SETON

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LegislationWATCH

THE No.1 RESOURCE FOR WORKPLACE LAW AND HEALTH AND SAFETY

Safety Culture

A positive safety culture does reduce workplace accidents

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Letter
FROM THE EDITOR

Dear Member,

Welcome to your latest Legislation Watch magazine. This issue has a big focus on safety culture and the importance of safety management in the workplace. We're always quick to blame people's behaviours when it comes to accidents, but what about the unsafe organisational conditions that people have simply inherited? It's so important for employees to share the same beliefs and attitudes when it comes to safety. Read our articles related to safety culture on pages 6-10 to see how you can make your workplace safer.

Another hot topic this edition is noise at work. Millions of people are exposed to dangerous decibels in the workplace: factory workers, construction workers and even nursery and school teachers are at risk. See pages 40-41 for our article on the UK's noisiest workplaces.

If you have a question, suggestion or simply want to give us some feedback, please feel free to email us at **legislationwatch@seton.co.uk.**

Cheryl Peacock
Editor

Legal UPDATE

HSE u-turn on occupational disease reporting

July 2013

The Health and Safety Executive (HSE) has announced it will retain the requirement for employers and duty holders to report occupational diseases under the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 1995 (RIDDOR).

The safety watchdog had initially proposed to remove the requirement for bosses to continue to report occupational cancers, diseases attributable to biological agents and six short-latency diseases in the workplace. However, following the public consultation exercise, which started in August and ended in November 2012, the HSE has decided to reverse its plans.

The reform of RIDDOR initially arose from the HSE's "fundamental review" of the regulations, which was recommended by the Young Review in 2010 and endorsed by the Löfstedt Review in 2011.

The HSE's decision was welcomed by the British Occupational Hygiene Society (BOHS) which had opposed the original HSE plans, citing its three main concerns as focusing on the following:

1. A lack of surveillance data for epidemiological purposes, i.e. if employers and duty holders did not have to report incidents of occupational disease there would have been no data available and therefore no real understanding of the number of people exposed to dangerous working environments.

2. A lack of intelligence for HSE inspection, because removing the requirement to report occupational diseases would have left the HSE without valuable information.

3. The message to industry about priorities, arguing that the removal of the requirement to report diseases would have sent an incorrect message to industry about how HSE perceives its importance.

Commenting on the HSEs announcement, Steve Perkins, BOHS Chief Executive, said, "BOHS welcomes the HSE's decision to retain the requirement to report occupational cancers, diseases attributable to biological agents and six short-latency diseases (hand-arm vibration syndrome, dermatitis, carpal tunnel syndrome, severe cramp of the arm, tendonitis and occupational asthma). These account for 90% of all ill-health RIDDOR reports to the HSE. It is therefore important these are retained under RIDDOR reporting requirements."

European deregulation plans to target safety laws

July 2013

Trade unions have slammed plans by the European Commission to ease the top 10 most burdensome EU laws for small and medium-sized enterprises (SMEs), arguing that health and safety will be adversely affected.

The European Commission announced in March 2013 that it would target the burdensome laws through the Regulatory Fitness and Performance Programme (REFIT) launched in December 2012, with safety laws said to be high on the list.

The European Commission will publish detailed action plans by June 2013 but in a European Commission press source has highlighted various legislative areas for focus including the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regime, the laws on working time, rules on the shipment of hazardous waste, the use of equipment monitoring working time and rest breaks in road transport, as well as a catch-all reference to "labour market-related legislation".

The list of unpopular laws was compiled from responses to an online questionnaire provided by around 1000 businesses and professional organisations.

Introducing the deregulation plans, European Commission President José Manuel Barroso said, "The Commission is making sure that EU legislation is fit for purpose and helps European businesses to grow and to create jobs. This is why we have put smart regulation at the heart of our policy-making. And this is why we want to ease the lives of our small and medium-sized enterprises, which are most important engines for Europe's economy. I want to thank all those who contributed to identifying the most burdensome pieces of legislation. We will work hard not to disappoint your expectations."

Commenting on the plans, a piece in the union-backed Hazards magazine accused European Social Affairs Commissioner, Lazlo Andor, of failing to stand up against the "deregulatory tide".

The European Trade Union Institute (ETUI) said "The Commissioner's intervention can only heighten trade union fears about the Commission's stance on health and safety at work."

New Code of Practice for electrical safety management

July 2013

The Institution of Engineering and Technology (IET) has announced that it is working on a new Code of Practice for electrical safety management, to be released in the summer of 2013.

The professional society for the engineering and technology community says its new Code of Practice will provide a high level understanding of what managing electrical safety entails and include an innovative practical self-assessment process built on recognised health and safety management principles.

A source at the IET said the Code will be for anyone responsible for electrical safety, including electrical engineers, factory managers, facilities managers, risk managers, health and safety officers and others.

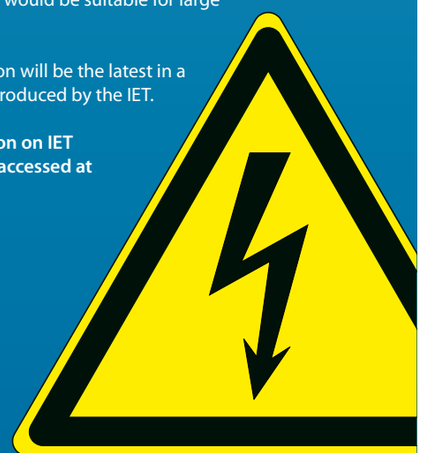
Commenting on the new Code, Carolyn White, the IET's Director of Standards, said, "Electrical safety management in organisations is often the responsibility of non-electrically-qualified staff. This new Code of Practice will give them the confidence to implement a number of good practice activities related to their workplace to manage the range of risks associated with the electrical system – and minimise the risk of serious injury or death caused by electrical incidents."

She added, "This new Code of Practice, developed by a committee representative of key industry groups, will provide a systematic set of principles applicable to any business across all sectors of industry and the public sector."

Malcolm Sarstedt, Chairman of the IET Standards Committee developing the Code, and Unilever's Group Process Safety Manager, said the new Code would be suitable for large and small firms.

The new publication will be the latest in a line of standards produced by the IET.

Further information on IET standards can be accessed at www.theiet.org.



Cuts to red tape come into force

July 2013

The Government's Business Minister Michael Fallon has welcomed the coming into force on 5th April 2013 of dozens of cuts to "red tape", including several health and safety regulations, as a "boost for business".

Many of the reforms have been identified by the Government through its Red Tape Challenge, which invites firms to give their views on which regulations should be improved or scrapped.

Changes pertaining to health and safety include:

- Deregulatory changes to building regulations
- Reforms to reduce administration on low-risk electrical works
- Revised guidance on requirements for access to buildings, glazing and protection from falling
- The removal of a raft of "redundant or unnecessary" health and safety regulations in areas including celluloid film, shipbuilding and ship repair.

A source at the Department for Business, Innovation and Skills (BIS) said that abolishing "pointless regulations affecting the sale of goods will free up valuable time for retailers and give more clarity to consumers". For example, the age at which Christmas crackers can be bought is being lowered from 16 to 12.

Similarly, regulations specifying the quantities of heavy metals in pencils, and redundant measures to prevent arsenic getting into food are also being abolished. The BIS says that product and food safety is now covered by modern legislation, reflecting latest technological knowledge and ensuring comprehensive consumer protection.

Commenting on the changes, Michael Fallon said, "Setting business free from the restrictions that hold back enterprise is a compulsory step on the road to growth. We've listened to firms and taken prompt action where regulation presents barriers — but there is a huge amount still to do. We will quicken the pace by launching a new phase of the Red Tape Challenge this summer, focusing on key areas for growth."

A full list of the changes can be accessed in the Fifth Statement of New Regulation at www.gov.uk.

Safety Culture UPDATE

Positive safety culture does reduce accidents

The Health and Safety Laboratory (HSL) has published a new "white paper" on measuring the safety climate in organisations, which concludes that a positive safety culture reduces accidents and injuries at work.

The report explains what safety culture is, why it is important and what can be done to understand and improve it within organisations.

The HSL, the research agency of the Health and Safety Executive (HSE), says that in recent years much has been done to significantly reduce the number of accidents and occurrences of ill health in the workplace. For example, the design of equipment has evolved to protect the worker more effectively, most organisations have procedures or systems of work in place that prescribe how something should be done and employees are usually given training to show them how to carry out a job safely.

However, despite all this, the HSL notes, for some organisations, accident rates remain constant, rather than dropping.

The report claims that in order to bring about further improvements, health and safety professionals are increasingly interested in human factors, specifically safety culture and its ability to influence health and safety performance.

The publication includes two major case studies, including the exploration of safety culture on the massive construction projects associated with the London 2012 Olympics. One of the report's authors, Dr Caroline Sugden, was involved in the safety culture work at the Olympic Park.

The other two authors of the paper are HSL's Karen Roberts and Mark Preston, Head of Health and Safety Consulting at Cardinus Risk Management.

Copies of the paper, entitled Measuring the Safety Climate in Organisations, can be obtained by e-mailing the HSL on productsupport@hsl.gsi.gov.uk.

"Investment in health and safety is rising"

A new survey by EEF, the manufacturers' organisation, has concluded that investment in health and safety is rising but that reforms and more active government leadership on European regulations are needed.

The conclusions are contained in a new report entitled Route to Growth: Making Health and Safety Work for Business.

The EEF surveyed more than 200 manufacturers, and found that management involvement in health and safety matters now exceeds 90% for most measures, while monitoring of health and safety performance by senior managers has increased by over a quarter in the past seven years. This, the EEF says, has resulted in a continued reduction in the number of reported injuries.

The survey also concluded that senior managers in manufacturing companies are increasing their investment and commitment to health and safety issues and continue to see significant benefits from this.

However, the report warns that the cost in terms of time and money of complying with health and safety regulation is increasing and manufacturers' views of its benefits and of their relationship with regulators has become "substantially less positive".

The report is said to outline the EEF's "ambition to reduce the cost to business of dealing with health and safety requirements," in line with a goal to lower the cost of doing business in Britain and reduce the burden of regulation by 10% over this Parliament.

The EEF said it was challenging the Government to become more active in its involvement with Europe on reviewing health and safety directives while stepping up the pace of reforming UK health and safety regulations, as recommended by the Löfstedt report.

The manufacturer's organisation also wants the Government to examine the feasibility of bringing health and safety enforcement under a single organisation, which would benefit all companies including small to medium-sized enterprises.

The report can be accessed at www.eef.org.uk/publications.

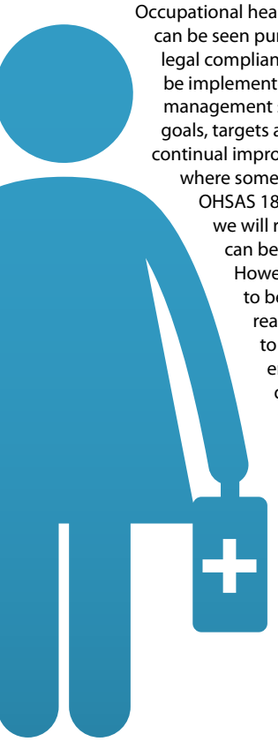
BS OHSAS 18001

FOR SMALL TO MEDIUM SIZED ENTERPRISES?

Introduction

The British Standard OHSAS 18001:2007 Occupational Health and Safety Management Systems is an internationally used standard that sets out the minimum requirements for best practice. It is a more quality system-based approach than HSE's own standard HSG 65 Successful Health and Safety Management. It is also readily compatible with other quality standards such as BS EN ISO 9001:2008 (for quality management) and OHSAS 14001 (environmental management systems).

