SETON

MAY 2014 EDITION

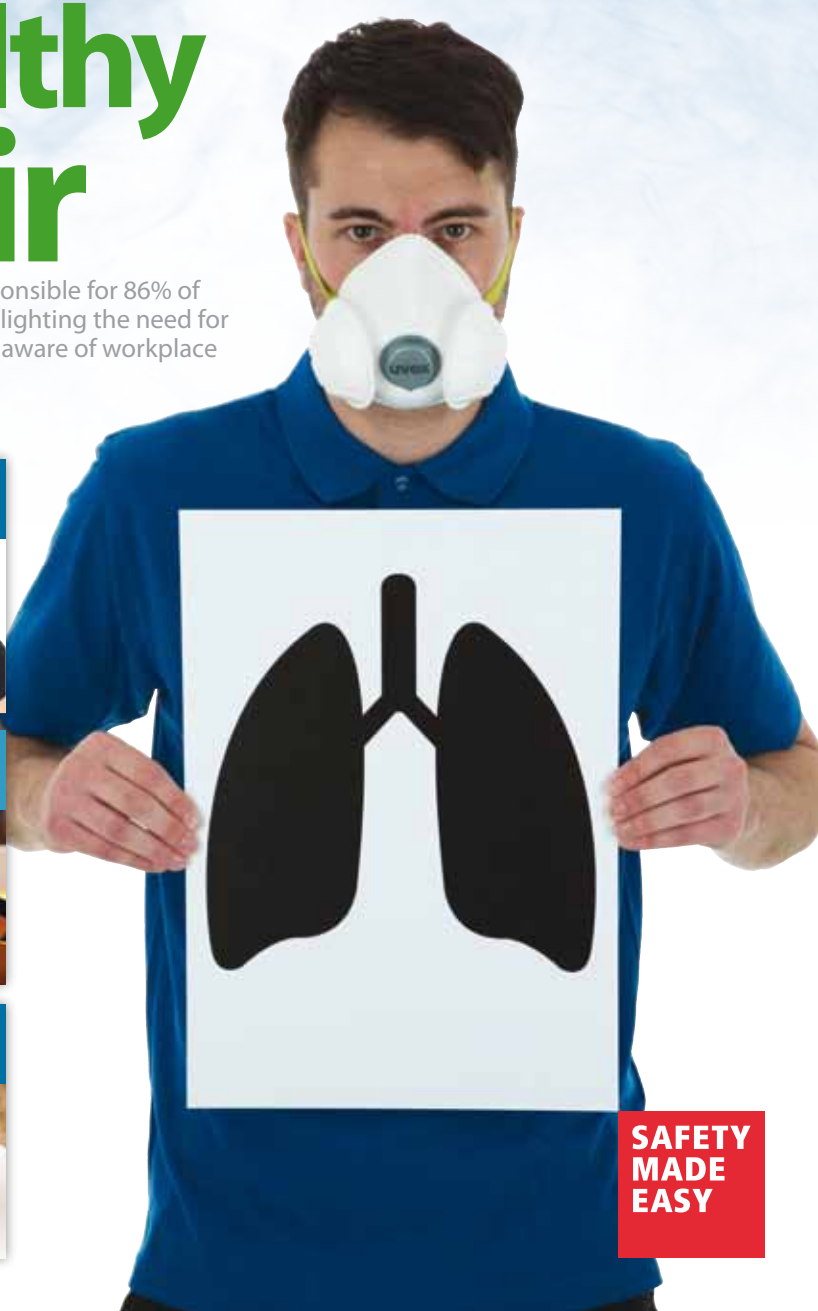
LegislationWATCH

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

Healthy Air

Lung diseases are responsible for 86% of deaths in Europe, highlighting the need for employers to be more aware of workplace exposure levels.

Inside this issue...



SAFETY MADE EASY

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Letter
FROM THE EDITOR

In April this year, air pollution levels in Britain rose to an all time high due to a combination of dust from the Sahara desert and local and European emissions. This has highlighted the need for employers to be more aware of workplace exposure levels and emissions to the environment, as well as the health, safety and comfort of workers. Lung diseases are responsible for 86% of deaths in Europe so there is a growing need for employers to record occupational exposure and introduce more controls to ensure that air quality standards are met. Take a look at our various articles that focus on workplace dusts, respiratory diseases and air pollution. The HSE are also resurrecting their "Hidden Killer" Asbestos campaign (page 16) to highlight the dangers of breathing in asbestos dust. A new ACOP is also being introduced to simplify asbestos law (page 20).

Are your emails making you sick? Research has found that 70% of emails are viewed within 6 seconds with an average work interruption time of 64 seconds. Meaning it takes 64 seconds to get back into the work that was being carried out before the email was opened. The increased physiological burden is causing unnecessary stress on employees (page 35).

I hope you enjoy this edition of Legislation Watch magazine – don't forget you can get all this information online including printable PDF checklists, downloadable Training Tool presentations and access to our unique 'Ask the Expert' service where you can have your health and safety questions answered by our IOSH accredited experts for FREE! Simply go to **www.legislationwatch.co.uk**.

Happy reading!

Cheryl Peacock
Editor

Legal UPDATE

New Act promises better work-life balance

Introducing a number of fundamental changes to the workplace, the new Children and Families Act 2014 has been published.

For employers with no time to read its 240+ pages, the key sections are those where the Government has tried to provide help for parents to balance work and family life.

From 30th June 2014, for example, the right to request flexible working will be extended to all employees and, from 1st October, prospective fathers or a mother's partner will be able to take time off to attend up to two antenatal appointments. The Act also replaces the current statutory procedure, through which employers consider flexible working requests, with a duty on employers to consider requests in a "reasonable" manner.

From April 2015, mothers, fathers and adopters can opt to share parental leave around their child's birth or placement. This will give families more choice over taking leave in the first year - dads and mothers' partners can take up to a year, or parents can take several months at the same time.

Furthermore, adoption leave and pay will, from the same date, reflect entitlements available to birth parents. There will be no qualifying period for leave; enhanced pay to 90% of salary will be available for the first six weeks; and time off to attend introductory appointments will be allowed.

Intended parents in surrogacy and "foster to adopt" arrangements will also qualify for adoption leave and pay.

Welcoming the changes, Employment Relations Minister Jenny Willott said: "Employers will be able to attract and retain women - from the boardroom to the shop floor - and prevent them from dropping out of the world of work once they start a family. Flexible working will also help widen the pool of talent in the labour market, helping to drive growth."

Bill to create new Scottish food safety body

Plans to create a new food safety body for Scotland have been unveiled as a Bill begins its passage through the Scottish Parliament.

The Food (Scotland) Bill, published on 16th March 2014, sets out objectives for a new public body to replace the current UK organisation, the Food Standards Agency.

The key aims of Food Standards Scotland (FSS), as outlined in the new Bill, will be to:

- Make sure food in Scotland continues to be safe to eat
- Advise on how to improve the diet and nutrition of people in Scotland
- Be more efficient and more responsive to Scottish circumstances
- Be an effective and proportionate regulator, supporting the Scottish food and drink industry in growing its international reputation for safe, quality food
- Support Scotland's food and drink policy.

Commenting on the new authority, Michael Matheson, Public Health Minister, said, "While Scottish businesses were not responsible for last year's horsemeat scandal we have included extra measures in the Bill so consumers can be even more assured that targeting fraudulent behaviour throughout the food supply chain remains a high priority for us in the future… We hope the body will be a trusted source of food safety advice to the Government, led from within Scotland and with the confidence and ambition to ensure Scottish food continues to be safe and healthy to eat."

HSE opens consultation on proposed replacement of CDM regulations

The HSE has begun a consultation on its proposals to replace the Construction (Design and Management) Regulations 2007 (CDM 2007).

The construction industry and others have 10 weeks to respond to the proposals, which are intended to make the regulations easier to understand and comply with but retain vital safety protection.

The most significant changes included in the proposals are:

- The CDM co-ordinator role being replaced by a principal designer role within the project team
- Removal of explicit competence requirements and replacing with a specific requirement for appropriate skills
- Application of the regulations to domestic clients in a proportionate way
- The Approved Code of Practice being replaced by tailored guidance.

Many domestic projects will also come under the full effect of the CDM Regulations in order to better comply with the European Directive.

The proposals are the result of the Construction Industry Advisory Committee (CONIAC) working alongside the HSE for two years. Heather Bryant, HSE Construction Chief Inspector, stated: "The proposed changes are aimed at ensuring more people come home safe and well from their work and making the law simpler and clearer for employers to understand, particularly small businesses."

The consultation runs from 31st March to 6th June 2014.

SETON

HSE to focus

ON RESPIRATORY DISEASE . . . . . AND OCCUPATIONAL CANCER

The Health and Safety Executive (HSE) has published on its website a paper outlining its current and future plans to tackle occupational disease as a "critical issue", with particular focus to be on the priority areas of respiratory disease and occupational cancer.

The document is earmarked for presentation at the meeting of HSE's Board on 5th March 2014, which has how to tackle occupational disease listed as a key item on the agenda.

In the case of respiratory disease, the paper notes that work-related respiratory disease covers a range of illnesses that are caused or made worse by breathing in hazardous substances that damage the lungs such as dusts, fumes and gases. The most prevalent of these diseases are said to be chronic obstructive pulmonary disease (COPD), asthma and silicosis.

A number of industries and workplace activities are linked to a high incidence and greater risk of respiratory disease and the paper sets out priority areas in this regard as:

- Construction workers
- Foundry workers
- Welders
- Quarry and stone workers
- Vehicle paint sprayers
- Bakery workers.

In respect of occupational cancer, priorities for future activity are listed as:

- Asbestos
- Shift work
- Respirable crystalline silica
- Welding
- Painters
- Diesel engine exhaust emissions
- Solar radiation
- Polycyclic aromatic hydrocarbons (coal tars and pitches)
- Tetrachloro-ethylene
- Radon.

Future subjects for developing stakeholder working partnerships are suggested as "breast cancer associated with shift work (night work) and cancer in painters" where the paper argues there is a "need to develop a better understanding of the causal link/exposure scenarios and continuing developing relationships on the topic of work aggravated asthma".

Quoting the recent triennial review of the HSE, the paper also notes the review's recommendation that, "HSE continues to seek new and innovative ideas for interventions that maximise its impact on the continuing high levels of work-related ill health."

