggest a different approach.

If no resolution can be found then you will have to use the grievance procedure (see Chapter 10 below).

 Under Regulation 9 of the SRSC Regulations, employers are obliged to establish a joint safety committee if at least two safety reps request it in writing. The safety reps must be consulted about the composition and constitution of the committee, and it should be established within three months of the request being put forward.

The establishment and effective operation of the safety committee is essential to the management of workplace health and safety, allowing for the proper consultation with safety reps as set out in the SRSC Regulations and the Management of Health and Safety at Work Regulations.

The safety committee, if run effectively, should not be merely reactive, responding to problems as they arise, but proactive, reviewing health and safety performance, establishing jointly agreed policies, promoting a preventative approach and putting in place measures to minimise or remove the risk of accidents or ill health occurring.

The SRSC Guidance notes give recommendations for terms of reference, objectives, functions, membership, etc, of the safety committee.

PROCEDURES

A committee needs procedures in order to function effectively. These should be jointly agreed and set out in the form of written rules, referred to as a constitution or standing orders. These rules dictate how the committee will operate. Many of these procedures are outlined in the SRSC Guidance notes and under section 2(7) of the HSWA 1974.

Checklist of suggested procedures

- The chair of the committee should alternate on a regular basis between a senior manager and safety rep.
- A senior manager with authority to implement decisions made by the safety committee should always attend committee meetings – SRSC GN 44(a).
- The composition of the committee should, as far as possible, be equally balanced between managers and safety reps, with the number of management representatives not exceeding the number of employees' representatives – SRSC GN 43/44.
- The frequency of meetings should be agreed jointly, but should be regular enough to effectively fulfil the committee's functions (preferably every two to three months) – SRSC GN 54.
- Provision should be made for either management or union, by agreement, to call an emergency meeting, if necessary.
- Meetings should be of sufficient length to allow full discussion of all items on the agenda.
- Meetings should not be cancelled or postponed except under exceptional circumstances and full agreement of both management and union – SRSC GN 55.
- Items for the agenda should be submitted at least ten days prior to the meeting. Agendas and accompanying documents should be distributed at least seven days prior to the meeting.
- The union committee members should be provided with facilities to meet and discuss the agenda for at least one hour prior to the meeting.
- Minutes should be taken of all committee

(and sub-committee) meetings and distributed to all committee members. The contents of minutes from the previous meeting should be agreed at the opening of each meeting by the committee, as part of the standing agenda – SRSC GN 59.

- Attendance at committee meetings should be regarded as working time – SRSC GN 47.
- The committee should have the power, by agreement, to call on specialists or expert persons to advise and/or inform the committee on specific topics or issues.

STANDING ORDERS

It is good practice to have a standing agenda based around the functions of the safety committee, as laid out in the SRSC Guidance notes for Regulation 9, and in HSWA 1974 including:

- a review of accidents, incidents, dangerous occurrences, near miss statistics – SRSC GN 41(a);
- health, absence and sickness statistics, including any health monitoring or surveillance;
- consultation over ongoing or proposed health and safety training and its contents – SRSC GN 41 (f);
- consideration of inspection reports and issues arising from them, SRSC GN 41(b);
- consideration of any reports or investigations submitted by safety reps;
- accident investigations, reviews and action taken;
- correspondence and reports from HSE inspectors or EH officers, or other sources such as insurance companies and outside consultants – SRSC GN 41(c);
- ongoing policy reviews, evaluating the

performance and effectiveness of company policies, recommendations and consultation over improvements;

- consultation over the introduction of any new or proposed measures that might affect the health, safety or welfare of the workforce;
- consultation over the nomination or appointment of 'competent persons';
- progress reports on outstanding issues;
- development of workplace standards and procedures;
- consultation and discussion of risk assessments; and
- consultation over planning and introduction of new technologies, plant and machinery/equipment.

Having some or all of these items on the standing agenda will help the committee to focus on the most important issues in a structured manner and on a regular basis. The safety committee should not be used to deal with minor or departmental issues that can be resolved between safety reps and managers as they arise, unless no satisfactory solution can be found and the issue needs to be taken to a higher level of management.

Many of the items requiring consultation can be dealt with in smaller groups or sub-committees, dividing up the workload and reporting back to the main safety committee with findings or recommendations, as set out in SRSC GN 58. This approach allows time allotted to the safety committee to be used more effectively

TRADE UNION PRE-MEETINGS

Union pre-meetings are essential if the most is to be gained from each safety

committee meeting. They allow safety reps to discuss and formulate a strategy for each committee meeting and plan their approach to each item on the agenda. This cooperative approach is vital, as often safety reps from more than one union, or workplace, may be members of the safety committee and may not be in constant communication on a day-to-day basis. Pre-meetings allow time to discuss relevant issues and agree on an action plan that is to the advantage of all union members represented.

Different unions present in one workplace may come into conflict over the most suitable course of action necessary to resolve outstanding issues. The employer can see this conflict between unions or safety reps as a reason to trivialise the issue and not take it as seriously as they should. Therefore, if there is more than one union in the workplace it is essential that the different unions' safety reps work together to resolve issues. Shared information, good

communication, the development of a united approach to health and safety, and safety committee pre-meetings are good practice and will help to achieve the best results.

Pre-meetings can be structured in much the same way as the main committee meeting with a set of standing orders and an agenda. Meetings conducted by a chairperson, usually the most senior safety rep, allow each safety rep to have their say within a controlled period of time to discuss the issue they are currently dealing with. In this way the most effective use can be made of the time available.

Further information on the setting up, running, objectives and functions of the safety committee can be found in the SRSC regulations, under regulation 9 and the accompanying Guidance Notes, and in the HSW A 1974.

There is also some information in the *TUC Hazards @Work* folder.