The general perception is that it is more suited to large, international organisations but can it also help SMEs?



Occupational health and safety can be seen purely in terms of legal compliance, or it may be implemented with a wider management system with goals, targets and the desire for continual improvement. This is where something such as BS OHSAS 18001:2007 (which we will refer to as "18001") can be beneficial. However, there needs to be a clear set of reasons why a small to medium-sized enterprise (SME) decides to go down this route. This article will explain some of the issues that need to be considered.

More than just compliance

18001 is not yet an International Standard but it was adopted as a British Standard in 2007. It was based on an earlier assessment specification, so 18001 in one shape or form has been around since the late 1990s. Those organisations that first adopted it tended to be large businesses working in higher-risk sectors such as chemicals and construction, although this has gradually extended to a wider mix of both sizes and sectors.

18001 has close links to ISO 9001:2008 Quality Management System, with which many SMEs are familiar. It may be tempting to think that if one has achieved ISO 9001 certification it will only be a small step to add 18001 to an SME's achievements. However, this may not always be the case.

There are some similarities to ISO 9001, eg the need for a documented management system; records and document control; and management review meetings. 18001 is also based on a "Plan-Do-Check-Act" cycle — commonly referred to as PDCA. This is often shown as a circular process model, where each of the four PDCA elements continually feed into one another. For an SME this is likely to mean that policies, processes and procedures should be kept under regular review and continual improvement will flow from this cycle.

However, there are some significant differences with 18001, even with some familiar terms the reader may recognise from ISO 9001:2008.

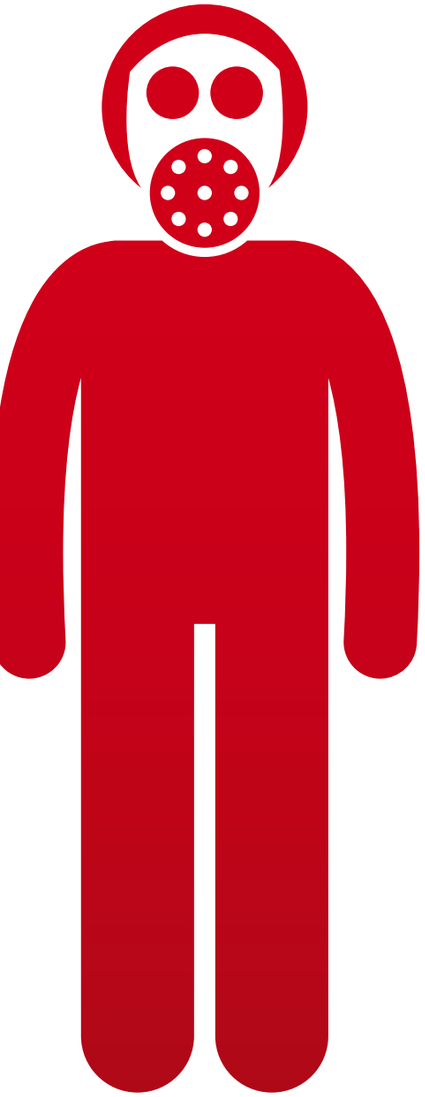
More than legal compliance

First, to achieve 18001 certification more than legal compliance is needed. An organisation can be fully legally compliant in respect of health and safety but still not meet all 18001 requirements. In a management system such as 18001, there needs to be a clear policy statement with a commitment to

Continued... →

occupational health and safety. This should not be a "cookie cutter" statement culled from other sources simply because it sounds "about right". An SME, in particular, should be deciding at the outset why it wants to have a management system for occupational health and safety. It should then be able to define the goals it intends to achieve with it, identify the budget to do this and consider how it will maintain it over the coming years.

For example, if the business wants to improve something specific, such as occupational health monitoring of its staff, or meet a key customer's health and safety expectations, then these could be valid starting points. However, an effective policy is more likely to come from deciding how health and safety can be related to competitive advantage, i.e. improving efficiency and the cost base.



Is safety a cost or benefit?

The cost of safety is sometimes seen as an overhead, but, of course, that may not be so. A safe system of working is only achieved by keeping working methods under continual review, then amending or refining them as necessary, as well as periodically monitoring their ongoing performance (including the human beings involved with them) — that is, a PDCA. Some would say a safe system of work leads to an efficient system, too. Efficient, safe systems of work should be more cost effective and will potentially provide a business with more capacity to undertake further work. If an SME does not agree with this view then implementing 18001, let alone having it assessed by a certification body, could be an uphill struggle.

Second, there needs to be a clear acceptance that risk needs management. To explain this, one can look at "risk appetite". This simply means that organisations have different levels of risk acceptance. Those that are risk adverse will be prepared to spend more resources in treating risks either to minimise the likelihood of occurrence or any subsequent impact. Others prefer to take more of a gamble, albeit a considered and measured one. However, the risk of being prosecuted, the risk of being sued, the risk of having liability insurance withdrawn and the risk of losing working time due to occupational injury or ill health is unacceptable to any SME — typically it will not have the resources to manage these scenarios without enormous relative cost and disruption. If an SME chooses to say something like "we have never had any accidents and probably never will", that might suggest that it could be trying to assess risk but is failing to manage it.

Another requirement of 18001, which seems to have similarities with ISO 9001, relates to objectives and programmes. However, with occupational health and safety these need to be quite specific targets that the SME can consistently deliver on and monitor. Briefing staff on how to identify and report on near misses, or improving working at heights training, could be examples. However, again, these objectives cannot be "one size fits all" solutions. They will cost time and, therefore, money to implement and monitor, so they need to be concerning things that are important to the business.

More straightforward for SMEs

For 18001 certification, it is not enough for an organisation to consider itself as meeting all legal, regulatory, trade and any specific customer expectations for health and safety. There needs to be a system in place that enables these compliances to be monitored and maintained. For an SME this can be more straightforward than for larger businesses, where extensive auditing and reporting will need to be undertaken due to the size, complexity and volume of activities.

There are some other aspects of 18001 that may be more straightforward for an SME to implement. Emergency preparedness and response requirements relate to how an organisation risk-assesses any safety emergencies that could occur during normal business operations, and how these would be responded to, including testing the resources identified for emergency response. This could include additional staff training.

For a large organisation this can be complex, but with many SMEs it can be straightforward. First-aid provision and appropriate fire safety activities, including drills, may be sufficient. However, if the SME conducts work at height or in confined spaces, then implementation may prove more complicated. However, SME employers could first ask themselves when they last checked if matters such as first aid or fire safety provision were still adequate — compliance wise — and whether they still meet expectations. The results may be surprising.

As with other 18001 requirements, reviewing straightforward matters can often lead to simple but crucial fixes, just as much as looking into anything that seems more complex.

18001 – yes or no?

This article aims to give a realistic view of what implementing 18001 can involve. It does not attempt to cover all 18001 requirements. Nor does it aim to support or negate 18001 because, like all management systems, it can be very powerful or, in the worst case, it can simply become something to be worked around. With an SME, 18001 can be a springboard to focus on achieving more effective systems of work, as well as better trained and motivated employees, especially in sectors where safety has a high profile.

The key message is that 18001 should not be seen as a badge-hunting expedition. If the 18001 policy and objectives cannot be lived, then an SME should be looking at other ways of refocusing its improvement goals.

Paul Ingleby
Director of Innovation

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HUMAN AND FINANCIAL COST OF
False Fire Alarms

The Fire Industry Association (FIA) has urged businesses in the UK to consider the "human and financial cost" of false fire alarms, as it highlighted its on-going campaign to raise awareness of the problem.

A source at the fire industry trade association said that false fire alarms continue to present problems for fire and rescue authorities "up and down the country," as resources are unnecessarily deployed to sites where there is no real blaze.

According to the FIA, recent statistics indicate that false call outs — some of which are deliberate — are putting a strain on resources at a time when many departments are faced with cuts. For example, in North Lincolnshire alone, 602 false alarms in 2012 are thought to have cost around £21,407, with 40 of them classified as malicious.

In response to the issue, the FIA plans to continue to promote its Cut False Alarm Costs campaign, aimed at educating firms on proper management of fire alarm and detection systems, and the benefits this brings.

Loss of productivity among staff is just one key pitfall associated with false alarms. Other costs include increased insurance premiums and possible future charging for attendance by fire and rescue services. A source at the FIA warned, "The costs of production loss coupled with potential fines will quickly dwarf the cost of managing and maintaining a fire detection system."

Under the Localism Act 2011, local fire authorities can now charge following persistent false alarms.

Rabinder Dhami, Shropshire Fire and Rescue Service's Community Fire Safety Manager, told the Shropshire Star, "Although the national average is estimated at £400 per call attended this can vary greatly depending on the type of incident reported and what resources need to be sent from which part of the county."

Preventing false alarms

False alarms from fire detection alarm systems can arise from various different causes. Typical causes include:

- Pollutants in the air setting off smoke detectors (e.g. dust, aerosols and insects)
- Extremely high temperatures setting off heat detectors (e.g. from hot work activities)
- Vandalism or malicious acts
- Mistakes occurring in the use of the system
- The equipment being faulty or not being maintained properly
- Fire detectors or red "break glass" boxes being in the wrong place and being accidentally set off.

***BS 5839-1:2013 Fire detection and fire alarm systems for buildings. Code of practice for design, installation, commissioning and maintenance of systems in non-domestic premises* suggests that in clean, well managed environments, a rate of 1 false alarm per 100 detectors should be achievable, whereas in more industrial applications, a rate of 1 per 75 detectors is more realistic.**

BS 5839 recommends that at least "a preliminary investigation should be carried out as part of the service work" if any of the following apply.

- The rate of false alarms over the previous 12 months has exceeded 1 false alarm per 25 detectors per annum
- Eleven or more false alarms have occurred since the time of the previous service visit (i.e. typically within the previous six months)
- Two or more false alarms (other than false alarms with good intent) have arisen from any single manual call point or fire detector (or detector location) since the time of the last service visit
- Any persistent cause of false alarms is identified.

"The national average is estimated at £400 per call attended this can vary greatly depending on the type of incident reported and what resources need to be sent from which part of the county."

Rabinder Dhami
Shropshire Fire and Rescue Service's Community Fire Safety Manager

In systems that incorporate more than 40 automatic fire detectors, BS 5839 recommends that the user should "instigate an in-depth investigation by suitable specialists" if, in any rolling period of 12 months, either:

- The average rate of false alarms exceeds 1 false alarm per 20 detectors per annum
- Three or more false alarms are initiated by any single manual call point or automatic fire detector (or detector location).

On completion of any system maintenance and inspection:

- Any outstanding defects should be reported to the responsible person
- The system log book should be completed
- A servicing certificate should be issued recording the inspection and any tests carried out
- Systems may also be subject to some form of modification over its lifetime.

When changes are made to the system, the responsible person should ensure that record drawings and operating instructions, supplied in accordance with the recommendations are updated. On completion of any modifications, all "as-fitted" drawings and other relevant system records should be updated as appropriate and made available with the system documentation.

SETON

Training TOOLS

This edition... Fire Evacuation

Training Tools are a quick and useful way of giving employees up-to-date health and safety information on a particular subject. A training tool can be delivered by a health and safety expert or even a line manager or responsible person. They should last no longer than 10-15 minutes and can comfortably take place in the office, staff room or canteen. Tools should be conducted regularly (weekly/monthly) or after an incident.

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How to create a Fire Evacuation Plan

In the event of a fire, it's important that adequate arrangements are in place to ensure employees and other people on your premises are safely evacuated. The safety of life overrides all other considerations in the event of a fire, such as saving property and extinguishing the fire.