Legislative Requirements

The Control of Substances Hazardous to Health Regulations 2002 (COSHH), as amended, provide a comprehensive approach to the control of all potentially hazardous substances in the workplace, including those substances that cause lung disease and occupational cancers. The regulations set out responsibilities for employers to prevent, control and assess hazards. In addition, COSHH sets limits for exposure to a wide variety of substances.

All substances capable of causing occupational lung disease or cancer are covered by these limits, which are given as workplace exposure limits (WELs). WELs are constantly subject to revision and are issued annually in the HSE publication, EH40 Workplace Exposure Limits.

Some substances are sufficiently hazardous to warrant individual legislation, e.g. the Control of Asbestos Regulations 2012.

Reporting Occupational Lung Disease and Cancer

Occupational lung disease and cancers should only be diagnosed by an occupational or chest physician. Once diagnosed, they can be reportable industrial diseases in accordance with the requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) - the onus being on the employer to make the notification.

"Invisible" Deaths

There are around 200 different types of cancers that affect various parts of the body, with a variety of causes. For example, smoking is a cause of lung cancer; significant exposure to solar radiation from the sun can cause skin cancer; and poor diet is associated with other cancers.

Asbestos is a known carcinogen that can cause three lung diseases, one of which is lung cancer. Consider a worker who smokes and is exposed to asbestos and then develops lung cancer. The question arises as to which factor caused the cancer: smoking, asbestos or a combination of both? Recent evidence from a pilot scheme on assessing death certificates ("Inaccurate cause of death recorded in one in four patients", The Guardian, 10th August 2012) indicated that doctors failed to give an accurate cause of death in 25% of cases: it was also indicated that in 1 in 10 cases the doctor may give the "wrong type of disease". Hence it is likely that deaths related to occupational diseases are significantly underestimated.

A fatal accident at work is immediate, often linked directly to an employer, visible in the workplace, reportable, investigated, and may often result in a prosecution. There are several points in this process where publicity may arise. On the other hand, a death caused by an occupational cancer can be "invisible" to the public because:

- It may not be recognised as such by a doctor
- The link between a specific exposure to a carcinogen and an individual's cancer can very rarely be established
- The time between being exposed to a carcinogen and the development of symptoms may take many years, and by the time the cancer has developed people may not associate it with their work
- As cancer becomes more prevalent in society generally, it becomes more difficult to identify work-related causes.

Controlling the Risk

Risk assessments must be carried out to clarify the nature of the hazards, identify who is impacted, and to highlight what processes need to be in place to eliminate, control and manage the risk. All exposure to hazardous substances should be prevented or avoided. This means the:

- Removal of toxic materials, where possible
- Substitution with less toxic materials, where possible
- Elimination of processes that might cause exposure
- Enclosure of harmful processes with automatic operation, if possible.

Where exposure cannot be avoided or prevented, the following options should be considered:

- Isolation of harmful processes from the remainder of the plant and appropriate personal protection for designated workers
- Local exhaust ventilation (fume hoods/cupboards)
- General extraction ventilation
- Control of dusts by wetting or precipitation
- Limiting exposure hours by shorter working periods or rotation of jobs
- Planned maintenance to ensure machinery and dust control systems are working to specification
- Personal protective equipment (respirators, suits, etc) and ensuring any equipment is used appropriately
- Warning signs and notices.

Ask the expert...

Do you have a question related to Health & Safety or Workplace Law?
Our experts are IOSH accredited and ready to answer any questions you might have.

Our fire protection contractor wants us to put fire extinguishers on all exits. Are we legally required to do so?

We have a qualified fork lift truck driver – does he have to sit a refresher after three years even if he uses the truck every day and has had no incidents?

We are holding a public event and have been told to carry out a risk assessment. What do I need to do?

What are our H&S obligations to remote workers?

How to 'Ask the expert'

1. Go to www.legislationwatch.co.uk
2. Click on the red 'Ask the expert' tab
3. Enter your question on the form
4. We will respond via email within 48 hours!

Controlling the work environment

The work environment, regardless of the work being done, impacts on employees' health and safety. As such it is important to understand how employers can control air quality and temperature issues.

Temperature

The Approved Code of Practice (ACOP) to the Workplace (Health, Safety and Welfare) Regulations 1992 suggested a minimum temperature of 16°C after the first half hour of work at the premises or 13°C if exertion is involved and there is no suggestion that this is likely to change due to the abolition of the ACOP itself.

For light sedentary occupations the recommended winter temperature is 22°C +/– 2°C and the recommended summer temperature is 24.5°C +/– 1.5°C.

Thermometers should be provided so the temperature can be checked. There is no legal maximum temperature.

Ventilation

Every person needs to be provided with a minimum supply of outdoor air for the duration of the work period. This air should be fresh and clean, and uncontaminated by discharges from flues, chimneys or other process outlets.

A minimum of 5–8 litres per second per person of outdoor air is recommended. Less than this will increase the level of pollutants, in particular carbon dioxide (CO_2) produced from human respiration.

Ventilation should remove and dilute warm, humid air and provide air movement which gives a sense of freshness without causing a draught. It should also maintain oxygen and monitor CO_2 levels.

In most workplaces, windows will provide sufficient ventilation. However, if process or heating equipment in the workplace produces dust, fumes or vapours, mechanical ventilation will be needed to remove these.

Humidity

Relative humidity is the amount of moisture contained in the air compared to the amount of moisture that the air is capable of holding.

The recommendation for working environments is a relative humidity of 40–60%. Levels outside these parameters can be tolerated but should not be maintained for long periods.

Drinking Water

To mitigate any effects of high temperatures and low relative humidity, employers should maintain a clearly labelled, adequate supply of wholesome drinking water, either with an upward drinking jet or suitable cups. This should be located so that it is easily accessible from the work area but not situated near electrical equipment or where a slip hazard could occur if there is a spillage.

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Risk Assessment

Temperature/humidity/air supply is a complex area to control due to the interaction of factors such as:

- The temperature and relative humidity of external air
- Internal heating and air-conditioning systems
- The extent of any natural vegetation
- The activities engaged in by building occupants
- The amount of machinery and equipment in use.

None of these are likely to be constant and so the indoor environment will vary according to:

- The weather
- The time of day
- The season
- The settings and effectiveness of building services
- What is taking place in each work area.

In addition, the higher the air temperature, the more water vapour the air can hold, affecting occupants' perceptions of stuffiness. Personal preferences and individual tolerance levels vary enormously.

The person(s) responsible for maintaining a safe and healthy working environment should accept that as long as the risks have been assessed, reasonable control measures have been taken and the environment continues to be monitored, some occupants may still not regard the environment as comfortable.

However, there are two ways in which employees' perceptions should be taken into account:

- Wherever possible local controls should be in place
- Any problems reported, especially those relating to the safety and health of occupants and visitors, should be investigated promptly.

The risk assessment should consider the following factors:

- Are workers expected to carry out very different tasks in the same environment?
- Are temperature, ventilation and relative humidity controls set at the appropriate levels for the activities being carried out?
- Do building occupants repeatedly change thermostat and other settings?
- Are health symptoms such as muscle cramps, heat rash, severe thirst and fainting being reported?

Control Measures

Actions to help to maintain appropriate levels of temperature, airflow and relative humidity include the following:

- Measure temperature, airflow and relative humidity in different parts of the workplace, either regularly or continuously, and record the results
- Monitor temperatures, ventilation rates and relative humidity over a period of time and adjust building services accordingly
- Set thermostats at appropriate levels and check them regularly
- Regularly inspect, maintain and clean heating, cooling, ventilation, humidifying and dehumidifying equipment and ducts
- Provide drinking water, free from contamination, easily accessible by all workers, clearly labelled, either in a fountain or with cups
- Where extreme weather conditions affect the internal environment, adjust settings on building services, and make individual fans and heaters available
- Respond promptly to reports of health problems.

Training

Workers in some environments may be vulnerable to risks presented by the nature of their work. These will include:

- People who work in hot, humid environments especially if they have to wear protective clothing
- Those who work in chilled and refrigerated environments, where work is of a dirty nature, or where microbial, biological or chemical contamination is a possibility.

All employees in these situations should be trained to understand the risks, the symptoms and how to take action to protect their own safety and health. Such actions will include:

- Drinking sufficient water
- Wearing the appropriate personal protective equipment
- Taking sufficient breaks
- Washing hands thoroughly
- Using showers where appropriate.

Seton Recommends...

Wall-Mount Thermometer
Style No. 19120

12" Desk Fan
Style No. FAN3

Vertical Convector Heaters
Style No. TC13

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FORK LIFT TRUCKS:

Handle With Care

Fork lift trucks are potentially very dangerous pieces of work equipment. Here we consider some recent cases involving fork lift trucks that illustrate where things can go wrong.

The use of a fork lift truck for complex operations should be thought through and the whole operation planned. Failure to do so can have serious consequences. People and trucks should be separated within the workplace to reduce the incidence of serious injury: this should be achieved through risk assessment. It cannot be overstated that the use of fork lift trucks must be restricted to trained and authorised persons.

The importance of planning

In February 2013, a Manchester based metal manufacturer (AF) was sentenced following the death of a 25-year-old employee (BD), who was killed when a machine weighing half a tonne fell from a fork lift truck. As with nearly all such accidents, this fatality was avoidable.

BD was walking alongside the fork lift as it moved the fourth machine at the AF site when it became unstable, fell and struck him on the head. He died at the scene. The court heard that AF had taken over the factory six weeks before the incident, but had not carried out a health and safety audit of the new premises. The firm also failed to inform its own trained engineer responsible for overseeing lifting operations that it was planning to move the machines at the plant.

Further investigation revealed that the fork lift operator who lifted the machine had attended a one-day driver training course in October 2006, but that he was not trained and competent to lift complicated loads that were not on pallets. He was not competent to move this load. The HSE investigation into the incident found that AF had not planned the work in advance so that the machine could be moved safely.

AF, which went into administration before the trial, was found guilty of breaching s.2(1) of the Health and Safety at Work Act 1974 by failing to ensure the safety of its employees. The company received a nominal fine of £1. After the trial, an HSE inspector commented: "If the machine had been strapped to the forks, and workers told to stay a safe distance away, then [BD's] death could have been avoided."

Separating people from vehicles

A paper mill (PM) has been fined following serious injury to one of its employees, who suffered several fractures to his leg and foot. The investigation by the HSE concluded that this, too, could have been avoided if simple safety precautions had been taken.

The court heard that the man was in an aisle in the warehouse taking tickets off pallets that were filled with paper goods. The pallets were then to be put on racks at either side of the aisle. A colleague was using a fork lift truck in the same aisle. He reversed and backed into the worker, crushing him between the truck and a pallet. The man suffered three breaks in his right ankle as well as two fractures to his left leg. He has been able to return to work at the firm on light duties.