An employer may fail to meet legal responsibilities to protect employees by:

- failing to introduce appropriate procedures/practices to safeguard health and safety;
- failing to respond to inspection reports, incidents, accidents and other reported or apparent hazards;
- failing to carry out risk assessments.
- failing to respond to the concerns of union members, as reported to management by appointed representatives – safety reps, stewards or employee representatives.

The safety rep should try to resolve outstanding issues through discussion and negotiation, having first established the facts and prepared a case, as laid out in the section on resolving health and safety issues in the workplace.

Where possible hazards should be dealt with at a local level, within the department or area of work affected firstly, before taking unresolved issues to a higher level.

If this approach fails and the issue remains unresolved there are two options. The first is to submit a formal grievance – if negotiations or discussion breaks down due to:

- management refusal to deal with an issue;
- failure to agree on the appropriate or adequate measures necessary to resolve an issue;
- failure to comply with agreed measures or timetable set for improvements.

The other option is to present a report to the joint union/management safety committee. The committee will then decide

on the appropriate action to be taken and a timetable for any proposed improvements. However, this approach may result in long delays while waiting for the next committee meeting to present the case and for the committee to agree action once the report has been presented.

This is a particular problem if the safety committee does not meet on a frequent, regular basis or if the committee does not function effectively. The safety committee is best used for an overview of health and safety, or resolving long-term issues and objectives.

If negotiation breaks down, dealing with individual hazards or issues, the grievance procedure is more likely to achieve a satisfactory resolution to the problem.

If the safety committee fails to reach agreement on an issue, the grievance procedure may still be used.

The question of which option is most appropriate – grievance or safety committee – is a matter for the safety reps' judgement based on the nature of the disputed issue, their knowledge of the employer and individual managers, experience of the workplace, and the organisation and effectiveness of the safety committee.

Using the grievance procedure to solve health and safety issues is no different from using it to resolve any other workplace issue. It indicates to management that the issue is a serious concern and that an adequate response is required.

As an established procedure, the grievance procedure gives a standardised format for dealing with outstanding issues within set time constraints.

Further advice and support can be sought

from other union representatives within the workplace; stewards are likely to have a good understanding of the procedure. If the safety rep does not have this support, guidance can be sought from full-time union officials.

As with any other dealing with management, be sure that the facts of the case are thoroughly researched and correct, and that the grievance is presented and responded to in writing. Keep copies of all correspondence.

GRIEVANCE CHECKLIST

This checklist together with the guidance on preparation given in Chapter 8 above should be used to prepare the grievance case.

- Have all the facts been gathered and are they correct?
- Have all facts been cross-checked and verified before the grievance is taken to management?
- Are there other sources of information that could be used to back up and strengthen the case?
- Can further information be gathered from members involved, through meetings, statements, etc?
- Will it be necessary for members involved to be called as witnesses at any meetings – are members prepared to give evidence before management?
- Are other union representatives and officials informed of the grievance issues?
- Should other reps or a full-time officer be present at meetings? Try to balance the number of union representatives with the number of management representatives to be present.

- Has all correspondence been properly documented?
- What do union members want from the case, have they been fully consulted?
- Do any legal standards or regulations cover the issue, if so, how can they be used to help reach a satisfactory resolution to the problem?
- Has any past precedent been set for dealing with similar issues?
- Who will lead the discussion for the union, who will take notes/minutes, how will the union team communicate during the meeting? A preparatory meeting of those reps attending the meeting is advisable. Call a recess during the meeting if something is raised that you wish to discuss privately with the other reps attending the meeting.
- What proposals will the union team put forward to resolve the problem?
- What arguments can be used to back union proposals – what are the strengths and weaknesses of those arguments?
- Anticipate counter-proposals and arguments that management may make.
- What is the union prepared to concede – what cannot be conceded? Have a definite minimum objective.
- What further action can be taken if management are not prepared to meet union objectives?
- Are union members prepared to back further action, if necessary?
- Have any terms, offers or agreements been recorded in writing before leaving the meeting?
- How will the outcome of the grievance and/or progress during discussions be reported back to members?

- Are union reps fully briefed on any “in house” grievance procedures, such as those set out in collective agreements, such as the BECTU/TMA (Theatre Management Association) agreement?

USING LEGISLATION

The laws covering health and safety can be confusing or unclear; often guidance is given rather than strict rules. This is to allow flexibility, as most of the legislation is designed to cover such a wide range of workplaces and activities that they can be specific to none.

Outlines of health and safety legislation can be found in the *TUC Hazards @Work* folder, along with useful contact addresses and web sites giving further information.

Legislation alone does not often resolve health and safety issues. However, it is a useful tool for backing up your case, gaining the support of members and as part of a well-prepared argument, persuading management to take action.

THE HSE AND ENVIRONMENTAL HEALTH AUTHORITY

As part of the preparation before presenting a case, the safety rep can contact the HSE or local environmental health officer responsible for inspecting the workplace, for information on breaches of legislation and general guidance. The safety rep can ask them:

- What action would they recommend

regarding the outstanding issue?

- Do they think that there is a clear breach of any legal duty or standard?
- If the matter remains unresolved, would they be prepared to back your case?

Sending a letter of introduction to the Inspector responsible for your workplace might prove valuable when contacting the enforcing bodies for information, as they are far more likely to respond to a known individual.

Information can also be gathered or queries made through the HSE website.

ACAS

Further information and guidance can also be sought through ACAS (the Advisory, Conciliation and Arbitration Service).

ACAS not only provides conciliation services between employee and employer, but also a wealth of information, advice and publications on employment related topics, such as:

- contractual issues;
- discrimination;
- discipline, dismissal and grievances;
- family-friendly policies;
- health and employment;
- hours of work;
- legal advice and sources of help;
- pay;
- redundancy and lay-offs;
- trade unions

ACAS runs a help line that answers more than 760,000 calls a year, plus a website,

THE SAFETY REP'S RIGHT TO INSPECT

One of the most important legal rights of the safety rep, under Regulation 5 of the SRSC Regulations, is inspecting the workplace.