Your plan must show how you have:

- A clear passageway to all escape routes
- Clearly marked escape routes that are as short and direct as possible
- Enough exits and routes for all people to escape
- Emergency doors that open easily
- Emergency lighting where needed
- Training for all employees to know and use the escape routes
- A safe meeting point for staff

You should also make special arrangements for people with mobility needs, e.g. ensure there are specific people trained to help wheelchair users get downstairs if there's a fire. Download your FREE training slides today!

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How To

1. Go to: **www.legislationwatch.co.uk/fireevacuation**
2. Save the file to your PC (to ensure you see the trainers notes)
3. Arrange your training session!

Whistleblowing UPDATE

Introduction

"Whistleblowing" is a term for what is known legally as a Public Interest Disclosure. The term is used when a member of staff raises a concern about a possible risk, wrong-doing or malpractice that has a public interest aspect to it, usually because it threatens others; for example, patients, colleagues or members of the public.

There have been a number of recent high-profile cases, notably in the NHS, and also some involving "gagging" clauses. To some, whistleblowers are public interest martyrs; to others they are merely sneaks pursuing their own personal glory.

Stuart Chamberlain, Croner author and employment law consultant, looks at the topic of whistleblowing, examines its framework – the Public Interest Disclosure Act 1998 ("PIDA") – and at government proposals to amend the whistleblowing regime.

What does the Public Interest Disclosure Act 1998 do?

The Act was introduced to protect workers from detrimental treatment or victimisation by their employer when, in the public interest, they raise a concern ("blow the whistle") internally or to a prescribed regulator.

The Act protects workers as follows.

- If an employee is dismissed because they have made a protected disclosure, then that will automatically be treated as unfair dismissal – there is no qualifying service to bring such a claim.
- In any event, workers are given a right not to be subjected to any "detriment" (i.e. disadvantaged) by their employers on the ground that they have made a protected disclosure.

Compensation limits for unfair dismissal of employees do not apply to whistleblowing cases. The Tribunal may also make an award for "injury to feelings". Another special protection enjoyed by whistleblowers is the grant of interim relief – this is where the tribunal issues a mandatory injunction that keeps the contract of employment alive pending the hearing of the claim. The tribunal can rule that the employee be reinstated.

The Coalition Government has proposed a number of reforms to the legislation. These are summarised at the end of this article.

Who does the Act cover?

The Act protects most workers (not just employees) in the public and private sectors. The Act does not apply to the genuinely self-employed (other than in the NHS), voluntary workers (including charity trustees and charity volunteers), police officers or the intelligence services.

Nevertheless, "good practice" suggests that a whistleblowing policy (see page 18) should apply to all those who work – whether they are full-time or part-time, self-employed, employed through an agency or a volunteer.

A worker may rely on a protected disclosure even after employment with the particular employer has ended. The Court of Appeal ruled in Woodward v Abbey National plc [2006] EWCA Civ 822 that the legislation covers not only employees but also ex-employees. In Onyago v Berkeley Solicitors [2013] UKEAT/0407/12 the EAT confirmed that the legislation did not limit the whistleblower's protection to disclosures during the relevant employment.

What type of disclosures will be protected?

For a disclosure to be protected by the Act's provisions, it must relate to matters that "qualify" for protection under the Act. "Qualifying disclosures", therefore, are disclosures of information by a worker about one or more of the following.

- A criminal offence.
- The breach of a legal obligation, including a legal obligation that arises from a contract of employment (Parkins v Sodexho [2002] IRLR 109. However see the government intentions for reforming the PIDA on page 18).
- A miscarriage of justice.
- A danger to the health and safety of any individual.
- Damage to the environment.
- Deliberate concealment of information tending to show any of the above five matters.

What is a protected disclosure?

A qualifying disclosure will be a "protected" disclosure provided the worker makes it in "good faith" to the employer or the person who has legal responsibility for the issue. Disclosure may also be made to a person referred to in the 1998 Act as a "prescribed person". Disclosures made for personal gain or ulterior motive are not generally protected.

The Public Interest Disclosure (Prescribed Persons) Amendment Order 2003 set out around 50 "prescribed persons". These include: the Audit Commission; the Information Commissioner; HM Revenue & Customs; Environment Agency; Health and Safety Executive (HSE); Financial Services Authority; Pensions Regulator; the director of the Serious Fraud Office; the Charity Commissioners; plus the Secretaries of State for Business, Transport and for Innovation and Skills.

As long as the employee or worker has a reasonable belief that the information disclosed is substantially true, it does not actually have to be true (Darnton v University of Surrey [2003] IRLR 133), although the determination of the factual accuracy of a disclosure may be important for an employment tribunal in assessing whether the employee or worker holds a reasonable belief.

From 6 April 2010, employment tribunals can pass to the appropriate regulator allegations made in an ET1 claim that the claimant has suffered a detriment or been dismissed. This is to encourage claimants to pass information to the relevant regulator.

Is a whistleblower ever justified in bypassing the disclosure procedures?

Whistleblowers may disclose information more widely, e.g. to the police, media, MPs and non-prescribed regulators. Such a disclosure is protected if, as before, it is made in good faith and not for personal gain (including any payment by the media), it is reasonable in all the circumstances; and the whistleblower reasonably believes that the information and any allegations in it are substantially true.

Continued... →

In addition, the disclosure must fit any one of the following three criteria.

- The disclosure had already been raised internally or with a prescribed person.
- The whistleblower reasonably believed that they would have been victimised had he or she raised the matter internally or with a prescribed regulator.
- The whistleblower reasonably believed a complaint would lead to the evidence being concealed or destroyed and there was no prescribed person.

In certain circumstances (known as "exceptionally serious" cases), the worker may also bypass the accepted procedures.

Can a contractual clause prevent a disclosure?

No confidentiality clauses are unenforceable if they are used to try to stop a protected disclosure.

Nevertheless, a common practice in the NHS (and other organisations) was to silence whistleblowers by including "gagging" clauses in their severance packages. On 14th March 2013, however, the Health Secretary announced that such "gagging" clauses, which prevented NHS staff from speaking out about patient care and safety, would be banned by the Government with immediate effect. It is reported that in the last three years some £14.7 million has reportedly been spent on almost 600 "compromise agreements" for departing NHS staff – 90% of which had "gagging" clauses in the agreements.

What are good whistleblowing procedures?

It is good practice for employers to have a separate whistleblowing policy, which sets out appropriate procedures. It means that workers and employees know what is expected of them and encourages transparency and openness at work. It is best to separate this policy from the grievance policy, which deals with individual concerns.

Staff should be offered confidentiality when raising a matter as a disclosure and even access to an independent helpline offering confidential advice.
Importantly, the policy should make clear that it will be a disciplinary matter:

- to victimise a bona fide whistleblower, and
- for someone to maliciously make a false allegation.

A worker may lose the protection of the legislation if they ignore any internal policy.

Proposed Government reforms

The Government has proposed a number of changes to the whistleblowing regime in the Enterprise and Regulatory Reform Bill. These include:

- introducing a requirement that the disclosure must, in the worker's reasonable belief, be in "the public interest" – this will mean that the Act will no longer apply to a disclosure of a breach of an employee's contract of employment
- removing the "good faith" requirement for a disclosure to qualify as protected, but reducing compensation by up to 25% where a disclosure was not in good faith, and
- making employers vicariously liable for detriments by fellow workers, subject to the normal statutory defence – this will overrule the Court of Appeal's decision in NHS Manchester v Fecitt [2011] EWCA Civ 1190 that the employer cannot be vicariously liable where an employee has committed a wrong.

The definition of "workers" under the 1998 Act will also be extended to include job applicants, thus preventing the blacklisting of jobseekers who have made protected disclosures against previous employers.

Conclusion

The Government has consistently expressed disquiet at the unintended reach and effect of the whistleblowing legislation. The reforms in the Enterprise and Regulatory Reform Bill (particularly the emphasis on "the public interest") are intended to close loopholes in the current law. The Government quotes the increase in whistleblowing cases (from 157 in 2000 to 1761 in 2009) as the result of litigation based on breach of employment contracts.

Public Concern at Work, the leading whistleblowing charity that monitors the operation of the 1998 Act, questions the need for the reforms. It regards them as merely "policy on the hoof" and believes that the emphasis on "public interest" will act as an obstacle to genuine and honest whistleblowers who will have to show that their concern is in the public interest.

Finally, it is understood that the Government, nervous about the public response to the Mid-Staffordshire Foundation Trust Public Inquiry, is particularly concerned about the Trust's use of gagging clauses against hospital staff and is contemplating a wider consultation on the whistleblowing regime and whether it is "fit for purpose". The results of such a consultation will make interesting reading.

CORPORATE MANSLAUGHTER THEN AND NOW: It can happen to you

Introduction

There has been an increasing amount of comment of late concerning the Corporate Manslaughter and Corporate Homicide Act 2007. Its on-going implications are in danger of taking precedence over all other compliance risks for senior managers. Here we look at how we arrived here and what may happen in the future.

Corporate manslaughter was not a new concept in 2007 when the Corporate Manslaughter and Corporate Homicide Act 2007 (the 2007 Act) went onto the statute books. Prior to that, it was possible for a corporate body to be found guilty of manslaughter following a health and safety-related fatality. However, it was necessary to prove that in the defendant corporation there was a senior individual(s) who could be said to embody the organisation – usually referred to as the "controlling mind" – and whose gross negligence amounted to manslaughter. This was difficult to prove beyond all reasonable doubt. The only successful prosecutions were against small organisations where the direct causal link between the events and the controlling mind could be established to the satisfaction of a jury, e.g. R v Kite and OLL Ltd (1994).

However, in larger organisations the chains of management responsibility made it difficult, if not impossible, to prove there was any controlling mind that directly led to the events. In other words, larger corporations had little, if anything, to fear from such a prosecution.

What the 2007 Act did was to remove the need to prove a controlling mind exists in an organisation. Instead, it became necessary to prove that the senior management's failure in terms of how the organisation activities are managed and controlled amounted to corporate manslaughter. While individual directors and other employees cannot be prosecuted under the 2007 Act they can, of course, be concurrently prosecuted for other health and safety offences relating to the fatalities concerned, including gross negligence manslaughter.

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Lack of consistency

Before looking at the impact of the 2007 Act, there are two other factors not always considered in relation to the whole question of corporate manslaughter. It could be argued that, prior to the 2007 Act, the investigation of deaths in the workplace was not consistent throughout the UK and that this situation has now changed.

In Scotland corporate manslaughter is known as corporate homicide and, unlike in the rest of the UK, there is consistency in the way that investigations are managed. The Scottish legal system is rather different from that in England and Wales. Firstly, there is no coroner as such, and sudden deaths, including those in the workplace, are investigated by a Procurator Fiscal. This is a sort of regional state prosecutor who holds a Fatal Accident Enquiry after an investigation.

The Procurator Fiscal, as well as being a state prosecutor, directs all criminal investigations, instructing the police and working in close liaison with the Health and Safety Executive (HSE), among other agencies. This was a big difference from England and Wales prior to the Act, where investigations were directed, typically, by the HSE or the police, as they saw fit.

In England and Wales, there is now a set of guidelines: the Work-related Deaths National Liaison Committee's protocol WRDP1 09/11 Work-related Deaths: A Protocol for Liaison (England and Wales). This was first published in 1998 and is now in its third edition. The Crown Prosecution Service (CPS), the HSE, local authorities, police forces and certain other enforcement agencies now operate to a common approach to investigating work related deaths and any subsequent prosecutions.