PM was fined £5000 and ordered to pay £3069 in costs after admitting a breach of the Workplace (Health, Safety and Welfare) Regulations 1992.

After the case, an HSE inspector said: "The incident was entirely preventable. PM failed to make sure that there was a safe vehicle and pedestrian system of work in place within their warehouse. Such a measure would have prevented vehicles being able to access areas where workers on foot were moving around. Such a system was entirely possible without any detriment to the work being done."

Stopping the movement of vehicles when necessary

A chemicals company (NR) has been fined £20,000 and ordered to pay £3,139 in costs after pleading guilty to single breaches of the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999. An experienced, long-serving employee, who had worked for the

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company more than 40 years, was hit by a fork lift truck (which was carrying a one tonne pallet) as he carried out maintenance on a drain on the NR site. He suffered major crush injuries to his right leg and had to undergo an above-the-knee amputation in hospital. He also sustained ligament damage to his left leg, a dislocated left elbow and was in hospital for some four weeks. He has been unable to return to work at NR.

After the hearing, an HSE inspector commented: "It would have been relatively easy for NR to close the road down for the 15-minute period that was needed to seal the drain cover".

Pay heed to the pay load

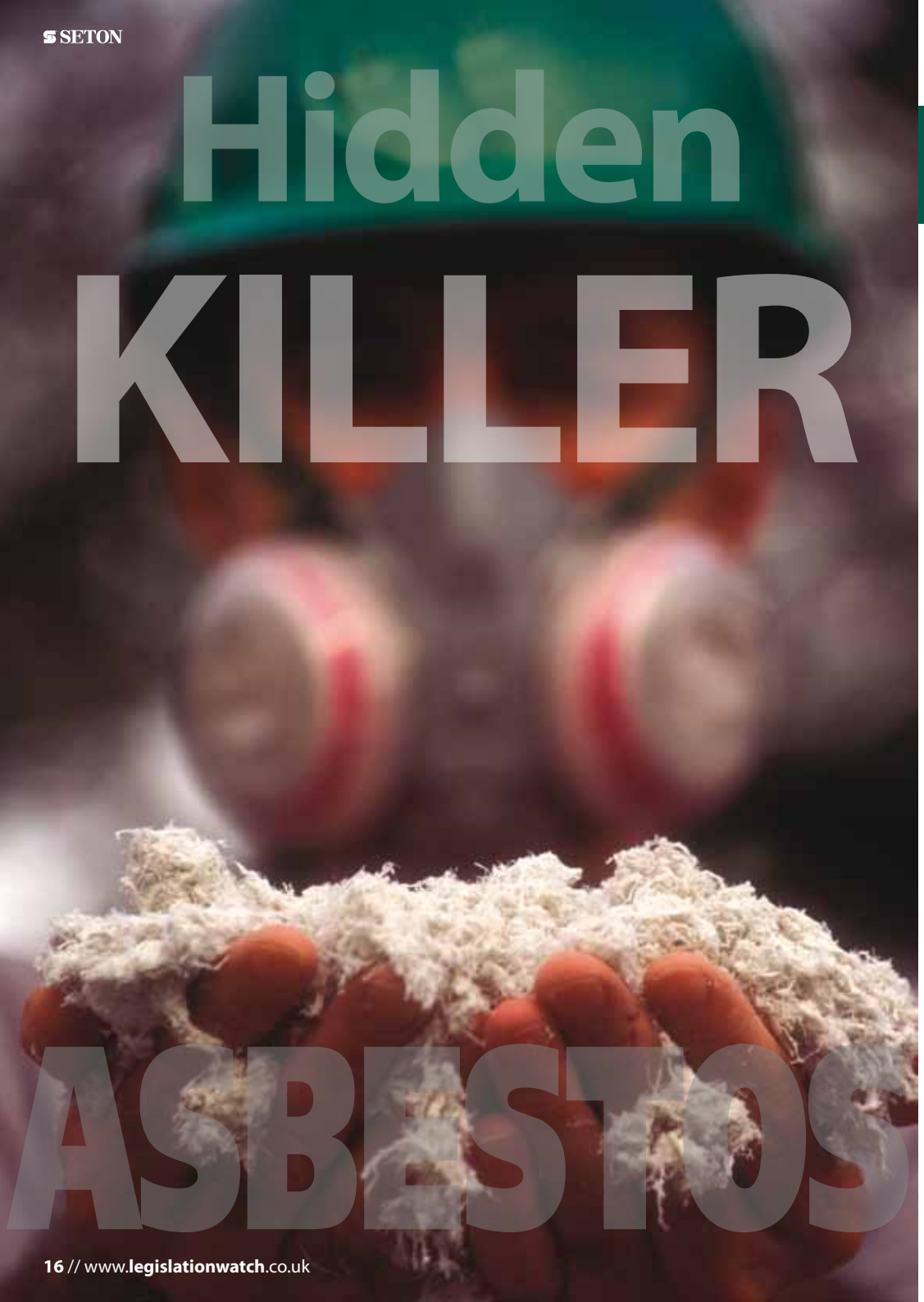
A fork lift truck driver narrowly escaped being killed when the vehicle he was operating overturned; his employer was prosecuted and fined £18,000. The worker was using the truck to align a one-and-a-half tonne storage container on top of a stack of containers when it overturned. The employer was prosecuted by the HSE after its investigation found the container was more than two and a half times the safe lifting capacity of the fork lift.

Magistrates heard that one of the company's employees had used the fork lift truck to lift the storage container, filled with books and magazines, on top of a stack of three other containers the day before the incident. As he lifted it, the rear wheel on the left hand side of the truck lifted off the ground and the container was left overhanging the top of the stack, more than seven metres in the air. The following day, a supervisor was asked to assess if the fork lift truck could be returned to a stable position and the overhanging container aligned. He strapped himself in and tried to move the container. The fork lift overturned. He escaped without any injuries.

The company admitted breaching the Provision and Use of Work Equipment Regulations 1998 by failing to provide suitable work equipment. The company, which is part of a global removals, storage and shipping group, also pleaded guilty to a breach of the Lifting Operations and Lifting Equipment Regulations 1998 after it failed to make sure the work was planned and carried out safety. The firm was fined £15,000 and ordered to pay £3,860 in prosecution costs.

Speaking after the hearing, the investigating inspector at the HSE said: "The worker at the warehouse was lucky not to have been seriously injured or even to have lost his life as a result of the fork lift truck overturning… The company specialises in storage and removals and so it regularly uses fork lift trucks to move containers. It made a basic error by failing to assess the weight of the container before allowing it to be lifted… The container was much heavier than most of the others at the warehouse, and the contents should have been split before it was stacked… Sadly, overturned vehicles cause several deaths in British workplaces every year.
Employers must do more to make sure lives aren't put at risk."

Danger Fork Lift Truck Sign
Style No. HZ119A3RP



CAMPAIGN TO BE RESURRECTED

The HSE's successful "Asbestos: Hidden Killer" campaign ran from 2008 till 2010. During that period there were four phases and the HSE evaluated the impact. The campaign was particularly targeted towards trades people and construction workers. Overall, the HSE used a variety of media and promotional outlets to promote the campaign and it is supported by a dedicated HSE website.

While the previous evaluations indicated that there was a need to maintain the campaign communications, the promotional work stopped in 2010. This halt was prompted as part of a Government review of all campaigns; however, it was indicated at the time that the next stage of the campaign would need to be reviewed.

At its Board Meeting on 30th October 2013 the HSE confirmed that it would now develop the next phase of the campaign. As well as reviewing previous phases of the "Hidden Killer" campaign, the HSE also considered some recent research (Insight Research to Inform the Asbestos 2013-14 Campaign: Final Report, HSE October 2013) on attitudes and practices among the target audience – trades people, construction workers and caretakers.

In this article the research report identifying issues will be reviewed and key points outlined. However, details of the communications section will not be reviewed. The findings may be useful for managers to consider when reviewing how to raise awareness among their own workers. The article will conclude with how the HSE thinks the next phase of the campaign will be undertaken.

What the workers think

The Insight report was aimed at looking how the next phase of the "Hidden Killer" campaign could be best developed to change the behaviour of workers - and others - to protect them from exposure to asbestos fibres. While it identified that the campaign had been "highly successful" so far, it wanted to identify whether changes to the campaign may be needed in future.

The campaign objectives had already been established and these are to:

- Support the policy objective to reduce the overall number of trades people dying from asbestos-related diseases
- Inform and educate the target audience that the risk from asbestos is current and relevant to them and the work that they do
- Encourage the target audience to actively seek information about asbestos and the ways they can protect themselves by undertaking a tailored call to action.

Two specific aims were set out for the research.

1. To identify audience barriers and drivers to taking action to protect themselves against asbestos.
2. To support development of the communications strategy to meet its objectives.

The researchers sought a number of respondents who had been trained on asbestos work, were not involved with licensed contracting work and were from a range of different sized organisations. There were 64 respondents and they were dealt with in two stages. Various scenarios and questions were put to them to identify how they dealt with asbestos at work. The main findings were as follows.

Asbestos at work

The respondents had a broad knowledge that asbestos was hazardous and they should not disturb it or work with it. While there appeared to be little awareness of what the health risk posed by asbestos actually was, there was a great deal of variation in detailed knowledge.

Actions to avoid working with asbestos included having conducted a risk assessment; the supervisor or employer, for example, had stated the work area contained no asbestos; or they themselves decided no asbestos was present. Others stated they would take "appropriate measures" to deal with asbestos, or use a licensed asbestos contractor.

Barriers to preventive action

While awareness of the dangers related to asbestos was recognised, there was a perception that it was not a threat to the respondents personally. It was also indicated that people may not be taking appropriate measures to protect themselves from exposure to asbestos fibres. Of significant concern was the finding that:

- "Looking at how the risk of asbestos is assessed it was clear that for a good range of respondents their assessment of both appropriate measures and position of relative safety (versus risk of exposure) was wrong."

Even where the risk assessment process had identified appropriate control measures, "protective practice was not always undertaken appropriately or safely".

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The main barriers were related to respondents not believing their personal health was at risk, for example:

- It was not their responsibility to check if asbestos is present (particularly those in the larger companies)
- The cost of identifying where asbestos was and taking action may be too high (particularly those in small companies or sole traders)
- There was a lack of understanding as to how to reduce the risks associated with asbestos
- There were issues around the provision and use of Personal Protective Equipment (PPE).