Formal inspections give safety reps the opportunity to familiarise themselves with the workplace, carry out a thorough check for potential and actual hazards, and monitor the employer's health and safety procedures and performance. Inspections also give the safety rep an opportunity to meet BECTU members, exchange information and address their concerns.

WHEN TO INSPECT

- formal inspections – SRSC Reg 5(1) and Guidance note 16;
- at least once every three months;
- more frequently where there are high risks or frequently changing circumstances;
- more frequently where there is an agreement with the employer to do so;
- inspections after a change in conditions at work – Reg 5(2);
- after movement or replacement of plant or machinery;
- after introduction of new technology;
- after changes to work procedures, the way the job is done;
- after publication of new information – Reg 5(2);
- by the Health & Safety Executive;
- by other authorities;
- specific investigations – Reg 4(1)(a)
- when potential hazards are identified;
- after dangerous occurrences;
- to examine the causes of accidents;
- after a notifiable accident or dangerous

occurrence – Reg 6(1) and Guidance notes 23 and 24;

- following a member's complaint – Reg 4(1)(b);
 - to investigate complaints relating to health, safety or welfare at work;
 - to inspect documents – Reg 7(1) and Code of Practice 6;
 - to inspect and copy documents relating to health, safety or welfare at work;
 - Re-inspection after remedial action has been taken – Guidance note 21;
- Further guidance on Regulations can be found in the "Brown Book" or in the *TUC Hazards @Work* folder.

PLANNING AN INSPECTION

To inspect effectively you must make proper preparations.

The timing of regular formal inspections has to be agreed through consultation with the employer, and due notice has to be given, in writing, of proposed inspections.

It is good practice to agree inspection dates in advance, as this allows time for the safety rep to prepare and make the best use of the inspection time.

A member of management is entitled to accompany the safety rep during inspections, but the safety rep has the right to discuss matters with members in private without the manager present.

Prepare an inspection plan, so you know what and where you are going to inspect. Anticipate likely problems that you might find and what information you will need to obtain. Compile and use a checklist to focus on possible hazards and make notes of member's comments.

Inform BECTU members of your intention

to inspect and explain what the inspection is for.

More guidance on can be found in section 2 of the *TUC Hazards @Work* folder.

Where to inspect:

- Inspecting the entire workplace may not be feasible.
- Split the workplace up into manageable areas and inspect each separately.
- Safety reps can inspect anywhere that their members may be expected to go in the course of their work.
- Sort your inspections into departments, work processes, or specific hazards.
- Remember areas such as catering facilities, toilets, storage areas car parks and corridors.

You should endeavour to collect together background information including:

- past inspection reports;
- maintenance reports;
- risk assessments;
- details of enforcing authority inspections;
- information about accidents and ill health within the proposed inspection area;
- other relevant information on specific hazards that you already have on file;
- laws and standards; and
- industry specific guidance.

You should try to obtain any information you do not have.

Remember the safety rep has a legal right to any information within the employer's knowledge, such as:

- results of monitoring and test measurements, such as noise or dust levels;
- technical information about hazards and precautions;
- maintenance reports;

- information from consultants, designers or manufacturers about items in use or proposed for use;
- official documents, such as fire certificates, permits to work;
- risk assessments; and
- reports, statistics and any other information on accidents, dangerous occurrences, etc.

CARRYING OUT AN INSPECTION

If you carry out joint inspections with a representative of the employer, do not feel pressured into rushing or doing a less thorough inspection. You must be satisfied that inspection is adequate and accurate.

Inspections do not have to involve an employers' representative, provided reasonable notice to inspect is given; you are entitled to undertake inspections alone.

Ask questions of members and managers about new processes, chemicals, control measures, information and training.

Do not rely on memory, take extensive notes and remember your inspection checklist.

Don't be distracted, whilst taking a thorough overview, try to concentrate on the important issues.

Conditions may not be typical on the day of the inspection, take this in to account, ask about usual staffing and production levels, are there times when the area is less tidy or accessible or when different work practices are used, etc.

Inspection checklist

A checklist will help you cover all important areas and issues and identify where improvements are necessary. It should be

tailored to the specific area you are intending to inspect and set out in a standardized format so that each time the same area, activity, or operation is inspected the information gathered can be easily collated.

Examples of simple report forms are given in the SRSC Regulations, under Regulation 4, Guidance Notes.

Here are some suggested items for an inspection checklist, check the *TUC Hazards @Work* folder for specific hazards and legal standards.

- Is the workplace clean and tidy?
- Are all walkways clearly marked and free from obstruction?
- Is there safe access to all workplaces?
- Are floors, stairs, etc, in good condition and free from trip hazards?
- Is all plant and machinery in good working order and guarded as necessary?
- Is full health and safety information available about all substances used?
- Have risk assessments been carried out under the Management of Health and Safety Regulations, Fire Regulations, LOLER (Lifting Operations and Lifting Equipment Regulations 1998), PUWER (Provision and Use of Work Equipment Regulations 1992), COSHH (Control of Substances Hazardous to Health) and any other regulations relating to the area, operation or activity that you are inspecting? (See *TUC Hazards @Work* folder)
- Has PAT testing been carried out on all portable electrical equipment?
- Are all ladders and other access equipment in good condition?
- Are noise levels below the legally required level? (See section 12 of the

TUC Hazards @Work folder)

- Is there proper provision for first aid?
- Are there proper fire evacuation procedures?
- Are all fire extinguishers tested and dated?
- Are fire precautions adequate?
- Is PPE suitable for the purpose it has been issued for? (See section 15 of the *TUC Hazards @Work* folder.)
- Have staff been given adequate instruction/training for the work they are to carry out?
- Has adequate health and safety training been given?
- Are all staff fully informed of, and updated on, management policies and guidelines for health and safety?
- Are all incidents, accidents, and near misses properly reported?