No multi-agency system with many local decision makers is perfect, or entirely consistent, and there will be at least some variations in response and investigative approaches in different parts of the country and at different times. For example, workplace near misses that could have led to death or incidents leading to serious injuries may receive far less scrutiny – if any at all – than a fatality will. This is even before one starts to consider the question as to whether local authorities actually enforce health and safety law in the same way as the HSE.

There is now much more joined-up thinking about investigating work-related deaths, some of which prior to 2007 may have received little, if any, state investigation or enforcement action. Some senior managers may see this as an additional risk to the business, but one way to prevent having to worry about the 2007 Act is by making sure near misses are properly investigated internally, whether one thinks there will be an enforcement investigation or not. Near misses can be a precursor to fatal incidents in the future.

Corporate compliance

The other key point about corporate manslaughter is that it is no different from some other trends in corporate compliance, e.g. the Bribery Act 2010, where there is shift towards making organisations, rather than just their employees, criminally liable. In saying that, the CPS's recent trend has been to prosecute individual directors for various health and safety offences – including gross negligence manslaughter in some instances – as well as prosecuting a corporation under the Act. The Lion Steel case in 2012 (R v Lion Steel Equipment Ltd) has provoked much comment in this regard.

Some have argued that such cases can be seen as a tactic to encourage the corporation (whose directors make decisions on its behalf) to enter a guilty plea in return for the prosecution not proceeding against them individually. Sometimes when this strategy is used, there is also a potential advantage to the prosecutor in that one defendant could provide evidence against a fellow defendant(s) either before or during the trial and claim their own innocence in the process. This is sometimes called a "cut-throat defence". Would everyone in your senior management team stand shoulder to shoulder together in such circumstances? If one looks at prosecution approaches in the USA for various offences relating to corporations, these strategies, among others, are often seen as valid approaches to achieve justice. Whether this seems right or not is immaterial – it is the current reality – and needs to be responded to like any management challenge.

However, prosecutions are still sometimes launched against individuals rather than corporations, and not necessarily senior employees. One example is the recent case of R v McGee where a train guard was convicted of gross negligence manslaughter relating to the death of passenger.

One of the original arguments behind the 2007 Act was that major shareholders or other stakeholders (to put it very plainly) were uninterested in director or employee convictions because such people could be replaced, whereas a prosecution against the corporation would be taken more seriously. This was, perhaps, an oversimplification. The world of spin works both ways. Negative publicity impacts on share prices and market share and, in the case of a public or voluntary sector body, could impact on future funding and scope of operations. Of course, this is even before we get into issues such as consumer perception of ethical behaviour and social responsibility, which have become high profile issues in recent months. Reputation impacts on the bottom line; if not today, then certainly tomorrow.

Conclusion

The reality of the 2007 Act is that corporations are separate legal entities, but their decisions are made by human beings. As well as provoking prosecution strategies it should also provoke the "controlling minds" to avoid any notion that accidents and occupational ill health happen elsewhere or, perhaps, choose to believe their zero accident pledges somehow happen as if by magic. Fortuity is for fortune tellers, not senior managers.

Almost all accidents and near misses have a causal link. Where a particular combination of unexpected events leads to a safety incident, it then begs the question what led to these circumstances and whether, next time, it could lead to a fatality. Senior management need to ensure there are resources devoted to such investigations in addition to the usual mantra of proper risk assessment, safe systems of work and, at strategic level, business or operational risk assessment.

HEALTH AND SAFETY IN THE Waste Industry

Blueprint for safety

A blueprint for addressing "the terrible toll" of death, injury and ill health in the waste and recycling industry is to be published following a landmark summit, according to the HSE.

Senior figures from across the sector recently met at the summit in Solihull to agree the key health and safety issues facing the industry and what needs to be done to tackle its poor health and safety record.

The event, aimed at building consensus and bringing together key players in the industry, was organised by the HSE and the Waste Industry Safety and Health (WISH) Forum.

WISH members include representatives from HSE, trade associations, professional associations, trade unions, recycling organisations and national and local government bodies involved in waste management and recycling.

The plan is expected to be published once it has been ratified by WISH and will contain sections on leadership, competence, worker involvement, support for small business, and creating safer, healthier workplaces.

Giving the keynote speech at the event, Judith Hackitt, Chair of the HSE, said, "We must work together to respond to the current challenges and drive improvements in health and safety performance, but improving the track record is not for HSE to resolve alone — industry must take the lead."

Similarly, Chris Jones, WISH chair and Director of Risk Management and Compliance at Cory Environmental, said, "The theme of the summit was delivering the solution together. We have established that there is a clear willingness and commitment to take action — now we have to stop talking about it and get on with making it happen."

Delegates at the event were urged to sign up to a statement of intent on HSE's website, making a public commitment to drive improvements.

High risk industry

Although HSE statistics show a downward trend regarding injury rates in the waste and recycling industry the work remains high-risk. Although waste and recycling accounts for only about 0.6% of the employees in Britain it still accounts for 2.8% of reported injuries to employees (4.2% fatalities, 2.5% major and 2.9% of over-3-day injuries).

For the period 2011/12, HSE reported that:

- There were six fatal injuries to workers, one of these fatalities was to a self-employed person
- There was one fatal injury to a member of the public
- The rate of reported over-3-day injury is almost five times that in agriculture or construction
- Almost a third of the fatalities (29%) are due to employees being struck by vehicles
- About a third (35%) of reported major injuries are due to slips and trips
- Almost half (45%) of reported over-3-day injuries are due to handling.

Divergence across sector

In September 2012, the Environmental Services Association (ESA), which represents waste and resource management companies, expressed concern over what it claimed is a growing divergence in health and safety trends between its members and that of the wider waste sector.

The statement was made by ESA as it released new data which compares accident trends among its own membership with aggregate data from the HSE for the sector as a whole.

For example, the accident rate per 100,000 employees across ESA members was 1327 in 2011. This compares to a figure of 2050 for the sector as a whole (taken from HSE provisional data for 2010/2011, for all private sector companies, local authority waste operations and third sector waste organisations).

Similarly, ESA says that while its members reduced accidents by 20% between 2010 and 2011, the accident rate for the waste sector as a whole actually increased by 3% over the comparable period, according to HSE data for 2009/10 to 2010/11.

The trade body says its members have, since 2004, reduced accidents by almost 70%.

Commenting on the figures, Glenn Davies, the Chairman of ESA's Health and Safety Committee, said, "We are acutely aware of the inherently hazardous nature of our industry, whether our colleagues are operating heavy machinery or working in public roads on collection rounds. That's why ESA and its members have for many years made improving our industry's health and safety record an absolute priority."

"However," he added, "the data we have produced appears to show that the progress we have made has not been matched across the rest of the waste sector. Every serious accident and fatality is a human tragedy, and we believe that this divergence is a cause for concern."

IMPLEMENTING THE

Industrial Emissions Directive

Rick Gould describes how England and the devolved powers have applied the Industrial Emissions Directive (IED), and what differences this will make.

EU Member States had to transpose the Industrial Emissions Directive (IED) (2010/75/EU) by 7th January 2013. Typically, European directives allow Member States two years to apply EU legislation within national law, and both Scotland and Northern Ireland had met the deadline. However, the implementation of the IED in England and Wales was about six weeks late, as the implementing regulations were not published until 20th February 2013. While the same EU legislation applies to all parts of the UK, the implementation of the IED — and the Integrated Pollution Prevention and Control (IPPC) Directive (2008/1/EC), which it superseded — differs depending on its application in varying parts of the UK.

Pollution Prevention and Control (PPC) lives on

All four countries in the UK had originally applied IPPC through the PPC regime, through legislation made under the Pollution Prevention and Control Act 1999. The core statutory instrument was the Pollution Prevention (England and Wales) Regulations 2000, with equivalent legislation in Northern Ireland and Scotland. However, in 2007, PPC installations in England and Wales were transferred to a new regulatory regime known as the Environmental Permitting Programme, applied through the Environmental Permitting (England and Wales) Regulations (EPR) 2007, which combined several regulatory regimes over the next three years. The Government republished the EPR in 2010 and has amended the regulations since then.

When the countries within the UK consulted on the implementation of the IED, it was expected that Northern Ireland and Scotland would apply it principally through amendments to the PPC regulations, while England and Wales would apply the new directive through changes to EPR 2010. In effect, this is what has happened, although the details differed.

The IED in Scotland and Northern Ireland

The IED combines seven directives, merging the directives for IPPC, incineration, large combustion plant, solvent emissions and three directives for the production of titanium dioxide. As there are very few titanium dioxide plants in the UK, the other four directives are arguably more important. However, as they were separate directives, Scotland and Northern Ireland, until late last year, had separate legislation for each of these in addition to the PPC regulations. For example, Scotland applied the Waste Incineration Directive through the Waste Incineration (Scotland) Regulations 2003 and the Large Combustion Plant (Scotland) Regulations 2002. There were similar regulations for England and Wales, although these were merged within EPR 2007.

In late 2012, Scotland published the Pollution Prevention and Control (Scotland) Regulations 2012, which made two significant changes in addition to applying the IED. Firstly, as the PPC regulations for Scotland have been amended several times since 2000, the new regulations include all the applicable amendments and therefore supersede all previous PPC regulations. Secondly, rather than make several amendments to related legislation such as the Waste Incineration (Scotland) Regulations 2003, the PPC regulations of 2012 include the requirements specified in the IED for waste incineration, solvent emissions and large combustion plant. In effect, the new regulations for Scotland reflect the approach taken within the EPR for England and Wales.

The new PPC Regulations for Scotland, therefore, largely mirror the contents of the IED and also combine several pieces of legislation. The IED changed the scope of the IPPC Directive; as the PPC Regulations of 2000

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used Schedule 1 of the regulations to apply the scope of the IPPC Directive, the new scope of the IED is applied through an amended Schedule 1. At the same time, the new PPC regulations make a number of smaller amendments to related legislation, such as the Waste (Scotland) Regulations 2012.

Northern Ireland has applied the IED in a very similar manner, through the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2012. Like the Scottish PPC Regulations of 2012, the new regulations for Northern Ireland combine several pieces of legislation and all of the previous amendments to the PPC Regulations. However, there are some differences; for example, some of the changes in the Northern Irish regulations do not take effect until January 2014.

The IED in England and Wales

As expected, the IED has been applied in England and Wales through amendments to EPR 2010, implemented in the Environmental Permitting (England and Wales) (Amendment) Regulations 2013. However, unlike the new equivalent regulations in Scotland and Northern Ireland, it is harder to follow EPR 2010 because the 30-plus pages of the amending regulations have to be read alongside EPR 2010 in order to understand all of the changes. On the other hand, it is easier to see exactly how the IED changes the current regulations. The application of the IED within EPR 2010 can appear to be more complex than the PPC Regulations for Scotland and Northern Ireland, especially as there is a new class of incinerator under EPR 2010, known as Small Waste Incineration Plants (SWIPs). These are neither Part A1, A2 or B installations, but a new distinct category that will be regulated by local authorities. The situation will become clearer if and when the Department for Environment, Food and Rural Affairs (Defra) publishes consolidating regulations.

Fortunately, Defra, the Environment Agency and the Scottish Environment Protection Agency have all published briefing notes and guidance for the IED, with more to follow. The changes brought about by the IED are not as complex as they may seem when reading the legislation, especially the amending regulations for England and Wales. In simple terms, the IED strengthens the application of best available techniques, and introduces a few new categories of activity. At the same time, the UK included some legacy activities that are not within the scope of the IED. Some of the activities have been removed from EPR 2010, but will be regulated under other regulatory regimes.