Drivers for the new phase of the campaign

In addressing these barriers, the researchers suggested "drivers" that should be considered in working out how a campaign could be targeted. The key factors that were identified that should be used to "drive" the new phase of the campaign include:

- Making the issue relevant to the target workers by showing that asbestos may be present in the buildings they are working on, i.e. those built before the year 2000
- Making clear what the health risk is a nd how asbestos could impact on their health
- Pressing workers to accept responsibility for taking preventive action
- Reducing the opportunity cost of taking action
- Stating clear advice on dealing with preventive asbestos measures
- Empowering the audience to use PPE.

The researchers also identified that the respondents were concerned about the issue emotionally as well as technically, i.e. they wanted to improve control measures to reduce the risk of asbestos-related diseases affecting them and their families.

Overall this research has indicated where future efforts need to be targeted. While there undoubtedly has been progress made on raising awareness, it still seems apparent that actual working practices need to be improved. In the report the researchers also discussed the type of communication messages that should be included in the campaign. It may be worthwhile for managers to study the communication ideas in the report and contrast them with their own.

HSE plans for the future

At its meeting on 30th October, the HSE discussed the "Hidden Killer" campaign and agreed to implement the next stage. While the details of the measures were not given, the HSE did indicate that the following is expected to be included in the campaign:

- Asbestos information kits - following testing, these will be distributed to trades people through a commercial partner
- Pilot regional radio advertising - this was successfully applied in the first phases of the campaign
- Partnership marketing - working with suppliers and retailers regularly used by trades people to deliver information and encourage behaviour change
- Public relations activity - this will be used to promote the campaign
- Production of other materials for use by stakeholders and interested parties
- Use of digital channels, for example the HSE website.

Initially, the HSE is looking to develop the "information kit" and identify commercial partners. This indicates that it will not be fully funding the whole initiative itself. Perhaps as a result of this, the HSE has made clear that the next phase of the campaign is unlikely to be launched before April 2014.

Conclusion

It is clear that there is still a need for asbestos issues to be promoted specifically for workers most at risk of asbestos exposure: trades people and construction workers generally. The fact that the next phase of the "Hidden Killer" campaign will be starting in 2014 should provide a prompt for managers to review their asbestos policies and procedures now.

For more information on Asbestos "The Hidden Killer" and free downloads, visit the dedicated HSE site - http://www.hse.gov.uk/ASBESTOS/hiddenkiller/

Training TOOLS

This edition... Identifying Asbestos

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.

Download Your **FREE** Presentation **NOW!**

Asbestos is a naturally occurring fibrous material that has been a popular building material since the 1950s. It is used as an insulator (to keep in heat and keep out cold), has good fire protection properties and protects against corrosion. But because asbestos is often mixed with another material, it's hard to know if it's present or not. Most buildings built before the year 2000 are likely to contain asbestos, posing a huge health risk to building occupants if disturbed without the correct knowledge and training.

This downloadable presentation covers:

- What is asbestos?
- Asbestos facts
- Where is asbestos found?
- What does asbestos look like?
- How can you identify asbestos?
- The hidden killer – diseases
- Asbestos training legal requirements
- Working with asbestos

FREE Training Tool Slides!

Download our useful presentation on how to identify asbestos.

How To:

1. Go to: **www.legislationwatch.co.uk**
2. Click on Knowledge Centre → Training Tools
3. Select the Training Tool you wish to download

Simplifying asbestos law

The new ACOP

In the Löfstedt Review of health and safety regulations, published in November 2011, it was recommended that the HSE review all its Approved Codes of Practice (ACOPs). This review was undertaken and, in relation to the Control of Asbestos Regulations 2012 (CAR), the HSE proposed combining the following publications into one document: The Management of Asbestos in Non-domestic Premises (L127) and Work with Materials Containing Asbestos (L143).

In September 2013, the HSE concluded its consultation exercise. The proposals to review and combine the two ACOPs had been published three months earlier. Most respondents agreed with the proposals and the HSE published Managing and Working with Asbestos (L143) on 20th December 2013. L127 was withdrawn when the revised edition of L143 was published.

Hence there is now only one ACOP that gives interpretation to the general aspects of CAR 2012. The Government had proposed that ACOPs should be limited to 32 pages, where possible. Given that it was proposed that two ACOPs be consolidated, it is no surprise that the published document is 116 pages.

What changes?

The 2012 regulations have not changed. However, when the UK had to change the CAR 2006, most supporting documentation was not amended. The change was needed as the European Commission had stated that the UK had not fully implemented the Asbestos Worker's Protection Directive. As a result, the CAR 2012 incorporated the new classification of work: "notifiable non-licensed work" (NNLW).

As this was the only major change, the HSE did not amend all its written materials. Guidance on NNLW was given on its website. The HSE took the review as an opportunity to amend the ACOP to reflect this change. It should be noted that guidance, such as the Analysts Guide and Asbestos Contractor's Guide, is likely to be updated and published in 2014.

Clearly, by consolidating two existing ACOPs into one will mean changes. However, the HSE's objective was to "make it clearer what the duty holder can do to comply with legal requirements". Hence the key changes of substance are as follows.

- Material supporting regulations 2, 3, 9 and 22 have been revised to reflect recent changes to the law on NNLW and consequent arrangements for medical examinations for employees and record keeping.
- Material supporting regulation 10 has been simplified to help employers understand more clearly what they need to do in relation to providing information, instruction and training to employees.
- There are some minor changes to the Control of Asbestos Regulations since they were introduced in 2006.

The most significant issue surrounds the guidance for NNLW. This type of work requires medical examinations for the workers who undertake it, appropriate training and the maintenance of records. In responding to the consultation exercise some comments indicated this could increase operating costs. In the new ACOP, the HSE gives some examples of NNLW, separating these from non-licensed work. The section identifying typical examples of the three different types of asbestos work - licensed work that requires contractors to have a HSE Asbestos License; NNLW; and non-licensed work - have been simplified. Tables are used to list the type of work that is likely to fall within each classification.

The issue that is likely to cause most concern relates to the requirements linked to NNLW. It is required that employers keep records and have medical examinations of their workforce who may undertake NNLW. As regards record keeping, for NNLW the employer must keep a health record that includes:

- Details of the employees carrying out the work in a register or record, indicating the nature and duration of the activity and the exposure to which they have been subjected
- Maintaining a recording and planning system that records the date of the last examination and brings forward the next required medical examination date for each individual.

The health record must be kept for 40 years in a safe place. This requirement is separate from the medical examinations.

For NNLW, employers must ensure their employees are medically examined before or on 30th April 2015. From 1st May 2015 "anyone carrying out NNLW should have been medically examined under the regulations in the past three years". While a number of the respondents (49%) to the consultation exercise wanted the transition period shortening, the HSE maintained the three-year period. Hence employers undertaking NNLW will need all their employees medically examined by the end of April 2015.

The HSE has amended the ACOP to allow GPs to undertake the medical examination. Once taken, those doing NNLW will need to repeat the examination every three years or sooner, if advised by the doctor. However, for those workers doing licensed work, the medical examination must be done by a HSE-appointed doctor and repeated every two years.

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Training

In relation to training, the ACOP spells out the areas needed to be covered in the related training for those undertaking NNLW.

Training for non-licensable work should include information on the following:

- The operations that could result in asbestos exposure and the importance of preventive controls to minimise exposure
- How to make suitable and sufficient assessments of the risk of exposure to asbestos
- The control limit and the purpose of air monitoring
- Safe work practices, control measures and protective equipment. This should include an explanation of how the correct use and maintenance of control measures, protective equipment and work methods can reduce the risks from asbestos, limit exposure to workers and limit the spread of asbestos fibres outside the work area, including, where relevant, the maintenance of enclosures
- Procedures for recording, reporting and correcting defects
- The purpose, appropriate choice and correct selection from a range of suitable respiratory protective equipment (RPE), including any limitations
- The correct use and, where relevant, cleaning, maintenance and safe storage of RPE and PPE, in accordance with the manufacturer's instructions and information
- The importance of achieving and maintaining a good seal between face and RPE, the relevance of pre-use tests and face fit tests (FFTs), and the importance of being clean-shaven
- Hygiene requirements
- Requirements and procedures for medical examination, for NNLW
- Decontamination procedures
- Waste handling procedures
- Emergency procedures, including how to deal with an emergency release
- Which work requires notification as NNLW and which work requires an HSE licence
- An introduction to the relevant regulations, ACOPs and guidance that apply to asbestos work and other regulations that deal with the carriage and disposal of asbestos
- Personal sampling and leak and clearance sampling techniques, for analysts
- Other work hazards, including working at height, electrical, slips, trips and falls, where this is applicable to the work being done.

The HSE indicates that a training needs analysis should be carried out for operatives. This should identify what employees already know and the above list can be used to identify which additional topics need to be covered, in addition to the topics identified for the asbestos awareness training. This additional training for NNLW should be "task-specific information, instruction and training".

The new ACOP

The HSE states that the new ACOP should help employers, and other duty holders, meet their legal obligations. It is likely that when the HSE launches the next stage of its "Asbestos: Hidden Killer" initiative in the spring, it will be heavily promoting the new ACOP. Employers are well advised to check that their control of asbestos is up to date now.

GREAT BRITISH HEALTH & SAFETY MYTHS

The HSE has published the results of a new survey which it says has highlighted some of the "bizarre and unnecessary" things small firms mistakenly do in order to comply with health and safety legislation, wasting time and money.

The research was based on a survey of 45 small to medium-sized enterprises (SMEs), with interviewers asking a number of questions relating to their approach and beliefs concerning health and safety.

The study revealed the lengths some small firms mistakenly go to trying to comply with health and safety, with examples of the most absurd things employers had been advised to do including the following...

Another introduced written guidelines for walking up stairs.

One business completed a risk assessment for using a tape measure.

Around 11% believed that a qualified electrician must test electrical appliances, such as kettles and toasters, every year – described by HSE as "another persistent myth".

In addition, 1 in 5 respondents (22%) surveyed believed they were not capable of managing health and safety themselves and needed to hire a specialist consultant.
Nearly a third of small businesses surveyed classed themselves as "hopeful-have-a-go's" when it came to health and safety - aware they have to take some action but unsure where to start or if what they are doing is correct.
The HSE said the survey shows how myths about health and safety can cause unnecessary confusion.
HSE Myth Busters Challenge Panel
Battling persistent health and safety myths and over-compliance, the HSE is fighting fire with fire by using two of the oldest influencing techniques in the book - ridicule and humour. Many of the myths that have come before their Myth Busters Challenge Panel are amusing, but some illustrate a willingness to blame health and safety for unpopular business and commercial decisions.
Some examples from HSE's archive:

A woman was refused a pint glass with a handle in certain pubs and hotels, being told such glasses were now illegal for health and safety reasons.