Once a subject for inspection has been decided, relevant questions and items can be added to the checklist.

It is also essential to take the opportunity to gather members' views on problems, issues or improvements that they feel should be highlighted. This can be done by adding a comments sheet to your inspection list and ensuring anonymity to members, if they wish, by passing on a bullet-point account of issues raised in your report to management.

ACTION AFTER AN INSPECTION

Once an inspection has been carried out, the next step is to collate the information gathered into a written report, both for your own records and to present to management as evidence of the problems identified in the area or operation inspected. There is little

point in inspecting, identifying potential or actual hazards and then not acting on the information.

Inspection reports should include the date and time of the inspection, area or activity covered, who was present (name of safety rep and any management representatives in attendance), any existing or potential hazards identified, recommended action to be taken, a time scale for completion of recommended actions, a date by which management should respond to the inspection report and notification of a follow-up inspection date.

A copy of the report should be sent to the employer and, if appropriate, the manager in charge of the area/activity inspected. A copy should also be kept by the safety rep for their records.

Investigations and their findings should be made a regular topic of discussion at the joint safety committee. If review of inspection reports is on the standing agenda for the safety committee or the investigation findings are such that they cannot be resolved through discussion with individual managers, then it might also be appropriate to send copies of the report to the safety committee members.

The date for management to respond, the employer's actual response date, recommended action timetables and dates of follow-up inspections should all be recorded in the safety rep's diary.

Any serious issues identified should be dealt with as soon as reasonably possible.

When an inspection report is presented to management, a written response should be given to acknowledge their receipt of the report. A further written response should be

given by management within the specified response time, detailing their acceptance or disagreement with the report findings and their intended action concerning those findings.

A verbal response is not acceptable as it is not recorded and cannot be used as evidence in the following circumstances:

- if a member suffers an accident, in the form of a written history detailing management/union discussions over action taken prior to the accident;
- if an Inspector visits the workplace, or if a report on an unresolved issue is presented to an inspector;
- if failure to resolve an issue leads to the use of the grievance procedure;
- if the issues are raised at the joint safety committee.

If the issues raised by the inspection report remain unresolved or management fails to respond to the inspection report, the matter can be dealt with either through the joint safety committee or, if that fails, through the standard grievance procedures.

Safety reps are given the legal right to make representations to the management and to notify management of hazards in the workplace under the SRSC Regulations.

If these approaches fail the matter can be taken to ACAS, or if managers fail to respond to an imminent or immediate danger the safety rep can call on the HSE Inspectors or EH officers to resolve the situation, though wherever possible all other options should be tried first.

Further information on ACAS and the services that it provides can be found on its website; www.acas.org.uk. It also gives

guidance to safety reps in its Code of Practice, "Time off for trade union duties and activities".

REINSPECTING

Each area, activity or operation should be reinspected on a regular basis, usually every three months, except where there has been a change in circumstances, using the same guidelines given in the previous section, using the same format and standardised inspection checklist.

Safety reps also have the right to re-inspect after agreed improvements have been completed to confirm that the hazards identified have been dealt with fully and to the satisfaction of those members who will be affected by any such changes or improvements.

KEEPING MEMBERS INFORMED

It is important to involve members throughout the inspection process, by discussing and noting their concerns during the inspection, publicising the findings of

the inspection, the action recommended by the safety rep, action agreed by management and the time scale for improvements. This can be done through newsletters, notice boards or verbal reports. The SRSC Regulations give safety reps the right to publicise the results of their inspections within the workplace.

It is also essential to keep up the dialogue with members to ensure that the proposed improvements meet their needs and do not cause other unforeseen difficulties only those working in that area, or on that process, would be aware of. This is the best way to ensure that the measures agreed with management will be the most appropriate.

When improvements are achieved, publicise the fact that they were gained through the efforts of the union, working on behalf of their members, as this helps to maintain the profile of the union in the workplace and raise members' awareness of, and confidence in, the role of the safety rep.

□ Once duly elected as a BECTU safety rep by your members, both the full time union officer who deals with issues in your workplace and your employer should be notified of your election, as outlined in Chapter 3 above. You should also inform the enforcing authority responsible for your workplace, either the Health & Safety Executive or the environmental health department of your local authority, of your appointment and ask that they contact you when visiting your workplace and send you a duplicate of any correspondence between their inspectors and your employer, as laid out under Section 28(8) of the Health and Safety at Work Act 1974.

The employer should be aware of the authority responsible for enforcing health and safety in its workplace and should provide this information to safety reps under Section 7(2), of the Safety Representatives and Safety Committees Regulations, as information within their knowledge. The employer should also have this information clearly marked on Health and Safety Law

posters, on notice boards throughout the workplace, along with information on those managers designated as "responsible persons" in matters of health and safety.

The safety rep should also put a formal written request to management that they be informed of any communication between the enforcing authority and the employer, and that you be notified and allowed to attend any visit or inspection by HSE or EH officers to your workplace, on behalf of your members.

Advice given by the HSE is that its inspectors should communicate with safety representatives and provide copies of any correspondence with the employer, and that EH officers should do the same. However, in practice this is rarely the case.

This should not discourage the safety rep from trying to open a dialogue with the inspector or officer responsible for the workplace, and using the local enforcement authority as a source of information and guidance (see also Chapter 2 above).

□ CHEMICAL HAZARDS

Employee exposure to a wide range of chemicals, often in low doses, can cause three major problems:

- multiple chemical sensitivity (MSC), causing symptoms such as dermatitis and other skin complaints and general ill health;
- respiratory sensitisers, causing asthma;
- hazards to the reproductive system.

Many chemicals commonly used in the workplace can have a sensitising effect even when exposure is low. Chemical that can have this effect include paints, varnishes, solvents, latex, glues, detergents, soaps and shampoos, other cleaning products, wood preservatives and pesticides, formaldehyde, even furniture and furnishings.