References

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Workplace Accident & Injury Statistics 2011/12

18% of workers think their job risks their health or safety

173 workers were killed at work

An estimated **2 million** working days were lost due to handling injuries and slips and trips

111,000 other injuries to employees were reported under RIDDOR

212,000 over-3-day absence injuries occurred

27 million working days were lost due to work-related illness and workplace injury

Workplace injuries and ill health (excluding cancer) cost society an estimated **£13.4 billion**

Workers understand their health and safety obligations but **around 50%** think that these are excessive

1.8 million people were suffering from an illness (long standing as well as new cases) they believed was caused or made worse by their current or past work

There were **643,000** incidents of work related violence estimated in England and Wales

Almost **a third** of waste and recycling fatalities (29%) are due to employees being struck by vehicles

The main work activities causing **work-related stress**, or making it worse, was work pressure, lack of managerial support and work-related violence and bullying

15,955 enforcement notices were issued by HSE and local authorities

Electricity, fire, explosion or drowning/ asphyxiation accidents together accounted for **one in seven** fatalities to workers

551 cases were prosecuted by HSE in England and Wales

Two-thirds of fatal injuries to workers were of four kinds: fall from height; being struck by a moving object; being trapped by a collapsing structure; and being struck by a vehicle

Source: HSE, RIDDOR, European Working Conditions Survey 2010, ONS Opinions Survey, Labour Force Survey for 2011/12:

E-cigarettes

The legal situation

The electronic cigarette or e-cigarette is a battery operated, nicotine vapour inhaler device. A typical electronic cigarette contains a nicotine cartridge, a vaporiser with electronic circuitry, sensors and a battery.

On inhalation the cartridge is heated and a fine mist is produced. This mist is absorbed into the lungs, although some odourless vapour is released into the air as the smoker exhales.

Many individuals use these devices as an alternative to smoking when trying to stop smoking. There is anecdotal evidence that they can help.

Legislation introduced in the UK has banned the use of tobacco-based cigarettes (and similar products) in public places and workplaces. Although the e-cigarette is designed to resemble a traditional cigarette it does not contain tobacco and is therefore outside the remit of the legislation.

As such the employee and employer would not be in breach of any legislation relating to prohibitions and the employee may continue to use the device within the rest room.

It will be for the employer to determine if it wishes this to be the case, but there may be some opposition from other users of the rest room, particularly in relation to the potential health effects if a mist is produced that is then present in the ambient environment.

Currently, there is no evidence to suggest that the mist is likely to adversely affect the wider population.

ASH, the Action of Smoking and Health organisation, states that "e-cigarettes, which deliver nicotine without the harmful toxins found in tobacco smoke, are likely to be a safer alternative to smoking.
In addition, e-cigarettes reduce second-hand smoke exposure since they do not produce smoke".

However, the organisation does also issue an advisory note in that the products are unregulated and that there are some concerns about their safety since few manufacturers disclose the ingredients of their products.
It may be advisable to consult with staff on this matter so as to get the viewpoint of all employees and to allow a collective policy decision to be made that takes into account the opinions and wishes of the majority of employees.

Union speaks out against E-cigarettes

The Trades Union Congress (TUC) has described e-cigarettes as "a problem at work," arguing that they have no place in work settings and are potentially hazardous.

The union says it has received recent enquiries from health and safety representatives asking for guidance on the devices and that, while the electronic nicotine delivery systems are not banned, they should be subject to the same controls at work as real cigarettes.

Noting that US authorities have discouraged their use, Hugh Robertson, Senior Policy Officer for Health and Safety at the TUC said, "Certainly e-cigarettes do contain a number of carcinogens and toxins, but these are likely to be at much lower levels than with cigarettes made with tobacco."

He added, "In answer to the specific question about their legality, e-cigarettes are not covered by the ban on smoking in enclosed workplaces and public places, but an employer does have control over whether their employees can smoke them while at work."

Furthermore, he argued, given that the long-term effects of the fumes are unknown, employers should not be allowing a potentially harmful substance to be used in the workplace under the Control of Substances Hazardous to Health (COSHH) regime.

It seems employers are already taking this stance. Last year, for example, NHS Fife and Blackburn College made e-cigarettes subject to the same controls under their smoking policies as normal cigarettes.

The TUC is advising its safety representatives to try to ensure that employers do not allow the use of e-cigarettes in enclosed places or anywhere that smoking tobacco is prohibited. However, as part of health promotion campaigns, the union suggests representatives might want to work with employers to encourage smokers to switch to e-cigarettes and use them instead of tobacco cigarettes, but only in places not covered by the smoking ban.

Movement of Vehicles IN THE WORKPLACE

Premises managers are likely to have to deal with a variety of vehicles being used for many different tasks on their site. The vehicles may range from road-going vehicles, such as staff and visitors' cars, delivery vans and lorries, to specialist handling equipment, such as fork-lift trucks, dumpers, side loaders, reach trucks and telescopic material handlers. GC Tranter reports.

While seemingly essential for running businesses, transport can be extremely hazardous. During 2011/12, 20 workers and 9 members of the public suffered a fatal injury caused by workplace transport. As well as causing death and injury, collisions involving vehicles can cause substantial damage to other vehicles, buildings or racking, and plant or equipment.

What are the risks?

The Health and Safety Executive has produced extensive statistics that have identified four main areas where workplace transport accidents occur.

1. Moving vehicles that come into direct contact with people in the workplace.
2. Persons falling from vehicles during the loading and unloading operations.
3. Vehicles (including fork-lift trucks) that have overturned due to exceeding site speed limits, uneven surfaces in the yard, or unsafe loads that have moved, causing instability.
4. Goods that have fallen from a vehicle, striking individuals in the area.

A wide range of aspects

No two premises are the same. The nature of the site, the activities that take place on site, the vehicles, employees, visitors and contractors, plus those making deliveries, all differ. Consequently, the control of risks from the movement of vehicles needs to cover a wide range of aspects. This article will concentrate on a key aspect of managing the risk of contact between vehicles and people, particularly where shared routes are used and drivers fail to see pedestrians or pedestrians fail to see drivers.

Direct contact between vehicles and people

An illustration of a failure to put suitable control measures in place to separate pedestrians and vehicles is illustrated by an incident that led to the prosecution of Halfords Autocentres Ltd of Redditch. Michelle Sloan, who worked for Euro Car Parts Ltd (a supplier of parts to Halfords), had parked in front of the Halfords Autocentres reception to unload parts. As she reached into the back of the vehicle to remove the parts, a transit van reversed into her door, closing it and trapping both her legs. She suffered a torn tendon in her left knee and a severed tendon in the right one. A year after the incident, she was still struggling to walk and had been unable to return to work.

Halfords Autocentres Ltd pleaded guilty to a breach of regulation 17(1) of the Workplace (Health, Safety and Welfare) Regulations 1992, for failing to ensure workers and vehicles could move safely around its site. The company was fined £5000 and ordered to pay a contribution of £5000 to the prosecution costs of £5916.

Pedestrian risks

The main risks to pedestrians arise from:

- pedestrians and/or cyclists sharing the same routes with vehicles
- drivers not seeing pedestrians or cyclists
- reversing vehicles
- site rules not being followed or enforced.

Separating pedestrians and vehicles

The premises manager must ensure that vehicles can use a traffic route without causing danger to the health or safety of pedestrians and those working near it. Whenever possible,

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the roadways and footpaths should be separate and, if this is not possible, adequate warnings must be in place. Cyclists are also vulnerable and, consequently, their needs must be taken into consideration.

Wherever possible, traffic routes should be separated by a barrier strong enough to stop a vehicle, and that is designed to guide and segregate people from the traffic. Barriers or rails should be positioned to prevent pedestrians from walking onto roads and to deter pedestrians from crossing at particularly dangerous points, e.g. entrances and exits to buildings and at the corners of buildings. If barriers cannot be installed, road markings can be used to set apart vehicle and pedestrian routes. The difference in level created by a kerbed footpath will clearly show the difference between a pedestrian route and a vehicle route. Pedestrian paths that follow the route that they would naturally use will encourage people to stay on them.

Where pedestrians and vehicle routes cross, there should be provision of appropriate crossing points for people to use. These should be suitably marked and signposted. Different types or colours of paving can be used to guide pedestrians to the crossing points.

On larger sites, footbridges and subways can be used to avoid the need for pedestrians to cross a traffic route. Care should be taken to ensure that bridges over traffic routes do not interfere with high loads. When a large number of pedestrians is likely to be crossing, for instance during a shift changeover, access of vehicles to the roadway should be restricted.

Visibility

Many accidents are caused by poor visibility, either by pedestrians not seeing vehicles or drivers not seeing pedestrians. There can be several reasons for drivers being unable to see pedestrians, including blind corners, poor lighting or driving too fast.

Potential hazards, e.g. road junctions, pedestrians and instructions, must be clearly visible. Drivers and/or pedestrians and, where feasible, visitors should wear high-visibility clothing if they cannot be adequately segregated from vehicles. Where vehicles enter buildings, such as warehouses, there should be separate access doors for vehicles and pedestrians. Windows in doors can help drivers and pedestrians see whether it is safe for them to approach. One-way systems can be used to reduce risks at blind corners. Where this is not feasible, suitable fixed mirrors should be installed to enable good visibility at blind corners.

Certain aspects of vehicles can cause poor visibility; large vehicles, for example, can have zones of impaired visibility. Drivers may be unable to see into blind spots as the vehicle changes direction and there are obvious visibility problems associated with reversing vehicles.

Reversing vehicles

Nearly a quarter of all deaths involving vehicles at work occur during reversing. In addition, many reversing accidents cause costly damage to vehicles, equipment and premises. Where possible, the need for reversing should be avoided by setting up one-way systems, including drive-through loading and unloading positions. If this cannot be achieved, routes should be organised to minimise the need for reversing. Where reversing cannot be avoided:

- the reversing areas should be designed to increase visibility for drivers and pedestrians and should be clearly marked
- safe systems of work should be used
- pedestrians with no need to be in reversing areas should not be allowed in the area
- a signaller (banks man) can be used to aid manoeuvring in areas where clear views are restricted or where there may be blind spots, such as reversing into restricted spaces
- many trucks can be fitted with cameras to assist the driver to both complete his or her movements more easily and also to indicate any pedestrians moving around the vehicle
- proximity sensors can be of value, but these can lead to complacent behaviour with drivers over-relying on reversing aids
- audible reversing alarms and flashing beacons on vehicles can be used to draw attention to the movements of the vehicle
- anyone in the area should wear visible clothing, such as reflective vests.

Site rules

Lack of knowledge, or misunderstanding of site rules together with the lack of enforcement of the rules, can lead to accidents involving vehicles. Speeding, pedestrians crossing at unofficial crossing places, and vehicles leaving their designated route can be a consequence of failure to follow site rules or lack of awareness of the rules.

Drivers and pedestrians who work on site need to be informed about the routes, layout and site rules relating to transport. New staff should be given information on site rules relating to traffic during their induction, and procedures should be in place to ensure visitors, particularly visiting drivers, are aware of the site rules. The speed limits for vehicles on site should be posted at entrances and around the site for reinforcement. There may also be a need for direction and priority signs.

Bring Your Own Device

Many employers appear to have a laissez faire attitude to allowing staff to use their personal laptops, tablet computers or smartphones for work business, which may be placing other people's personal information at risk.

The survey, carried out by YouGov for the Information Commissioner's Office (ICO), reveals that 47% of all UK adults now use their personal phones and/or computers for work purposes.

However, less than 30% of those who do so are provided with guidance on how their devices should be used in this capacity, raising worrying concerns for the ICO that people may not understand how to look after the personal information accessed and stored on these devices.