A man was told by a hotel chain that it was unable to serve burgers rare because of health and safety laws - something the panel was quick to deny.

Guests in a hotel complained that the cot bed had not been made up - and were told this was because of "health and safety". The panel said they were unaware of any cot bed regulations.

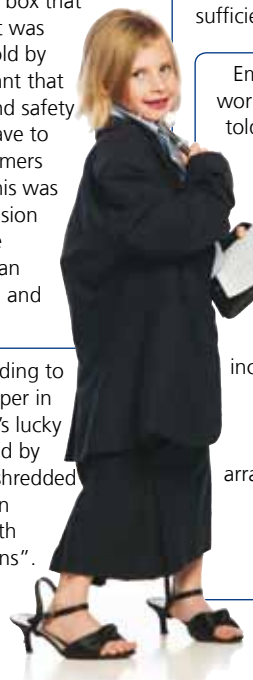
After eating a meal in a restaurant, a diner requested a toothpick but was told he could not have one on health and safety grounds. The panel reassured him: "There is no health and safety regulation which stops toothpicks being handed out in a restaurant… whether or not to provide toothpicks is about cost and customer service, not health and safety."

A member of the public buying a pair of shoes refused a box that was offered but was subsequently told by the shop assistant that "their health and safety man says we have to make the customers have a box". This was felt to be a decision made to reduce waste rather than any valid health and safety reason.

Volunteers intending to use shredded paper in their school fête's lucky dip stall were told by the school that shredded paper was not an option "for health and safety reasons".

A council emailed an instruction to remove a flag from the inside of one of their windows stating that it breached health & safety legislation. In fact it was the council's own policies rather than legislation that led to the worker receiving the email.

Employees told they cannot leave hand wash purchased by themselves in company toilets and also that they are not allowed to bring cleaning products into work. This was felt to be over the top considered that they were bought in a high street shop. The panel felt that this was an overzealous application of the COSHH Regulations as high street brand hand wash and cleaning products will not contain chemicals in sufficient quantity as to be harmful.



Employer looking to arrange a work experience placement was told that they must provide the school with a specific young persons risk assessment detailing the processes in place to reduce risk to young people. Although a widely held view, this is incorrect. For most workplaces it is sufficient for the organisers to ask a few questions about the arrangements in place and that the persons offering the placement are aware of any specific issues with the young person.

Violence at Work

Latest figures

The Health and Safety Executive has released a new set of statistics on violence in the workplace, indicating the number of violent incidents at work has declined over the past decade, with the incident rate remaining stable over the last four years.

The new figures are based on findings from the Crime Survey for England and Wales (CSEW) and show that in 2012/13:

- The risk of being a victim of actual or threatened violence at work in 2012/13 was similar to the last few years, with an estimated 1.4% of working adults the victims of one or more violent incidents at work
- A total of 323,000 adults of working age in employment experienced work-related violence including threats and physical assault
- There were an estimated 649,000 incidents of violence at work, comprising 332,000 assaults and 317,000 threats (compared with an estimated 643,000 incidents in 2011/12)
- Some 1.2% of women and 1.6% of men were victims of violence at work once or more during the year prior to the survey
- It is estimated that 60% of victims reported one incident of work-related violence while 16% experienced two incidents of work-related violence and 24% experienced three or more incidents
- Strangers were the offenders in 60% of cases of workplace violence
- Among incidents where the offender was known, the offenders were most likely to be clients or a member of the public known through work
- Victims of actual or threatened violence at work said that the offender was under the influence of alcohol in 38% of incidents, and that the offender was under the influence of drugs in 26% of incidents
- 51% of assaults at work resulted in injury, with minor bruising or a black eye accounting for the majority of the injuries recorded.

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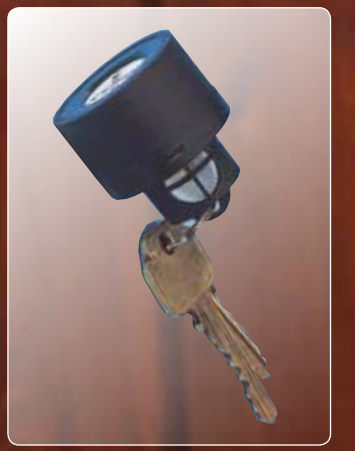

Keyring Personal Alarm
Style No. KPA

Economy Dummy CCTV Camera
Style No. CD75

Guidelines on violence against retail staff

The British Retail Consortium (BRC) has published new guidelines to help protect workers in the retail sector against incidents of violence.

Launching the guidance, the BRC said that violence remains "an unacceptable threat" to the retail sector's three million employees.

The latest BRC Retail Crime Survey found that shop staff were victims of almost 36,000 incidents of violence or abuse in 2012/13.

As a result, the BRC has produced Tackling Violence against Staff: Best Practice Guidelines for Retailers to help retailers of all sizes improve staff protection and make it clear that abuse from customers should not be considered "part of the job".

The Guidelines are supported by shop workers' union Usdaw and the Association of Convenience Stores (ACS). They demonstrate action which can be taken by retailers to keep staff safe, from safety-conscious design of the working environment to conflict management training and ensuring that there are effective procedures in place for when an incident occurs.

The publication was welcomed by John Hannett, General Secretary of the trade union Usdaw, who said, "Usdaw wants to see a greater commitment from the Government to preventing violence against shopworkers. All too often we see violent criminals getting away with lenient sentences, let off with a caution and worst of all, in too many cases, not even being charged."

He added, "We have particular concerns around the sale of alcohol and the legal obligations placed on shopworkers to police the law. Whether it is ensuring alcohol is not served to minors or refusing to serve those who have already had too much; shopworkers are on the frontline of enforcing licensing laws. All too often that can lead to violence, threats and abuse. Parliament passes these laws, which we support, and expects shopworkers to police them. So we are looking for Parliament and the Government to provide the necessary protections."

SETON

Risk assessing general workplace dusts

Airborne dusts are of particular concern as they are associated with widespread occupational lung diseases. The health effects are not only caused by exposure to toxic dusts, such as asbestos, wood dust and crystalline silica, but also by exposure to general workplace dusts - poorly soluble, low-toxicity, non-fibrous dusts.

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Dusts

Dusts are airborne solid particles ranging in size from below 1µm (one thousandth of a mm) up to around 100µm (0.1mm). The airborne particles are generated by man-made processes, such as crushing, grinding, bagging and sweeping, and also by natural forces, such as wind and volcanic eruption. Once airborne, the dust particles settle slowly under the influence of gravity.

The effect that general workplace dust has upon the lungs depends upon the size and other physical characteristics of the particles.

From an occupational health point of view, dust is classified into:

- Inhalable dust - larger-sized particles, most of which will be filtered out in the nose and throat
- Thoracic dust - smaller-sized dust particles that can reach the lungs
- Respirable dust - dust that is small enough to be inhaled deeply, and can penetrate beyond the terminal bronchioles into the gas-exchange region of the lungs.

General Workplace Dusts

General workplace dusts include coal dust, talc, kaolin, polyvinyl chloride (PVC) and mixtures containing amorphous silica, silicon, silicon carbide, pulverized fuel ash, limestone, gypsum, graphite, aluminium oxide, titanium dioxide, other mineral dusts with low crystalline silica content, and organic dusts free of harmful bacteria or biological toxins such as endotoxin - unless they are considered to be hazardous because of their biological component. Soluble dusts are excluded from this definition because of their short residence time in the lung.

COSHH and General Workplace Dusts

The Control of Substances Hazardous to Health Regulations 2002 (COSHH) definition of a substance hazardous to health includes dust that is not a substance classified under the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 (CHIP 2009) as toxic, very toxic, harmful, corrosive or irritant, or has a Workplace Exposure Limit (WEL), or is a biological agent, or is a substance hazardous to health under COSHH if it is present at a concentration in air equal to or greater than:

- 10mg/m^3, as a time-weighted average over an eight-hour period, of inhalable dust
- 4mg/m^3, as a time-weighted average over an eight-hour period, of respirable dust.

The requirements of COSHH - the need to assess the risk to workers and to ensure exposure is prevented or adequately controlled - apply when these concentrations of dust in air are exceeded. However, these levels, which were taken from figures developed more than 50 years ago by the American Conference of Government Industrial Hygienists, were based on expert opinion, rather than any health-based criteria.

Consequently, it is important to recognise that these concentrations are not Occupational Exposure Limits or WELs, but are the levels at which the COSHH regulations come into effect.

There have been calls for a dramatic reduction in the levels of inert dusts, at which COSHH comes into effect, from the Trades Union Congress (TUC) and the IOM. The TUC claims that there is now clear scientific evidence that suggests that the current UK limits for inhalable and respirable dust should be much lower. The TUC claims that the research shows that, for some dusts, even a 1mg/m^3 limit would not be protective. The IOM considers that the current British occupational exposure limits for airborne dust are unsafe, and employers should attempt to reduce exposures to help prevent further cases of respiratory disease among their workers. The IOM recommends that employers should aim to keep exposure to respirable inert dust below 1mg/m^3 and inhalable inert dust below 5mg/m^3.

The Assessment: Inhalation

The assessment of the risks from dust will depend on the nature of the dust. If the dust is classified as very toxic, toxic, harmful, corrosive or irritant, or has a WEL or is a biological agent or a substance hazardous to health, the requirements of COSHH will apply. This will involve assessment of the risk to health created by work involving the dust; prevention or control of exposure to the dust; maintenance, examination and testing of any control measures used; monitoring exposure at the workplace; information, instruction and training for persons who may be exposed to the dust; and, in some cases, health surveillance.

There may be dusts without a formal WEL. For these dusts, employers need to consider setting in-house standards limits lower than the low-toxicity 10mg/m3 inhalable dust or 4mg/m3 respirable dust limits. Dusts not in these categories become substances hazardous to health under COSHH if their concentrations in the air, as a time-weighted average over an eight-hour period, is equal to or greater than 10mg/m3 inhalable dust or 4mg/m3 respirable dust. Where tasks may generate high levels of dust, a dust survey to assess dust levels in the workplace should be carried out. This may involve measurement of the levels of dust in the air, both by static monitoring as well as personal monitoring. The determination of levels of respirable dust and inhalable dust should be undertaken using the methods described in MDHS14/3: General Methods for Sampling and Gravimetric Analysis of Respirable and Inhalable Dust. The determination involves drawing a measured volume of air through a collection substrate, such as a filter mounted in a sampler, and determining the mass of dust collected by weighing the substrate before and after sampling. The respirable fraction is generally collected using a cyclone pre-selector.