THE 2002 COSHH REGULATIONS

The Control of Substances Hazardous to Health Regulations (COSHH) 2002, the Control of Lead at Work Regulations (CLAW) 2002, and the Control of Asbestos at Work Regulations (CAW) 2002, replace the COSHH regulations 1999, CLAW Regulations 1998 and the CAW Regulations 1987. These implement health requirements of the EU's Chemical Agency Directive (CAD) not previously set out in UK legislation. COSHH was originally introduced in 1989 and has been updated since.

The COSHH Regulations 2002 set out the measures necessary to control toxic or harmful substances and chemicals in the workplace. They requires the employer to undertake six key activities, where the workforce makes, uses or is otherwise exposed to hazardous substances:

- assess the risk to health arising from exposure to hazardous substances present

in the workplace and working methods;

- assess the measures needed to prevent or control the hazards identified, given the level of risk;
- implement the measures needed to prevent or, if that is not possible, adequately control exposure to risk;
- operate and maintain, examine and test those measures;
- monitor exposure and, where appropriate, carry out medical health surveillance; and
- provide employees with suitable and sufficient information, training and supervision.

HAZARD data sheets

Central to the risk assessment of substances hazardous to health is the hazard data sheet, required by law to be provided, on request, by the supplier. Often these data sheets can be lacking in sufficient, or understandable, information. However the HSE suggest that a properly informative, and lawful, data sheet should contain the following information:

- identification of the substance/ preparation and the company that manufactures it;
- the composition of the substance and information on its constituents;
- the physical and chemical properties of the substance. Information on its stability and reactivity – acid, alkali, oxidant, etc;
- any relevant toxicological information – if it is a poison or irritant, etc;
- any relevant ecological information – impact on water systems, etc;
- identification of possible hazards;
- necessary exposure controls and

recommended personal protection;

- necessary first aid measures;
- necessary fire-fighting measures;
- necessary measures in the event of spillage or accidental release;
- instruction for safe transportation, handling and storage;
- How the substance should be safely disposed of; and
- any other information required by statute or otherwise necessary for safe use.

Each data sheet should be dated and marked if revised.

Risk assessment

Hazard data sheets, however comprehensive and informative, do not constitute a COSHH risk assessment. It is not acceptable simply to file the data sheets and think that the hazards are covered – they have to be read and understood, and put into a format that clearly identifies the hazards, potential or actual, and outlines control measures to eliminate or minimise the risk.

A basic COSHH risk assessment should address issues such as:

- The way the substance is to be used – painted, rolled, sprayed, etc.
- Whether the hazard data sheet is relevant to those circumstances – often they are used or applied in a way not anticipated by the manufacturer.
- The conditions under which substances will be used – often they will not be used under “factory” conditions – for example, the temperature might differ from that recommended.
- The possibility that the substance might be used in conjunction with, or mixed with, other substances – does the data sheet

provide the appropriate information.

- Who will be exposed – is the area in which the substance is to be used enclosed, is access limited, is there ventilation, and if so, where are the fumes vented to?
- Is there provision for sampling to be carried out for such things as air quality in the affected area, vapours given off, and concentrations of dust or spray mist?

Sampling measures the amount and concentration of particles in the air and the patterns of concentration within an affected area. Often there are legal standards or guidance specific to a named chemical, on the maximum density of particles allowed to be present in the atmosphere, control measures that should be put in place and PPE that should be provided.

CONTROL OF HAZARDOUS SUBSTANCES

The key question that the safety rep should ask is whether the COSHH-recommended control measures have been fully considered, are followed and implemented:

- Can the process be changed to eliminate or substantially reduce the hazard?
- Can the substance be replaced by a safer alternative, such as water-based paints for those with a solvent base?
- Can the process be totally enclosed?
- Is partial enclosure or localised exhaust ventilation possible?
- Is general ventilation an option?
- Can work methods be improved to reduce exposure?
- Can the number of employees exposed, or their exposure time, be reduced?
- Would personal protective equipment (PPE) help – only as a last and least effective means of control?

If substitution of substances are considered, be sure that all data has been gathered and properly evaluated, on the alternatives, they may pose hazards of a different, or unforeseen nature.

Local exhaust ventilation

Although commonly used to control, or reduce, dust and fumes, it is important to ensure that LEV installed is suitable and sufficient for the task. Some basic issues should be considered before opting for it:

- Is it the best possible solution – could the hazard be better controlled by substituting the products used?
- What level of chemical fumes or dust hazard is the system designed to remove?
- What pressure should the system work at and what indicators are installed to indicate when the system falls below specification – automatic alarm, pressure flow gauge etc?
- How often should the system be serviced, or if it is already installed, when was it last serviced, and how does its service record compare with original specifications? COSHH requires employers to inspect LEV systems every 14 months and keep records.
- Where does the exhaust go – does the system have filters, or does the exhaust pollute the outside environment, could polluted air be drawn back into the work area, or other areas of the workplace?

Personal protective equipment (PPE)

Under COSHH, as with all health and safety legislation, the provision and use of PPE, including facemasks, is always the last option. Only as a last resort if exposure to the hazard cannot be adequately controlled by other means, should PPE be provided.

If there is no other suitable option then the Personal Protective Equipment at Work Regulations 1992 set out clear guidelines for the type of PPE that should be provided:

- any equipment provided should be the best of its kind;
- it should offer adequate protection;
- wearers should be sufficiently trained in its use;
- it should be properly maintained and returned to proper storage after use.

FURTHER READING

HSE guidance on COSHH and related issues, available from HSE Books

Statutory instruments: *The control of Substances Hazardous to Health Regulations 2002* is available from The Stationery Office.