The Office has therefore published guidance explaining some of the risks organisations must consider when allowing personal devices to be used to process work-related personal information.

The guidance explains how this approach, commonly known as "bring your own device" (BYOD), can be adopted safely and in a manner that complies with the Data Protection Act.

ICO Group Manager (Technology), Simon Rice, said: "Our guidance aims to help organisations develop their own policies by highlighting the issues they must consider. For example, does the organisation know where personal data is being stored at any one time? Does it have measures in place to keep the information accurate and up-to-date? Is there a failsafe system so that the device can be wiped remotely if lost or stolen?"

The cost of introducing these controls can range from being relatively modest to quite significant, he warned, depending on the type of processing being considered, and might even be greater than the initial savings expected.

BYOD is always likely to involve the processing of personal information, Mr Rice concluded, and employers would therefore be well advised to read the new guidance.

BYOD and the DSE Regulations

The Health and Safety (Display Screen Equipment) Regulations 1992 state that "display screen equipment means any alphanumeric or graphic display screen, regardless of the display process involved". They define users as those "who habitually use DSE for the purposes of an employer's undertaking as a significant part of their normal work".

Given the design of the devices and duration of use by employees, it is likely that tablets and smartphones are covered by this legislation, and therefore employers are responsible for assessing and controlling the risks from using this equipment for work. It may not matter whether the devices are supplied by the employer or owned by the employee, which the employer allows (and encourages by supplying work-related applications) the employee to use for work purposes.

Employers also need to consider very carefully whether any assessment has to be recorded. HSE Guidance document L26 Work with Display Screen Equipment: Health and Safety (Display Screen Equipment) Regulations 1992 advises that: "Portable users' risk assessments for, say, half an hour's work in a borrowed office can be quite informal and need not be written down. Where, however, a portable is in lengthy or repeated use in the same location, it would be appropriate for the user's risk assessment to be recorded."

Employers need to look at how and when these devices are being used, which will not be easy given the mobile nature of the workforce. The fact that the equipment is not used for "lengthy or repeated use in the same location" may negate the need to record the assessment.

What are the risks?

The possible risk factors associated with tablets, smartphones and working on the move are mainly those leading to musculoskeletal problems, visual fatigue and stress.

The likelihood of experiencing these is related mainly to the frequency, duration, intensity and pace of spells of continuous use of the equipment, in conjunction with factors such as how much discretion the person has over the extent of their use.

Managing the risks

So what are the options for employers? Assessing the devices could be very difficult, and the lack of available guidance does not make this easy. One solution could be to limit what employees can do with their tablet if it is provided by work; this is unlikely to be possible for BYOD tablets.

Whatever we think, tablet and mobile working is on the increase and is here to stay. Employees like using mobile technology, they are potentially more productive when using it and it frees them from being tied to a specific desk. As working practices continue to evolve, providing a dedicated workstation for each employee is starting to look somewhat inflexible and expensive.

SETON

Changes to first-aid regulations: DRAFT GUIDANCE ISSUED

The Health and Safety Executive (HSE) has issued two new sets of guidance ahead of proposed changes to the Health and Safety (First-aid) Regulations 1981. The changes to the Regulations come as part of the Löfstedt review, which recommended that "the Health and Safety (First-aid) Regulations 1981 should be amended to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel."

The report also noted that "this requirement seems to have little justification, provided the training meets a certain standard", noting further that the HSE approval process went beyond the minimum requirement laid out in EU legislation.

New regulations

The new first-aid regulations are expected to come into force in October 2013. New guidance gives both employers and training providers the opportunity to consider the changes, take any necessary action and comment on the changes to the HSE. The HSE has welcomed the changes, pointing to greater flexibility for employers as a major advantage. HSE policy advisor Peter Brown said:

"Removing the HSE approval process will give businesses greater flexibility to choose their own training providers and first-aid training that is right for their workplace, based on their needs assessment and their individual business needs. The draft guidance documents aim to provide practical support to help businesses assess and understand their first-aid needs and find a provider best suited to them. HSE has used the feedback from the recent consultation exercise to shape the guidance, but would welcome any further feedback on the guidance before the regulations come into place."

It is important to note that, until the changes come into effect, employers still need to ensure that their first-aid training is only carried out by training providers that have been approved by the HSE.

It has always been the case that employers need to make an assessment of their first-aid provision based upon the risks and situation particular to them. For example, the level of first-aid provision may depend upon the work activities and processes carried out, the number and distribution of employees, and proximity to emergency services. This requirement will not change. Under the new proposals, employers will no longer be required to use an approved first-aid training provider; but they will have to be able to justify the provider they do select.

Selecting a training provider

The new guidance requires employers to justify their selection of first-aid trainers based upon a "due diligence" test of prospective training providers in order to select a competent provider. The guidance indicates that the training provider may be available from a number of sources. Some first-aid training providers may choose to operate through voluntary accreditation schemes or industry bodies whose intention is to set and maintain standards in line with the requirements of the HSE. Other training providers may choose to operate independently of any such scheme. First-aid training is also available from the Voluntary Aid Societies (St John Ambulance, British Red Cross and St Andrew's First Aid).

The effort needed for the due diligence ("reasonable investigation") in selecting a training provider should be in proportion to a provider's chosen route to delivery or industry affiliation. The guidance indicates that there may be a "ready-made" assurance when considering those Voluntary Aid Societies since they "are together acknowledged by HSE as one of the standard setters for currently accepted first-aid practice, in so far as they relate to the topics covered in First Aid at Work and Emergency First Aid at Work training courses. The Voluntary Aid Societies also work to similar principles of assessment, and employ a similar hierarchy of policies and processes to ensure training quality standards, to those of regulated qualifications."

If an employer chooses to use an independent training provider with no affiliations, then a more in-depth investigation may be required as part of the "due diligence" test. The guidance indicates that in such cases all of the following criteria should be used as part of the due diligence test:

- The qualifications expected of trainers and assessors
- Monitoring and quality assurance systems
- Teaching and standards of first-aid practice
- Syllabus content
- Certification

There is no requirement for employers to record the due diligence checks, but it "may be useful to retain a written record" so that it is possible to justify the selection of a particular training provider to, for instance, an HSE or Local Authority inspector.

The guidance provides checklists and questions that can be used by employers to carry out the due diligence test. The information covers the five areas indicated above.

Comment

Employers should not be daunted by the proposed new requirement to select a competent training provider for first-aid training. It is no different to selecting a trainer for any type of health and safety training. However, employers may be tempted to use those providers with "ready-made" assurance as indicated in the guidance, and private independent providers may be at a disadvantage.

Asbestos in Schools: UPDATE

Probe on asbestos in schools

The House of Commons Select Committee on Education has held an evidence session on 13th March 2013 on the subject of asbestos in schools.

The one-off evidence session focused on the issues relating to asbestos in English schools.

An initial panel of witnesses gave the Committee the opportunity to explore the issues raised with interest groups, experts in the field and individuals with direct experience of the problem.

It was followed by evidence from the Schools Minister and the Health and Safety Executive on relevant government policies.

The session was welcomed by the GMB trade union, which says it represents "an increasing number" of schools support staff potentially at risk from asbestos fibres in schools.

The union claims that more than 75% of state schools contain asbestos, much of it in a dangerous condition.

The union is also concerned that an on-going Department for Education (DfE) audit on the condition of schools to establish refurbishment priorities apparently expressly excludes asbestos.

Commenting on the issue of asbestos in schools, John McClean, the union's National Safety Officer, said, "GMB welcomes the call for evidence on asbestos in schools. Last year's report by the All-Party Parliamentary Group on Occupational Health & Safety made it clear that a cohesive and clear strategy to deal with this serious matter needed to take place. Hopefully the Education Select Committee which holds its hearing on Wednesday 13th March will reach similar conclusions that enable the DfE to begin dealing comprehensively with this problem."

Guidance on managing asbestos in schools

The Department for Education (DfE) has published new guidance on managing asbestos in schools for head teachers and other interested stakeholders.

The new asbestos management guidance provides information and advice for those who manage schools or oversee the maintenance and repair of school buildings. The guidance is aimed at head teachers, governors, and other members of the school management team, but will also be of interest to school staff.

A source at the Health and Safety Executive (HSE) said that although the guidance has been produced for schools in England, it includes information and links to useful resources for schools and colleges across Great Britain.

The guide points out that before the health effects of its fibres were fully understood, asbestos was considered a valuable building material as it had high strength and fire resistance. As a result, it was extensively used in schools for fire protection and insulation.

Asbestos can be found in Victorian schools, system-built ones, or traditionally constructed buildings and in schools that were refurbished before its use was banned in 1999.

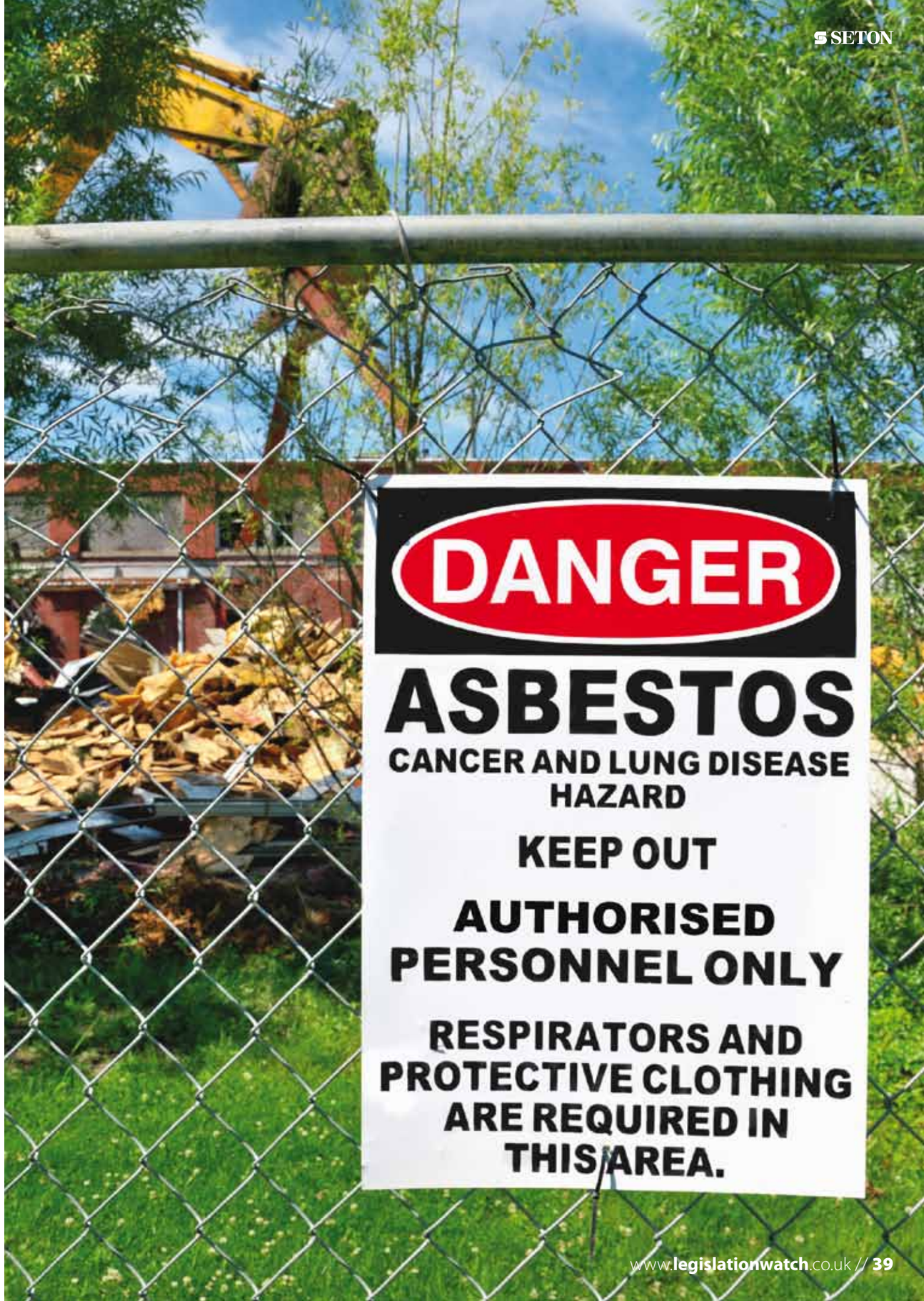
The DfE says that more than 14,000 schools were built between 1945 and 1975, when the use of asbestos was at its height, and many others were refurbished. More than three-quarters of schools have some buildings that contain asbestos.