Control of Exposure

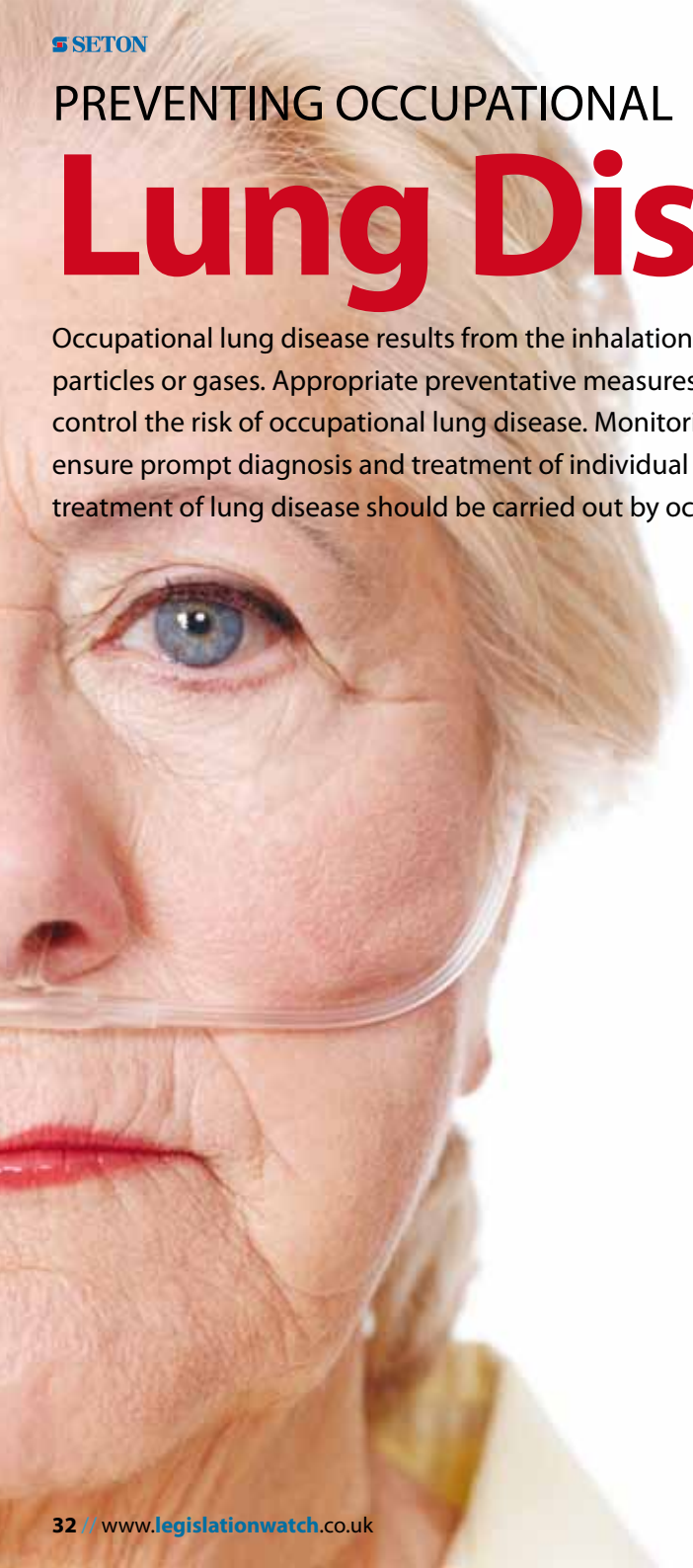
In order of preference, the hierarchy of measures to be applied to preventing or controlling the risks from inhaling dusts, include:

- Elimination - preventing the formation of dust by using special cutting techniques rather than by grinding or sawing, or by using wet-cutting processes
- Substitution - using dust-suppressed materials and emulsions or pastes rather than mixing dry constituents
- Containment - the physical enclosure of dust-producing processes under negative air pressure (slight vacuum compared to the air pressure outside the enclosure)
- Controlling the extent of the exposure, for example, through a safe system of work, or by partial enclosure and extraction equipment and procedural controls, such as reducing the number of people exposed, and frequency and duration of exposure
- Using respiratory protective equipment (RPE) - providing RPE in addition to other measures, only where adequate control of exposure cannot be achieved by the other means.

It is essential that workers, through education, understand the need to avoid the risks from general workplace dusts. The assessment of the level of control required should take into account vulnerable employees. People with heart or lung disease, and older adults who carry out work that involves physical activity, are considered at greater risk from general workplace dusts. Physical activity causes the individual to breathe faster and more deeply, and consequently to take more particles into his or her lungs.

Control to a Lower Level?

Employers may want to consider whether controlling exposure to general workplace dust to below the levels at which they become substances hazardous to health under COSHH is sufficient, or whether they should consider exposure to lower levels, such as the levels recommended by the IOM - inhalable dust below 5mg/m3 and respirable dust below 1mg/m3.



PREVENTING OCCUPATIONAL Lung Disease

Occupational lung disease results from the inhalation of harmful mists, vapours, particles or gases. Appropriate preventative measures should be in place to control the risk of occupational lung disease. Monitoring should be in place to ensure prompt diagnosis and treatment of individual cases. Diagnosis and treatment of lung disease should be carried out by occupational physicians.

Assessment and Prevention of Risk

To control the risk of occupational lung disease, a number of steps are required. A risk assessment must be carried out to clarify the nature of the hazards, identify who is impacted, and to highlight what processes need to be in place to eliminate, control and manage the risk.

All exposure to hazardous substances should be prevented or avoided. This means the:

- Removal of toxic materials, where possible
- Substitution with less toxic materials, where possible
- Elimination of processes that might cause exposure
- Enclosure of harmful processes with automatic operation, if possible.

Where exposure cannot be avoided or prevented, the following options should be considered:

- Isolation of harmful processes from the remainder of the plant and appropriate personal protection for designated workers
- Local exhaust ventilation (fume hoods/cupboards)
- General extraction ventilation
- Control of dusts by wetting or precipitation
- Limiting exposure hours by shorter working periods or rotation of jobs
- Planned maintenance to ensure machinery and dust control systems are working to specification
- Personal protective equipment (respirators, suits, etc) and ensuring any equipment is used appropriately
- Warning signs and notices.

The risk assessment should be reviewed in confirmed cases of occupational lung disease.

Guidance Documents

There are numerous publications that deal with the hazards and control of individual substances capable of causing occupational lung disease. These are available on the Health and Safety Executive's website or from trade associations and professional bodies. Also available are guidance documents dealing with personal protective equipment, including respiratory protection.

Monitoring the Environment

To maintain a safe working environment it is necessary to regularly monitor levels of hazardous substances. The level of monitoring will depend on the level of risk.

Sampling and monitoring of the workplace should be undertaken on a periodic basis. Surveys will also be required to investigate confirmed cases of occupational lung disease.

Such sampling should be undertaken only by qualified safety personnel or occupational hygienists, who will be able to ensure proper sampling procedures and subsequent analysis.

Employee Screening

Medical monitoring of groups or individuals can be undertaken as part of the organisation's health-screening process or in an emergency.

To reduce the likelihood of employees developing occupational lung disease, the following measures should be adopted:

- The selection of fit personnel for employment in areas where there may be a significant risk of occupational lung disorders
- Regular screening of employees, particularly in the first two years of employment
- The removal of employees for medical assessment when they develop potential respiratory symptoms.

In the event that employees develop disordered respiratory function, redeployment and ill-health retirement may have to be considered.

Symptoms of Respiratory Disease

The lungs have a number of responses to inhaled harmful substances and a careful history must be noted to enable an accurate assessment of the symptoms:

- Cough - the character (e.g. dry or productive with sputum), frequency and relationship to work of any cough should be determined
- Wheezing - close attention should be paid to any history of wheezing. Of particular interest is whether the wheeze is worse in expiration, which is a feature of asthma in general, or if it occurs in both expiration and inhalation. The relationship to work must be established and it is important to note any improvement in symptoms when away from the workplace
- Dyspnoea (breathlessness) - any breathlessness should be assessed in terms of whether it is related to effort and whether it is associated with any other respiratory symptoms. Heart disease is a common cause of dyspnoea and the different diagnosis between respiratory and cardiac causes for breathlessness may not be easy to establish
- Sputum - in individuals with a productive cough, the amount and character of the sputum produced, as well as a relationship to work, should be established
- Chest pain - chest pain is quite rare in occupational respiratory disorders and is usually due to cardiac or musculoskeletal disorders. However, it may occur with pneumothorax and pleurisy - both possible outcomes of occupational respiratory disease.

Tests for Lung Disease

Chest X-rays and lung function tests should be considered as part of pre-employment screening where there is any risk of occupational lung disease. They will establish any existing lung disease, assess fitness for employment and provide a baseline for future screening.

The following clinical investigations may be used to monitor individuals who have been or are currently exposed to a potential hazard:

- Chest X-rays - large posteroanterior and lateral views are essential. These tests may be augmented by other scans to demonstrate changes in lung structure
- Pulmonary function tests - these tests attempt to quantify the efficiency of the lungs in terms of flow rates and lung volumes. They are particularly useful in identifying conditions such as obstructive airways disease, Chronic Obstructive Pulmonary Disease (COPD) or emphysema. Pre-employment lung function testing should always be carried out where there is any assessed risk of lung disease
- Sputum (the mucus material from the lungs that a person coughs up) - this may be examined for evidence of harmful dusts and cultured for pathogenic bacteria.
- Blood tests - testing may identify hyper-allergic individuals.

Diagnosis of Occupational Respiratory Disease

The diagnosis of respiratory disease in general relies on the nature of the symptoms described by the patient and the results of clinical tests.

A diagnosis of occupationally-linked lung disease will rely on symptoms that are clearly related to work and a history of exposure to potentially harmful substances. It is important to remember that, although a number of workers may be affected, certain individuals may have more severe problems.

Managing Employees with Occupational Lung Disease

Immediate Action - Acute Symptoms

Occupational lung disease rarely requires emergency treatment but inhalation of toxic fumes and vapours may result in such a need. It is also possible that individuals may become sensitised over a period of time with the result that even minimal exposure to the sensitising agent may provoke an acute allergic reaction.