General COSHH ACOP: *Control of Substances Hazardous to Health Regulations 2002 Approved code of practice L5* ISBN 0717625346

COSHH: a brief guide to the regulations INDG136 Available free on-line from HSE Books ISBN 0717624447

A Step-By-Step Guide to COSHH Assessment HSG97 ISBN 0717614468

Respiratory Sensitisers and COSHH – Breathe Freely: An employers' leaflet on preventing occupational asthma INDG95 Available free on-line from HSE books ISBN 0717609146

Preventing asthma at work:

How to control respiratory sensitisers L55 ISBN 0717606619

An introduction to local exhaust ventilation HSG37 ISBN 0717610012

COSHH and PPE in the *TUC Hazards @Work* folder.

□ The Approved Code of Practice associated with Management Regulations under the Health and Safety at Work Act 1974 states that risk assessments should include identification of groups of workers who might be particularly at risk – and disabled staff are included in such groups. However, where disabled people are involved reference also needs to be made to the Disability Discrimination Act if unfair treatment is to be avoided.

In the past, health and safety legislation has often been used to deny work to disabled people. With the DDA in mind, health and safety representatives should be alert to the possible discriminatory use of health and safety legislation against disabled people. If health and safety considerations are given as a reason for refusal to employ a disabled person in a particular job, then under the DDA the reason given has to be justifiable, and the possibility of “reasonable adjustments” investigated.

Working arrangements or physical access can put disabled employees at a substantial disadvantage compared with non-disabled employees and employers must investigate

whether “reasonable adjustments” can be made to counter such disadvantage and enable a disabled employee to work.

If issues arise around health and safety, a risk assessment will need to be carried out. It might be relatively straightforward, involving direct discussion with the disabled individual, or it might be a more complex process involving other people such as occupational health or other specialists.

An important focus in risk assessment relating to disabled people is to avoid blanket restrictions and to focus on facts rather than common but frequently incorrect assumptions around the effects and implications of “disability”.

Health and safety representatives should contact their union official for assistance and guidance where problems arise in this complex area.

Note: Escape in case of fire is often cited as of particular concern, and PEEP (Personal Emergency Egress Plans) might need to be part of a risk assessment. See, on this: *Personal Emergency Egress Plans*, The Northern Officer Group 1993, obtainable from CAE (the Centre for Accessible Environments), www.cae.org.uk

HOW BECTU IS STRUCTURED

BECTU covers a wide range of employees, freelance workers, activities and workplaces involved in the arts, entertainment and media industries. These activities are grouped into like types as divisions, from which members are drawn for the national safety committee. There are six divisions, two of which have further subdivisions, they are:

1 BBC Division, dealing solely with the needs of those members employed by the British Broadcasting Corporation and associated companies.

2 The A&E Division – covering all “arts and entertainment” activities throughout the country, subdivided to cover:

- theatre, of all description, from repertory theatre, touring theatre, opera, ballet, concert halls to outside events and festivals;
- cinema, from ushers through to projectionists;
- leisure, covering bingo halls, amusement arcades, call centres, leisure centres, etc.

3 Independent Broadcasting division, covering ITV and other broadcasting companies and regulators.

4 London Production Division, covering all independent film and television production in the South East of England together with studios and facilities companies. Mainly freelancers but with some staff members.

5 Regional Production Division, covering the equivalent to London Production Division in others areas of the UK.

6 Laboratories Division, covering commercial film laboratories and video duplicators.

At present BECTU has no dedicated full-time official responsible for health,

safety and welfare at any level of the union. Therefore, BECTU operates in several different ways to meet the health and safety needs of its members.

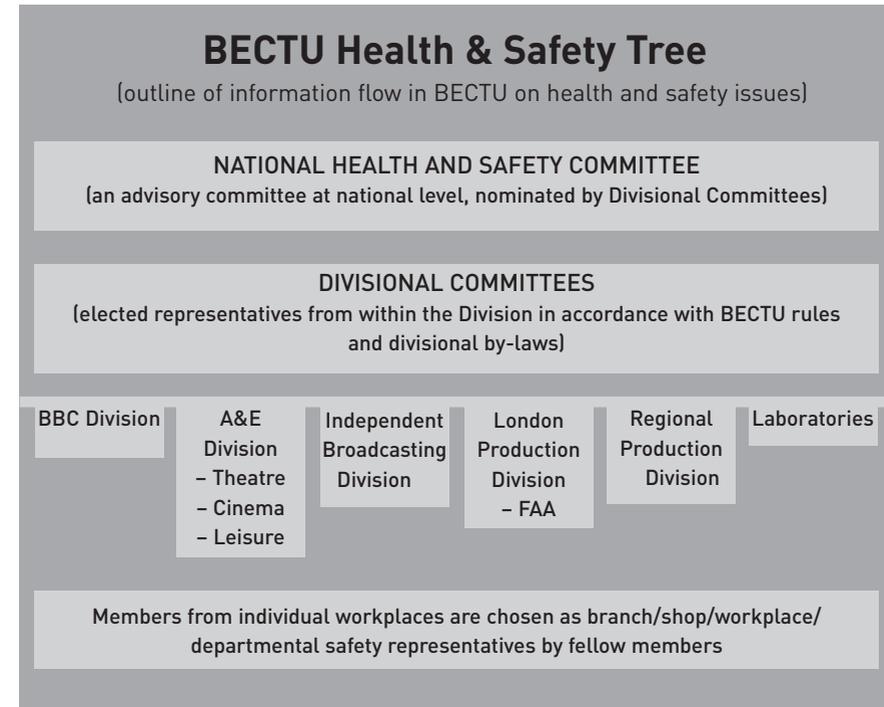
Some full-time officers cover one, large, specific employer, organisation, or workplace, such as the BBC. Some work with specific divisions. Others, such as the regional officers, cover all workplaces and activities where BECTU is a recognised union, independent of the type of work being carried out, or the division that those members belong to. Each full-time official will deal with health and safety issues within the workplaces, organisations, or divisions that they cover.

If the full-time officer you are most familiar with is not able to answer your queries or give guidance on health and safety issues, they should either be able to find the information for you, or point you in the right direction.