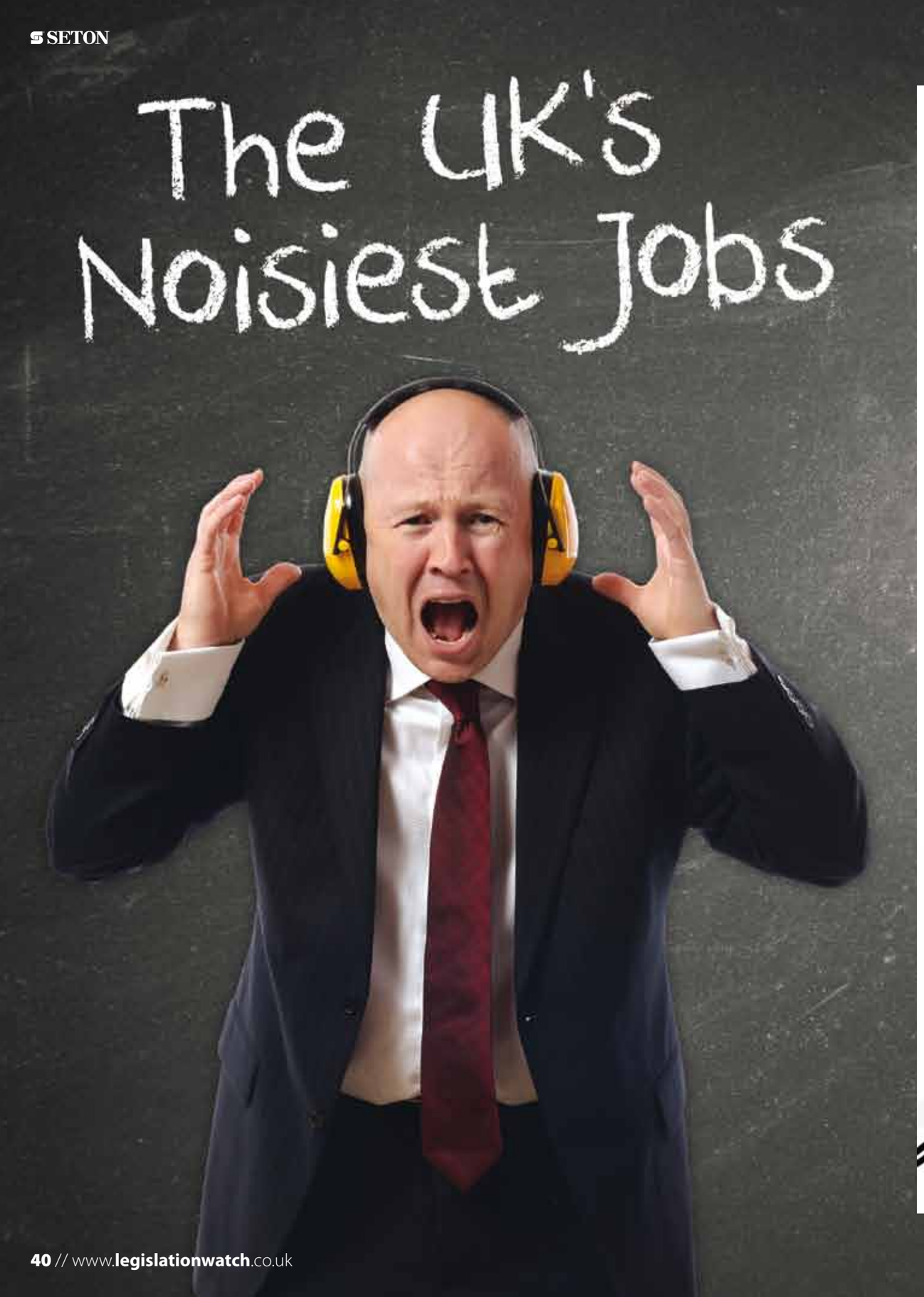
The guidance covers:

- the types of asbestos and where it might be found
- diseases related to asbestos exposure
- activities that can accidentally disturb asbestos
- the legislative framework and responsibilities of duty holders
- asbestos records and plans
- training considerations
- consequences of failing to comply with asbestos regulations
- resources on asbestos.

The guide can be accessed at **www.education.gov.uk.**

"Last year's report by the All-Party Parliamentary Group on Occupational Health & Safety made it clear that a cohesive and clear strategy to deal with this serious matter needed to take place."





New research by a noise management firm has identified teaching, factory and farm work as amongst the noisiest jobs in the UK, with millions of working people being exposed to dangerous decibels in the workplace.

Sound experts at the company, Echo Barrier, identified 10 occupations where noise poses a serious health problem.

Top of the list were airport ground staff who direct jet engines in landing and take-off and are subjected to noise levels of up to 140 decibels (dB), more than 1000 times the sound energy at the noisiest of music events.

The remaining nine jobs and estimated noise levels were:

- Formula One drivers – 135dB
- Construction workers – the loudest tool, the hammer drill, registers 120dB
- Nightclub workers – 115dB
- Rock stars –110dB
- Factory and farm workers – 105dB
- Commuter music – 85dB (although not a job, listening to loud music on headphones while travelling to and from work can be hazardous to health)
- Classical musicians – 95dB
- Motorcycle courier – 90dB
- Nursery worker or teacher – 85dB.

Peter Wilson, technical director at Echo Barrier, said, "Working for years in a noisy job significantly increases the risk of serious hearing difficulties. Workers can lessen the risk by protecting ears with earplugs or other hearing protection devices at all times but employers need to be aware of how damaging noise pollution can be — and not just for their employees. Noise pollution can also have a devastating effect on people who come into contact with a noisy place of work such as a building site. It can cause headaches, high stress levels, tinnitus, hearing loss, depression and insomnia."

Noise-induced Hearing Loss

Noise-induced hearing loss (NIHL) may result when workers are habitually subjected to excessive noise exposure at their place of work.

Hearing can be damaged by continuous noise or small bursts of high-energy noise. However, it is not only in industrial environments that employees can be exposed to excessive noise levels.

The extent of hearing damage resulting from excessive exposure is dependent on factors such as the:

- Level of noise
- Duration of exposure to the noise
- Individual's susceptibility to NIHL.

Deafness usually occurs over many years, and because of the gradual onset of NIHL, the individual may or may not realise that he or she is becoming deaf. There are, however, some sudden noises — e.g. explosions, gunfire and other very high level impulsive noise sources sometimes found in heavy industry environments, which can cause immediate hearing damage to the unprotected ear.

Identifying Noise-induced Hearing Loss

Audiometric testing is a procedure for determining the hearing levels, or audibility thresholds, of the ear in terms of the person's response to calibrated signal levels presented to the ear under closely controlled conditions. Hearing loss caused through exposure to noise usually displays certain characteristic features, e.g. high frequency loss, often with a pronounced "notch" shape in the audiogram.

There is particular benefit to the organisation in the audiometric testing of new employees to determine their hearing levels before employment. A programme of long-term, regular audiometric testing and screening of employees' hearing can provide a useful indication of which employees are most susceptible to NIHL, although those detected will already have incurred some measurable hearing loss before their susceptibility becomes apparent. The main benefit of a regular audiometric testing programme is to provide early warning for those employees showing early signs of hearing loss, so that they are able to seek medical advice and, if appropriate, take additional measures to protect their hearing against future noise exposure.

The specified criterion level, called the lower exposure action level in the Control of Noise at Work Regulations 2005, represents the daily noise exposure levels at which the majority of persons will not incur significant NIHL in the course of a lifetime's employment. However, because of the variation in individual susceptibility to NIHL, there are some persons who remain at risk of hearing damage through daily exposure at levels lower than the criterion levels. It is therefore advisable for employers to make every effort to reduce occupational noise exposure levels to the lowest reasonably practicable level.

Action Levels of Exposure

Lower Exposure Action Value	• A daily or weekly personal noise exposure of 80dB (A-weighted) • A peak sound pressure of 135dB (C-weighted)
Upper Exposure Action Value	• A daily or weekly personal noise exposure of 85dB (A-weighted) • A peak sound pressure of 137dB (C-weighted)
Exposure Limit Value	• A daily or weekly personal noise exposure of 87dB (A-weighted) • A peak sound pressure of 140dB (C-weighted) Exposure limit values are to take into account any hearing protection worn by the employee.

Continued... →

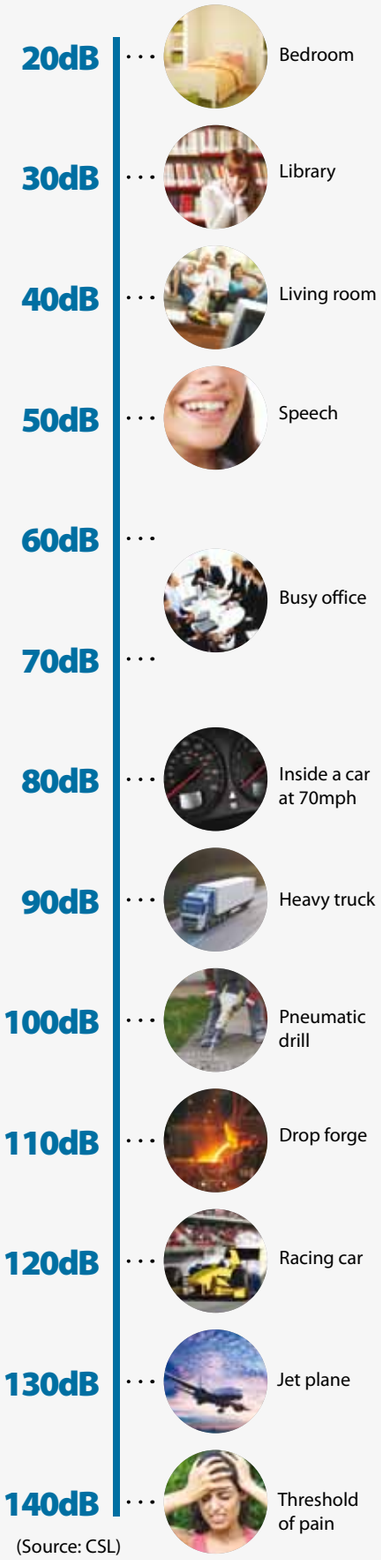
Practical Noise control Checklist

A wide range of noise reduction and control techniques is available to employers. Some examples include the following.