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The initial treatment must be based on the first-aid principles of removing the victim from the source of the problem, providing such life support as is necessary and the administration of oxygen if breathing is in any way affected. Urgent transfer to a medical facility should then be undertaken.

Wear Dust Mask Safety Sign
Style No. MD061A4RP

Chronic Occupational Lung Disease
In non-acute cases, any action taken should result from consultation between management, the employee and occupational health professionals. Occupational lung disease should be managed on the following principles:

- Can the employee's exposure to the causative agent be modified to allow continuing employment without further progression of the condition? This will involve detailed consideration of work practices, use of personal protective equipment and the need for monitoring. Alternative employment may need to be considered.
- Can the symptoms be controlled by medical treatment to allow the same employment to continue without progression of the condition?
- If disability is, or becomes, severe enough to warrant retirement on health grounds, it is important that this decision is taken only on the recommendation of a qualified occupational health physician.

YOU'VE GOT MAIL...

Are your emails making you sick?

There have been massive advances in new technology in the recent past, which have affected our lives both at home and at work. Probably the greatest advances have been in relation to communication and, in particular, emails. The use of modern smartphones and tablets makes employees available 24 hours a day almost anywhere in the world. Internet speeds are getting faster and many workers can receive a mountain of information very quickly. The growth in social media also extends to work, and many organisations use such media as a means of promotion and communication. With this ease of communication comes a perception that employees are always available and some may feel a pressure to respond quickly to incoming emails. Recent research has shown that dealing with emails can cause stress, and measurable physiological and psychological effects can be experienced. So how can email stress be managed? What are the legal implications and how does this issue affect both employers and employees?

CONTINUED...

The research

In 2002, researchers at Loughborough University evaluated the effect of email interruptions within the workplace. They found that 70% of emails dealt with were viewed within 6 seconds, and there was an interrupt recovery time of 64 seconds. This means it takes 64 seconds to get back into the work that was being carried out before the email interruption.

The findings highlight (in a worst case scenario) that if it takes on average 1½ minutes to read and recover from an email, and the employee is interrupted every 5 minutes, then an employee could have up to 96 interruptions in a normal 8-hour working day.

Other researchers have suggested that emails give rise to side-effects, such as increased psychological burden and distress that directly affects the wellbeing of the employee.

More recently, researchers at Loughborough University led by Professor Tom Jackson explored the physiological and psychological impact of email on employees at a UK government agency, using blood pressure, heart rate and cortisol levels and paper-based diaries. The findings showed a link between email and stress and indicated that employees were more prone to increased stress during information gathering (reading) and sharing (sending) activities, and less susceptible during information management and retrieval activities (finding and filing email messages). The results also showed that four employees showed physical signs of elevated stress - therefore increased blood pressure, heart rate and cortisol secretion - during email use. Six participants showed sharp increases in blood pressure and seven exhibited an increased heart rate on return to email use after "email free time".

More specifically than other studies, the results showed the most commonly reported email tasks were reading and sending emails and 18 participants showed an increase in blood pressure and heart rate when undertaking these tasks, as opposed to finding and filing email messages.

The law

The law on work-related stress is well known and there is no reason why it should not apply to the stress emanating from dealing with emails.

The Health and Safety at Work, etc Act 1974 requires employers to ensure the health, safety and welfare of all employees while they are at work and this implicitly includes consideration of stress-related to emails and other new technology issues. The qualifying words of the Act "so far as is reasonably practicable" mean that employer's action must be proportionate to the risk. The Health and Safety Executive's stress management standards advise on how the issue of stress should be approached.

The Management of Health and Safety at Work Regulations 1999 require employers to perform risk assessments for work activities and again this should include email stress.

The Health and Safety (Display Screen Equipment) Regulations 1992 set a standard for display equipment and while the standard is difficult to apply to certain equipment, such as mobile phones and tablets, the Regulations see stress as a major issue and deal with it by way of requirements stipulating rest breaks, training and the design of the workstation.

The common law on stress has been well explored through case law in the recent past. In summary, employers have a duty to take reasonable care of employees, which will include stress from emails.

Liability for psychiatric injury caused by stress at work including emails is in general no different in principle from liability for physical injury. The test is whether there was a foreseeable risk of injury stemming from the employer's breach of duty of care and whether this can be linked to email use.

What employers need to do

All employers need to examine the range and scope of their employees' exposure to email and incorporate the findings into risk assessments and policies relating to electronic communication and the use of display screen equipment. They should also consider the possible exposure of staff to emails out of normal working hours.

The steps employers could take to reduce the stress from email may include:

- Training for staff on how to better manage their communication data
- Reducing and controlling the number of emails received and sent by avoiding unnecessary and superfluous emails
- Controlling spam by training staff on the use of filter settings on their electronic devices
- Controlling use of aggressive and inflammatory emails
- Better diary control
- Realistic timescales for email response and other actions
- Limiting the time spent on checking emails
- Controlling the use of portable devices such as mobile phones and tablets
- Controlling and limiting the amount of "private" time spent on checking emails.

What employees can do

The following checklist may help employees manage stress from emails:

- Turn off devices for short periods of time each day. This may cause some anxiety but the benefits may be worthwhile
- Attempt to set some limits: devise a "not-to-do list" (e.g. do not check emails before 10 am)
- Accept the fact you cannot respond to 500 emails a day. No one is superhuman
- Learn moderation. Make a note of how many times a day emails are checked or how many times social networking sites are scanned. Realise when you have a problem, and make a practice of not being a slave to your devices
- Try to separate home life from work life during working hours (and vice versa).

Conclusion

Controlling email stress could be beneficial to any organisation. It could:

- Lead to more efficient and effective email communication
- Lead to less lost time due to ill health
- Reduce the possibility of civil claims.

Stress can lead to long-term chronic health conditions such as hypertension, thyroid disease, heart failure and coronary artery disease, so it is important that it is addressed.

We are living in a time of rapid change and there are likely to be more advances in email communication. It is down to employers and employees to make sure the stress that may come with it is properly managed.

"70% of emails are viewed within 6 seconds"

Air Pollution Awareness

Air pollution reached high levels in parts of Britain due to a combination of dust from the Sahara desert as well as local and European emissions in April 2014. This highlighted that Employers need to be aware of the health and comfort of outdoor and indoor employees. Employers must control workplace exposure levels and emissions to the Environment. Employees should also be encouraged to stop smoking.

This article considers the trends that emerge between air pollution, smoking, occupational health and lung disease.

The European Respiratory Society (ERS) published the European Lung White Book using data from the World Health Organization (WHO) and the European Centre for Disease Prevention and Control (ECDC). This report re-emphasises the problems with Lung Disease. It highlights key facts, figures, and factors resulting in lung disease and suggests recommendations.

- Lung diseases are responsible for 86% of deaths in Europe. There is a large financial strain associated with the disease
- Smoking is a key factor in most cases of lung disease
- There is limited awareness and understanding, including absence of surveillance data
- Air pollution is considered to be a serious respiratory health issue. Many European air quality standards are far lower than WHO recommended levels.

Economic impact

The report reflects on the associated financial burden respiratory disease costs the EU. It is estimated that more than €380 billion a year is spent directly and indirectly. Direct costs associated with medical care include hospitalisation, rehabilitation, medication, tests, doctors and medical staff costs. Indirect costs are caused by time off work and premature death. Within Europe, approximately 66,155 working days per 100,000 of the population are lost per annum due to diseases of the respiratory tract.

Smoking

Smoking-related diseases are considered within the report, predicting that lung cancer and chronic obstructive pulmonary disease (COPD) will rise over the next 20 years because of past smoking rates. The report states that 90% of chronic obstructive pulmonary disease and 80–85% of lung cancer are directly linked to tobacco smoking. Many other factors can also cause lung disease such as genetic influences, nutritional, environmental and poverty-related factors. The human respiratory tract is also vulnerable to infectious agents.

Air pollution

Outdoor air pollution causes adverse respiratory effects. An increase in the concentration of particulate matter (PM), black smoke and sulphur dioxide are all known to increase the risk of death from a respiratory disease. Indoor air pollution has also been highlighted as a serious issue. Many deaths in the EU are due to inhalation of air pollutants caused by PM, nitrogen dioxide (NO_2) and ozone (O_3). Inhalation of PM causes irritation and damage to the lungs; ozone causes respiratory problems and is known to trigger asthma, while nitrogen dioxide causes reduced lung function.

Occupational health

Changes in workplace legislation have contributed towards the advance of workplace conditions to help prevent inhalation of pollutants. However, many air quality standards need to be improved. Cases of silica and asbestos exposure are still being seen. This is due to the latency period. In addition, exposure to di-isocyanates and beryllium is still increasing and hence an increase in cases of asthma and berylliosis.

Occupational agents are known to cause 15% of respiratory cancers in men and 5% in women, 17% of all adult asthma cases, 15–20% of chronic obstructive pulmonary disease (COPD) cases and 10% of interstitial lung disease cases.

The key points of the report with regards to occupational health include the following:

- A detailed history is key when assessing a worker's occupational exposure risk and establishing a diagnosis. The latency of occupational respiratory diseases can range from a few hours to 50 years
- National and international bodies set maximum allowable workplace concentrations for a wide range of substances. However, these limits are not usually set at a level designed to avoid sensitisation
- The effects of workplace respiratory exposures can be life-changing, ranging from acute inhalation injuries to lung cancer, and running the full spectrum of pleural, interstitial and inflammatory respiratory disease.

Exposure history and assessment

Detailed history is identified as being key. The components of a thorough occupational exposure history are detailed in the report and are stated as follows:

- Job type and activities: employer, products the company produces, job title, years worked, description of job tasks or activities, description of all equipment and materials the patient used, description of process changes and dates they occurred, any temporal association between symptoms and days worked
- Exposure estimate: visible dust or mist in the air and estimated visibility, dust on surfaces, visible dust in sputum (or nasal discharge) at end of work shift, hours worked per day and days per week, open or closed work process system, presence and description of engineering controls on work processes (for instance, wet process, local exhaust ventilation), personal protective equipment used (type, training, testing for fit and comfort and storage locations), sick co-workers
- Bystander exposures at work: job activities and materials used at surrounding work stations, timing of worksite cleaning (during or after shift), individual performing clean-up and process used (wet versus dry)
- Bystander exposure at home: spouse's job, whether spouse wears work clothes at home and who cleans them, surrounding industries
- Other: hobbies, pets, problems with home heating or air-conditioning, humidifier and hot tub use, water damage in the home.