Alternatively, make enquiries at BECTU Head Office.

BECTU STRUCTURE FOR HEALTH AND SAFETY

- National Health and Safety Committee (nominated by Divisional Committees)
- Divisional Committees (drawn from branches/shops)
- branches/shops (representatives who sit on the Divisional Committees are drawn from branches – which should have at least 10 members – or from shops – with fewer than 10 members. Each branch committee should have at least one safety representative who is elected by the relevant members of the branch This committee is not a safety committee, but a general



committee set up to disseminate information from head office, feedback to Division on members’ views and put forward new or amended policy proposals on everything from pay rates to equality issues. The role of the branch safety representative is to disseminate health, safety and welfare information to workplace safety reps within their branch.

- Workplace/local /departmental. Many workplaces covered by BECTU are small to medium scale and those located regionally, outside of larger towns, are often widely spread and isolated. Many workplaces may have only one safety representative or one

steward. Often the steward doubles as safety Rep. Therefore, it is often the case that stewards and safety reps – some workplace based, some freelance or seasonally employed – will work together to solve issues and tackle workplace union organisation issues. Some workplaces or organisations, where larger numbers are employed, such as the BBC, might have teams of Safety Reps representing different departments, coordinating workplace safety campaigns and resolving health, safety and welfare issues,

- Where workplaces are widely spread, safety reps might see their full-time official

as their first point of contact rather than a branch or divisional representative.

HOW TO CONTACT BECTU

BECTU Head Office

Through Head Office you can make contact with your full-time official 373-377 Clapham Road, London SW9 9BT, Tel: 020 7346 0900, Fax: 020 7346 0901

BECTU online

BECTU's web site, www.bectu.org.uk, gives information including the "safety bulletin", plus policy and the most up to date industry news. You can also ask questions or seek guidance through information@bectu.org.uk

BECTU Scotland

144 Union Street, Glasgow, G1 3QQ, Tel: 0141 248 9558, Fax: 0141 2489588

BECTU Wales

Rooms 217 & 218, Transport House, Cathedral Road, Cardiff, CF1 9SD, Tel: 02920 666557, Fax: 02920 666447

BECTU North & Midlands

c/o The Unison Building, 3-5 St Johns Street, Manchester, M3 4DN, Tel: 0845 601 5045

Birmingham Office

2nd Floor, Scala House, Holloway Circus, Queensway, Birmingham, B1 1EQ

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WHERE TO GET FURTHER INFORMATION



BECTU

Once duly elected and having undertaken TUC Stage One health and safety training, a safety representative can request Head Office to be put on the training database maintained by BECTU Research Department. This should lead to the safety rep automatically receiving the BECTU *H&S Bulletin*. Information can also be gathered from full-time officers and from the BECTU web site at www.bectu.org.uk.

BECTU is affiliated to the TUC, another valuable source of information, through the *TUC Hazards @Work* folder, and through the Trade Union Congress website at www.tuc.org.uk. On the health and safety section of the website you can sign up to receive a weekly e-bulletin, *Risks*, giving updates on current issues and changes in health and safety legislation.

Or you could write to:

TUC Health and Safety Department, Congress House, Great Russell Street, London, WC1B 3LS, Tel: 020 7636 4030, Fax: 020 7636 0632

By attending TUC training you will be provided with a wide range of information, from the tutors and through interaction with safety reps from other unions.

ENFORCEMENT AGENCIES

Both the Health and Safety Executive and local council environmental health officers provide materials and guidance on health and safety issues and legislation.

If you wish to speak to someone directly, the HSE give advice on 08701 545500, e-mail: hseinformationservices@natbrit.cc

By post: HSE Information Centre, Broad Lane, Sheffield, S3 7HQ, Tel: 0114 289 2345,

Fax: 0114 289 2333

HSE publications can be ordered from: HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 2WA, Tel: 01787 881165, Fax: 01787 313995, www.hsebooks.co.uk

If you wish to print out or download information go to www.hse.gov.uk

HSE local offices often have an information centre and library. The HSE also publishes a register of 'organisations concerned with health and safety information', available from HSE publications.

Your local council Environmental Health Department should provide a similar, though less comprehensive service.

OTHER ADVICE AGENCIES

There are three major UK professional organisations concerned with health and safety.

All provide an advisory service, library facilities, publish magazines and run health and safety courses, though very few, if any, of these services are provided free of charge and some are reserved for members only. The British Safety Council (BSC), National Safety Centre, 70 Chancellor's Road, London W6 9RS, Tel: 0208 741 1231, Fax: 0208 741 4555

The Royal Society for the Prevention of Accidents (RoSPA), Edgbaston Park, 353 Bristol Road, Edgbaston, Birmingham, B5 7ST, Tel: 0121 248 2000, Fax: 0121 248 2001

Institution of Occupational Safety and Health (IOSH), The Grange, Highfield Drive, Wigston, Leicestershire, LE18 1NN Tel: 0116 257 3100 Fax: 0116 257 3101

PUBLICATIONS

Hazards magazine can be obtained by subscription from:

Hazards, PO Box 199, Sheffield, S1 4YL, Tel: 0114 267 8936. Hazards also has a web site, www.hazards.org. Also available through Hazards is *WHIN, The Workers' Health International Newsletter*, a magazine on international workers occupational health and safety issues.

The Health, Safety and Environmental Information Bulletin is a comprehensive journal that also covers environmental issues. It is available from: Industrial Relations Services (IRS), 18-20 Highbury Place, London, N5 1QP, Tel: 020 7354 5858

There are also many occupational health projects and victim support groups that provide valuable health and safety information.

The *TUC Hazards @Work* folder included in your Safety Repts pack contains a wide range of health and safety information and lists of contact addresses for other sources of information.