- ☑ Ensure that machinery is properly maintained to minimise noise emission.
- ☑ Simple "good housekeeping" (e.g. regular maintenance and lubrication, re-fixing loose guards or replacing missing access panels) will help keep noise emission to a minimum.
- ☑ Consider whether it is possible to change the process operation so as to reduce the noise level.
- ☑ Think about purchasing more modern or newer machinery to a lower noise specification.
- ☑ Create a purchasing policy that includes a specified maximum noise emission level for all new machinery.
- ☑ Explore the possibilities for an engineering noise control action. Key areas where simple noise-reducing measures can be considered:
  - Reduce the level of impact noise that occurs in machinery and process operations by substituting some metal components with engineering plastics or rubber materials.
  - Similar materials can be employed on work surfaces to minimise noise from manual processes and to line the surfaces of chutes.
  - Fit rubber buffers on end stops on moving components.
  - Reduce the height through which components fall, e.g. from a machine or conveyor belt.
  - Apply sound-deadening or damping materials to reduce secondary noise radiation from machine components, such as sheet metal guards.
  - Ensure that all air exhaust ports on pneumatic systems are equipped with exhaust silencers, inspect these regularly and replace damaged or missing silencers.
  - Avoid the use of un-silenced air jets and nozzles for clearing swarf and cleaning down work areas.
  - In high-speed process machinery, consider whether there is any likelihood of aerodynamic noise generation and, if so, seek expert assistance to overcome the problem.
  - Ensure that any anti-vibration/vibration isolation measures are achieving the required effect.

- ☑ If noise control at source is investigated and found impractical, separate the noisy processes and the personnel. Acoustic enclosures can be placed around noisy machines, and quiet havens can be provided as "refuges" for personnel attending continuous process machinery.

Typical Sound Intensity Levels: Along the scale are examples of noise found in every day situations



(Source: CSL)

CORRECT USE OF Hearing Protection

Noise at work Regulations

The regulations require you as an employer to:

- Assess the risks to your employees
- Take action to reduce the noise exposure that produces those risks
- Provide the employees with hearing protection if you cannot reduce the noise exposure enough through other methods
- Make sure the legal limits on noise exposure are not exceeded
- Provide employees with information, instruction and training

Using the correct hearing protection

Noise can not only damage your hearing but also your health in general. To this effect, the European Directive 2003/10/EG states that hearing protection must be worn in noisy environments.

From what noise level should hearing protection be provided, or worn?

Suitable heating protection should be provided when all other means of controlling noise exposure have been exhausted, i.e. engineering controls and safe systems of work.

In workplaces where noise exposure exceeds 80dB, hearing protection must be made available. Above 85dB hearing protection is mandatory.

What are the vital criteria when choosing hearing protection?

Ear plugs are worn when other PPE is mandatory (e.g. hard hats or safety glasses). Ear defenders and ear muffs are more appropriate for intermittent use.

SNR method:

The residual noise after isolation must remain between 70 and 80dB.

Example: Noise level-SNR value = residual noise level : 110dB – 35dB = 75dB

Disposable earplugs	Often made of soft, pliable material such as foam enclosed in a soft polyethylene foil.	
Corded earplugs	Usually made from the same material as those above but are connected together by cord. The cord is useful to stop them falling out of the ears and into a production process.	
Reusable earplugs	These are either corded together or separate. As the name suggests they can be reused and are often supplied with their own storage case.	
Banded earplugs	These types of earplugs still fit in the ear canal but are connected together with a headband.	
Earmuffs	These types of hearing protectors go over the entire ear and have a headband that goes over the head. There are various types of earmuffs offering low, medium and high acoustic attenuation.	

Q&A'S

Introducing Hot Desking

Q. To save costs, my organisation is going to introduce flexible working systems whereby employees do not have a dedicated workstation (hot desks). I have been asked to comment on the health and safety issues involved with this. What would you highlight?

A. "Hot-desking" is now a common feature in many office-based environments. The principle is that workstations are used to their maximum potential, particularly where an organisation has employees who are often away from the office, thereby leaving workstations empty for considerable periods of time.

There can be a number of health and safety issues related to the introduction of a hot-desking system. These may include:

- Employees failing to complete a workstation analysis and not setting up the workstation for their particular needs
- Not providing the most appropriate equipment or equipment that can be adjusted to each individual's requirements
- Hygiene and cleanliness issues, with multiple users using the same pieces of equipment (such as telephones and keyboards)
- Psychological issues, such as isolation from work colleagues or supervisors, difficulties with adapting to the new regime, or problems associated with the above points.

Increased occurrence of musculoskeletal disorders, stress and other health-related problems may occur in the workforce as a result of the points outline above. One solution is to provide workstations that are adaptable to as great a number of users as is reasonably practicable, through good procurement and purchasing processes.

There may be occasions when specialist equipment is required for a particular individual, either due to the work undertaken or due to individual medical or ergonomic requirements. In such circumstances, consideration will have to be given as to how this may be accommodated into the hot-desking regime.

A system must be introduced that enables users to undertake self-analysis of the workstation, which should be reinforced by initial instruction and training, as well as by making available user-friendly information and guidance on analysis and good posture.

In respect of cleanliness and hygiene, a clear desk policy should be introduced. It may be advisable to introduce local hygiene procedures by providing antiseptic wipes/gel sprays for staff to use on telephones and keyboards.

To alleviate the potential psychological issues associated with hot-desking, employers can:

- Make employees aware of how to utilise any systems, such as telephone pre-booking of the hot desk, fault reporting procedures, etc
- Introduce "team zones" that allows teamwork and continuing knowledge sharing, so employees can work with others familiar to them
- Design-in quiet areas or cubicles to allow employees to work on confidential items or concentrate on pieces of work.

SETON

Q&A'S

Training staff to test electrical equipment

Q. Our finance director is concerned at the costs involved in having an external company test all of our electrical equipment. I have been asked if it is possible for a member of our staff be trained to carry out such testing. Is this possible and what should the training cover?

A. Portable appliance testing is often seen as an integral part of an overall inspection testing and maintenance regime for electrical appliances. Many organisations use the services of an external third party under a contract to undertake portable appliance testing, as this is seen as a cost-effective option.

However, an employer may undertake such testing in-house and the most important factor to consider is competency. The Electricity at Work Regulations 1989 state that "no person shall be engaged in any work activity where technical knowledge or experience is necessary to prevent danger, or where appropriate, injury, unless he possesses such knowledge or experience, or is under such degree of supervision as may be appropriate having regard to the nature of the work".

The Institution of Electrical Engineers Code of Practice supports this and states that "those carrying out the inspection and testing must be competent to undertake the inspection and, where appropriate, testing of electrical equipment and appliances having due regard of their own safety and that of others".

This is also stated in INDG236 Maintaining Portable Electric Equipment in Low-risk Environments, which notes that a portable appliance test does not need to be carried out by an electrician, but greater knowledge and experience is needed than for inspection alone, and the person performing the test "must have the right equipment for the task. They should know how to use the test equipment and how to interpret the results".

Financial issues can be an important factor when making decisions in relation to health and safety matters but, if the decision is made to bring portable appliance testing in-house, any person undertaking the testing must be competent and must be provided with the appropriate level of equipment and facilities to enable them to undertake the work. INDG354 Safety in Electrical Testing at Work provides further information that will be useful.

Training must include the identification of equipment and appliance types to determine the test procedures and frequency of inspection and testing. Persons testing must be familiar with the test instruments used and, in particular, their limitations and restrictions so as to achieve repeatable results without damaging the equipment or the appliance.

Consideration must also be given to the individuals' other responsibilities and whether they are given sufficient time to complete their duties. If they are not, the testing regime can lapse.

News ROUND UP

July 2013

UK has lowest road deaths in Europe

The European Commission has published its latest statistics for road deaths in Europe, indicating that the UK, along with Sweden, the Netherlands and Denmark, has the lowest number of road deaths in the EU reporting around 30 deaths per million inhabitants. In contrast, Poland, Lithuania and Greece reported respective figures of 109, 100 and 92 deaths per million inhabitants.

Over half of workers drink to escape job stress

A worrying majority of workers are resorting to alcohol to cope with the pressures of their job. While 57% waited till after work to hit the bottle, a startling one in seven resorted to drinking on the job, according to the study by mental health charity Mind. Work stress is the primary cause of this, with one in three citing their occupation as the most stressful part of their lives — this topped both financial problems (30%) and health (14%).

Businesses urged to train more first aiders

Duncan Bannatyne, from the Dragons' Den TV show, is backing a new St John Ambulance campaign to encourage employers to train more employees to save a life, after experiencing his own first-aid emergency. The Scottish entrepreneur experienced severe chest pains while working at his head office in September 2012, and credits his speedy recovery to the quick thinking and first-aid knowledge of the secretary who found him.

HSE u-turn on occupational disease reporting

The Health and Safety Executive (HSE) has announced it will retain the requirement for employers and duty holders to report occupational diseases under the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 1995 (RIDDOR). The safety watchdog had initially proposed to remove the requirement for bosses to continue to report occupational cancers, diseases attributable to biological agents and six short-latency diseases in the workplace.

First anniversary of Myth Busters Challenge Panel

The Myth Busters Challenge Panel, set up by the Health and Safety Executive (HSE) in order to expose "health and safety" excuses, is celebrating its first anniversary, having clocked up 150 cases since its inception.

Caffeine "can protect against crash risk" for commercial drivers

New research published in the British Medical Journal has concluded that drinking coffee to stay awake "can significantly protect against crash risk" for long distance HGV drivers, with caffeine consumption associated with a 63% lower crash risk.

Review of the Health and Safety Executive

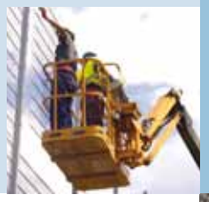
The Government has launched a review of the Health and Safety Executive (HSE) in the interests of "improving the health and safety system" and reforming the public sector. The review stems from the Government's announcement in April 2011 that all non-departmental public bodies would be subject to regular reviews to ensure the need for their functions.

Firms miss out on potential of online learning

UK businesses are not making the most of e-learning methods and have yet to realise the full potential of modern technology when it comes to developing their workforce. According to the 2013 Chartered Institute of Personnel and Development (CIPD)/ Cornerstone OnDemand Learning and Talent Development Survey, 74% of organisations currently use e-learning, but only 15% rate it as one of the most effective learning practices.

New research on mobile elevated work platform incidents

The Health and Safety Executive (HSE) has published a new research report on incidents that have occurred involving mobile elevated work platforms (MEWPs). This new HSE research, RR961 Mobile Elevated Work Platform (MEWP) Incident Analysis, identifies accidents involving MEWPs and analyses the common factors found in this regard. The report can be viewed at www.hse.gov.uk/research/rrpdf/rr961.pdf



Asbestos protest in London

Health and safety campaigners staged a protest outside the Russian embassy in London, on International Workers Memorial Day in April, to demonstrate against Russia's support for the global asbestos trade. Activists wore masks of the Russian President, Vladimir Putin, and hazmat suits, as they noisily protested against the role of the Russia as the world's largest asbestos exporter.

Unions and Europe speak out on Bangladesh tragedy

British trade union sources and the European Commission have spoken out regarding the recent Bangladesh factory collapse that claimed the lives of more than 550 people in the country, with calls for big UK brands to take action on the issue of global health and safety. In a statement, the European Commission confirmed it was considering trade action against Bangladesh, which has preferential access to EU markets for its garments, to bring pressure on the authorities to improve health and safety standards.

New report on health and safety in schools

The European Agency for Safety and Health at Work (EU-OSHA) has published a new report examining the "whole-school approach" to occupational safety and health in education. The report presents and analyses in-depth cases focused on implementing the whole-school approach. The report can be viewed at https://osha.europa.eu/en/publications/reports/occupational-safety-and-health-and-education-a-whole-school-approach.

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