Discussion

Industry has taken some positive steps towards reducing exposure. There is clearly room for improvement. Employers need to record occupational exposure and introduce more controls to ensure that air quality standards are met.

The information in the report is harsh and to the point, suggesting that smoking and pollutant inhalation are primary causes of death with exposure levels recommended significantly lower than some prescribed UK thresholds.

More information

The European Lung White Book can be found on the ERS website.

The European Lung Foundation (ELF) works closely with the European Respiratory Society (ERS) and has jointly produced a brochure which summarises the key facts and information from the European White Book. This can be downloaded from the ELF website.

Scientific Committee on Occupational Exposure Limits is available from the EC website.

References

1. Air pollution warning continues for England and Wales; The Guardian; **http://www.theguardian.com/environment/2014/apr/02/air-pollution-warning-continues-for-england-and-wales** (accessed online on 14/04/2014)
2. Taken from Feature Article by Caroline Raine; Air pollution awareness highlighted by the World Health Organization (WHO); last update 25/09/2013 (accessed online at Croner-i Hazardous Substances on 14/04/2014)

KEY FACTS

Lung diseases are responsible for 86% of deaths in Europe.

Respiratory disease directly and indirectly costs the EU more than €380 billion a year.

66,155 working days per 100,000 of the population are lost per annum in the EU due to diseases of the respiratory tract.

90% of chronic obstructive pulmonary diseases and 80–85% of lung cancer cases are directly linked to tobacco smoking.

Lung cancer and chronic obstructive pulmonary disease (COPD) will rise over the next 20 years because of past smoking rates.

Asbestos

MANAGEMENT CHECKLIST

Company	
Area	**Date**

Management	YES	NO	N/A	Comments/Action Recommended
Assess whether asbestos is, or is suspected to be on the premises.	☐	☐	☐	
Prepare a record of the location of any asbestos - an asbestos register.	☐	☐	☐	
If asbestos is identified or suspected, determine the risk posed.	☐	☐	☐	
If exposure cannot be avoided, introduce control measures to reduce risk.	☐	☐	☐	
Make information on the location and condition of the asbestos available to anyone liable to work on it or disturb it.	☐	☐	☐	
Prepare a suitable plan, detailing how work is to be carried out.	☐	☐	☐	
Keep parts of premises clean where work with asbestos is to be carried out.	☐	☐	☐	
Provide employees exposed to asbestos with suitable washing and changing facilities.	☐	☐	☐	
Provide employees liable to be exposed to asbestos with information, instruction and training.	☐	☐	☐	
Notify the enforcing authority (the HSE or local authority) in writing at least 14 days prior to any licensed asbestos work and for any non-licensable work with asbestos which is not exempted before work commences.	☐	☐	☐	
Ensure asbestos waste is transported and disposed of in accordance with legislation.	☐	☐	☐	
If anticipated exposure to asbestos is liable to exceed control limits, ensure compliance with relevant legislation.	☐	☐	☐	
Prepare procedures for protecting employees in the event of an asbestos incident, accident or emergency.	☐	☐	☐	

Q&A's

Maintaining good air quality

Q. **There have been a number of complaints about the poor quality of air produced by the air-conditioning/ventilation system in our premises. What are the legal aspects of air quality and what can cause poor air quality?**

A. Ventilation or air-conditioning systems, if poorly designed or maintained, can be a source of atmospheric contamination.

The resultant poor air quality may cause ill health symptoms such as headaches; eye, nose, throat or skin irritation; allergies; coughs; or wheezing. Localised air currents can cause draughts, producing muscle tension and skin irritation. Contamination of ventilation systems with micro-organisms can give rise to outbreaks of humidifier fever or Legionellosis.

Regulation 6 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires effective and suitable provision to be made to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air and that any plant used for the purpose shall include an effective device to give visible or audible warning of any failure of the plant where necessary for reasons of health or safety.

The Approved Code of Practice to the regulations recommends that ventilation and air-conditioning systems should be regularly and properly cleaned, tested and maintained to ensure that they are free from anything which may contaminate the air.

Air taken into the building should be free from impurities that are likely to be offensive or cause ill health. A badly-sited air intake can feed the building with air contaminated with traffic exhaust fumes, flue effluents or odours from adjacent factories. Air inlets should not be sited near to traffic at ground level, flues or other sources of emission. Intake air should also be filtered.

Poor or inadequate maintenance of the air handling system is a frequent cause of contamination. Microbial contamination can occur and particulate materials and other debris can build up in the ducting of ventilation systems. Filters must be cleaned and replaced as necessary while the risks from legionella and other bacterial contaminants must be controlled.

It is important that ventilation system ductwork can be examined internally to ensure that cleanliness is maintained and contaminants are not circulated around the building. Duct-work cleaning is, however, very expensive and should not be undertaken unless there is evidence that the ventilation system is excessively dirty and that this is posing a risk to health. Dirty marks around air supply vents, for instance, may indicate a problem.

Q&A's

Controlling dust in cleaning and maintenance work

Q. **A number of our employees undertake general cleaning and maintenance work. A trade union representative has raised concerns that we are exposing these employees to excessive levels of dust. Are there any specific legal duties and control measures we are required to implement?**

A. Dust can be a common by-product of many general cleaning and maintenance activities, either generated through the actual work activity or by disturbing dust that may already be present.

HSE guidance EH44 Dust in the Workplace notes that "dust is not always an obvious hazard because the particles which cause the most damage are often invisible to the naked eye and the health effects of exposure can take years to develop".

The hazardous health effects of many dusts such as silica are well known and can include respiratory disorders, skin irritation, eye damage and even forms of cancer.

Under the Control of Substances Hazardous to Health Regulations 2002, certain dusts are listed as hazardous and specific exposure limits are given.

In respect of general dust, if not falling within any of the listed categories, when present in the workplace at a concentration in air equal to or greater than 10 mg/m^3 of inhalable dust or 4 mg/m^3 of respirable (as a time-weighted average over an 8-hour period) it is considered to be a substance hazardous to health.

It will need to be determined if dust is likely to create a hazard, either through the use of materials, activities or by disturbance.

It may be necessary to identify the specific work activities likely to create a dust issue and undertake a risk assessment of those activities to determine if the criteria above in terms of exposure are likely to be met.

In some circumstances, it may be necessary to undertake air sampling under normal working conditions, supported by the observation of light scatter by using a dust lamp to detect any less obvious escapes of very fine dust.

EH44 states that it should never be wassumed that any dust is safe and that any uncontrolled dry process or dusty work activity, especially in an enclosed environment, is likely to create a dust problem.

Where exposure is likely to create a hazard to health, the hazard should, where reasonably practicable to do so, be eliminated. Where not practicable, suitable control measures should be adopted, including the adoption of safe process and procedures that may include the use of equipment to control exposure and the use of respirators.

The provision of adequate information, instruction, training and supervision should also be considered along with hygiene arrangements and, where necessary, health surveillance.

News ROUND UP

UK's biggest care home provider fined over fish & chip death

The UK's biggest care home provider has been ordered to pay £170,000 in fines and costs after a vulnerable resident choked to death on fish and chips during an entertainment evening at its Chorley premises. Four Seasons Health Care (England) Ltd was prosecuted by the HSE after an investigation found that Rita Smith should only have been provided with pureed food as she had swallowing difficulties and was at risk of choking. The company pleaded guilty to a single breach of the Health and Safety at Work etc Act 1974.

Bosses don't understand "reasonable" workplace temperatures

According to a recent survey conducted on behalf of AirConUK, a "startling" number of managers and business owners don't know the laws regarding temperatures in the workplace - leading to confusion as to whether it is too hot or too cold for employees to work.

EU plans to simplify the rules on PPE

The European Commission has put forward a proposal to replace the current directive on personal protective equipment (PPE) with an EU regulation which will be directly applicable in all 28 Member States.
This means that the national laws they have introduced to implement the directive can be scripped. The intention is that businesses will only need to consult one single piece of legislation wherever they are operating in the EU.

Wales looks to ban e-cigarettes in enclosed public places

Seven years after it initially banned smoking in public places, Wales could be the first part of the UK to also ban the use of electronic cigarettes in enclosed public places. The proposition is contained in the White Paper "Listening to you: Your health matters", which is open for consultation until 24th June. The EU is also set to look at regulating their use, possibly making them regulated medication.

Firm sentenced after tractor wheel fell on worker

A company has been fined for serious safety failings after a worker suffered severe crush injuries when a tractor wheel fell on him. Michael Davidson, of Arbroath, then 28, was trying to protect another worker when the incident happened on 12th November 2012 at a farm. Angus Tyres Ltd was fined £10,000 after pleading guilty to breaching Section 2 of the Health and Safety at Work etc Act 1974.

May 2014

Risks and trends in women's health and safety

The European Agency for Safety and Health at Work (EU-OSHA) has published a new report on risks and trends in the health and safety of women at work. The report, New Risks and Trends in the Safety and Health of Women at Work, offers a perspective on the issue for the purposes of EU policy, and is intended to contribute to an examination of health and safety challenges posed by the more extensive integration of women in the labour market.

HSE Chair praises schoolboy's nuclear fusion experiment

The Chair of the HSE, Judith Hackitt, has praised a 13-year-old Lancashire schoolboy and his Head in her latest blog post, after the teenager became one of the youngest people in the world to carry out nuclear fusion in his school's science laboratory.
Jamie Edwards, a pupil at Penwortham Priory Academy, made a helium atom by smashing two hydrogen atoms together through a process of nuclear fusion, in a project he created with help from his school.

Half of workers believe health and well-being not a priority

A new survey has concluded that over half of workers feel their employer does not care about their health and well-being, and that this is fuelling the "sickie" culture, affecting levels of sickness absence from work. The survey was commissioned by Investors in People.

Government urged to consider asbestos in school buildings survey

A government agency has been urged to use plans for a £6 million survey of the conditions in 8000 school buildings in England as a "golden opportunity" to check for asbestos.
The survey has been mooted following a warning from the National Audit Office (NAO) that the Government's Education Funding Agency set up in April 2012 to improve efficiency, accountability and transparency in the education sector - has been given "inconsistent data" on the conditions of school buildings by local councils.

A fire can be fatal for businesses

A recent report suggests that 80% of businesses that suffer a major incident such as a fire fail within 18 months. NFU Mutual, the UK's leading rural insurer, has revealed that it paid out over £43 million in claims for commercial fires in 2012. Topping the list of claims with identified causes were fires caused by arson, electrical faults, electrical equipment and fires in commercial vehicles.

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