The ILO *Encyclopaedia of Occupational Health and Safety*, is available from the International Labour Office. The ILO also produce many other health and safety guides and codes of practice. All are available from: International Labour Office, Millbank Tower, 21-24 Millbank, London, SW1P 4QP, Tel: 020 7828 640, Fax: 020 72330 5925, www.ilo.org

Croner's Health and Safety is a guide written for employers, with frequent updates and available on CD, ask your management whether they have a copy that you could use. Croner Publications Ltd., 145 London

Road, Kingston-upon-Thames, Surrey, KT2 6SR, Tel: 020 8547 3333, Fax: 020 8547 2637

Tolley's Health and Safety at Work Handbook, like Croner's publication, is aimed at employers, but very comprehensive. Again, ask your employer if they have a copy you could use. LexisNexis Butterworths Tolley, 2 Addiscombe Road, Croydon, Surrey, CR9 5AF, Tel: 020 8686 914, Fax: 020 8680 3155

Redgrave, Fife and Machin's *Health and Safety*, known as the "factory inspectors bible", is another useful source

SOME USEFUL WEB SITES

BECTU www.bectu.org.uk

Trades Union Congress www.tuc.org.uk

Croner's www.croner.co.uk

Labour Research Department
www.lrd.org.uk

Health and Safety Executive
www.hse.gov.uk, www.hsebooks.co.uk

Institute of Safety and Health www.iosh.co.uk

Hazards www.hazards.org

ACAS www.acas.org.uk

Her Majesty's Stationery Office www.hmso.gov.uk

Theatre Safety Net www.theatresafety.net

S4T website www.s4t.org.uk

S4T virtual school, for on-line health & safety and skills based courses www.school.s4t.org

More useful web addresses are contained in the *TUC Hazards @Work* folder, and others can be found by entering the subject you want to research, for example, 'stress', and running an on-line search.

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FURTHER READING

□ The *TUC Hazards @Work* folder gives comprehensive information on most health and safety issues and directions to finding further sources of information.

The "6 Pack" Regulations: available from HSE Books include:

- *Management of Health and Safety at Work: Management of Health and Safety at Work Regulations 1999 Approved Code of Practice* L21 1999 ISBN 0717624889
- *Safe Use of Work Equipment: Provisions and Use of Work Equipment Regulations 1998 Approved Code of Practice and Guide* L22 1998 ISBN 0717616266
- *Manual Handling: Manual Handling Operations Regulations 1992 Guidance on Regulations* L23 1998 ISBN 0717624153
- *Workplace Health, Safety & Welfare: Workplace (Health, Safety & Welfare) Regulations 1992 Approved Code of Practice* L24 1992 ISBN 0717604136
- *Personal Protective Equipment at Work: Personal Protective Equipment at Work Regulations 1992 Guidance on Regulations* L25 1992 ISBN 0717604152
- *Display Screen Equipment at Work: Health & Safety (Display Screen Equipment) Regulations 1992 Guidance on Regulations* L26 1992 ISBN 0717604101

Other relevant Regulations: available from HSE Books include:

- *Safety Representatives and Safety Committees (Regulations) 1996* L87 ISBN 0717612201, also known as the "Brown Book"
 - *A Guide to the Health and Safety (Consultation with Employees) Regulations 1996* L95 ISBN 0717612341
- HSE basic health and safety law guidance,

available from HSE Books, includes:

- *Successful Health and Safety Management* HSG 65 ISBN 0717612767
 - *PUWER 1998: Provision and Use of Work Equipment Regulations 1998 Open learning guidance* ISBN 0717624595
 - *Health and Safety Regulation: a short guide* HSC13 1995 free from HSE Books
 - *Health and Safety Law: what you should know 1999* ISBN 0717617025
- Available free on-line at HSE Books
- Information and copies of Acts of Parliament such as:
- The Health and Safety at Work Act 1974
 - The Trade Union Reform and Employment Rights Act 1993
- These can be obtained from Her Majesty's Stationery Office (www.hmso.gov.uk)
- HSE guidance on risk assessment: available from HSE Books
- *A guide to risk assessment requirements: common provisions in health and safety law* INDG218 ISBN 0717612112
- Available free on-line from HSE Books
- *Five Steps to Risk Assessment* INDG163 ISBN 0717615650
- Available free on-line from HSE Books
- *Five Steps to Risk Assessment: Case studies* HSG183 1998 ISBN 0717615804
 - *Health Risk Management: a practical guide for managers in small and medium sized enterprises* HSG137 ISBN 0717609057
- HSE guidance on COSHH and related issues: available from HSE Books:
- *General COSHH ACOP: Control of Substances Hazardous to Health Regulations 1999 Approved code of practice* L5 ISBN 07177616703

- *COSHH: a brief guide to the regulations* INDG136 ISBN 0717624447
Available free on-line from HSE Books:
- *A Step-By-Step Guide to COSHH Assessment* HSG97 ISBN 0717614468
HSE general guidance: available from HSE Books
- *HSC's enforcement policy statement* HSC15 Free
- *Workplace Health, Safety and Welfare: a Short Guide for Managers* INDG244 ISBN 0717613283
- *Five steps to information, instruction and training* INDG213 ISBN 071761235X
Available free on-line from HSE Books:
- *Reducing risk, protecting people: HSE's decision-making process* ISBN 071762510
- *Reducing error and influencing behaviour* HSG48 ISBN 0717624528
- *The costs of accidents at work* HSG96

- ISBN 0717613437
- *Essentials of health and safety at work* ISBN 071760716X
 - *A Short Guide to the Personal Protective Equipment at Work Regulations 1992* INDG174 ISBN 0717608891
Available free on-line from HSE Books
- This is just a short list of some further reading mentioned in the main body of the handbook. The HSE produces a wide and comprehensive range of literature, posters, notices and guidance, covering legal standards, approved codes of practice, and specific health and safety issues, such as manual handling, PPE, lifting equipment etc. A full catalogue is available online, or by mail order from HSE Books, or from most large bookstores.

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