

UNISON Response to the proposed amendment of RIDDOR

UNISON welcomes the opportunity to comment on the Discussion Document on the proposed amendment to RIDDOR. UNISON is Britain's largest public sector trades union with more than 1.3 million members. Our members work in the public services, for private contractors providing public services, and in the essential utilities. They include staff working full or part-time in local authorities, the NHS, the police service, schools, further and higher education, the electricity, gas and water industries, transport and the voluntary sector.

UNISON is concerned that the current proposals stem not from a wish to improve our health and safety regime but from the need to respond to the recommendations of the Young review. This is clearly wrong as the Lord Young review stated aim was not intended to improve the health and safety regime, but “to free businesses from unnecessary bureaucratic burdens and the fear of having to pay out unjustified damages claims and legal fees....”

This aim would suggest that changes are being made to RIDDOR to meet the political agenda rather than seeking to improve workplace health and safety. It is clear that the proposed changes will be detrimental to workers as no assessment has been made on the benefit to workers of these changes. This is borne out by question 2 which ask for views on the advantages to business but with no corresponding question on the advantages to workers. In addition, question 3 further confirms this with the confirmation that the Impact Assessment has focussed on the calculation of costs and benefits of the proposal to both businesses and Local Authorities, with no mention of the potential impact on the health of employees.

This is perhaps intentional as it is difficult to understand or identify what benefits workers will gain from a reduction in the collection of data which helps to prevent and/or reduce workplace deaths, injuries and ill health.

UNISON believes that these proposals will reduce levels of protection to workers, and as employers will still be required to *record* O3D, the changes will also make the reporting and recording process more complex.

We know that under reporting under RIDDOR is rife and that some employers simply do not comply with the regulations and don't report many non fatal prescribed accidents, injuries and dangerous occurrences. Yet the requirement to report O3D incidents is incredibly simple. It is difficult to see how the so called burden to businesses will be reduced when employers will be required to record O3D incidents *and* reports these after 7 days. Rather than reducing the burden it is clear that this will increase as employers are faced with a two tier system which could potentially increase the chance of non compliance. Any proposed change should in our view, be seeking to improve the process to encourage more employers to comply with the existing legislation rather than increasing the burden to report.

RIDDOR reports, provide intelligence data to help with planning and targeting enforcing authorities' interventions.

The review carried out in 2005 revealed that in addition to alerting the enforcing authorities to individual incidents for investigation and enforcement work, RIDDOR is also useful in helping to plan and target the range of interventions developed by the HSE and Local Authorities. This is particularly crucial now as government strategy and reduced funding mean that the current number of health and safety inspection will be reduced by a third in the workplaces where UNISON members work. And whilst many of these workplaces have been deemed as “low risk”, our members would beg to differ.

Current statistics show that there are 500,000 sufferers of work related upper limb disorders, 420,000 workers experiencing work-related stress at a level that makes them ill and thousands of workers suffering from back injury caused by manual handling, More than a third of all over-three-day injuries reported each year to the HSE and local authorities are caused by manual handling. In addition, workers are exposed to hazardous substances including asbestos, many more have been injured by slips, trips and falls incidents and even more suffer work related verbal abuse, threats and actual violence on a regular basis. The majority of these incidents occur in so called low risk workplaces.

The proposal to extend the number of days before incidents such as these are reported will mean that many employers may be tempted to overlook the requirement altogether and the opportunity to identify prevention measures and campaigning strategies will be missed or ignored.

In its current format RIDDOR suffers from massive under reporting. Rather than extending the period in which the report takes place, we believe it would make better sense to look at how levels of reporting can be improved as well as strategies to encourage more, particularly small and medium size employers, to comply with their duty to report under RIDDOR. We are of the view that simply extending the number of days in which a report can be made will do nothing to improved reporting levels especially as employers will still be required to record O3D incidents.

European regulations such as Article 9 of the Framework Directive 89/391/EEC and Regulation (EC) No 1338/2008 on Community statistics on public health and safety at work require employers to record all accidents that lead to an O3D incapacitation and report these to national authorities in-line with national laws. There is no indication of how these requirements will be address if changes are made. In addition it is not clear how the changes can be made under UK legislation as regulations can only be made or amended under the Health and Safety at Work Act if they are “designed to maintain or improve the standards of health, safety and welfare. Given that the aim set out in this discussion document excludes any improvements to health and safety standards it is difficult to see how the current proposals can be implemented under the Act.

In relation to the consultation questions themselves, UNISON would wish to make the following comments:

Q1. Do you support the proposal to extend the time before an occupational accident needs to be reported from over three days to over seven?

UNISON does not support this proposal as no health and safety reasons for the change are given.

The discussion document implies that injuries resulting in absences of up to seven days are too minor for investigation and improvements in control measures. However UNISON members who suffer such injuries would disagree.

Collecting data for O3D can help employers to decide when and where improvements are needed and can also help the enforcing authorities to plan future strategies and interventions. Linking the reporting regime to the Fit Note could also mean that many preventable incidents are overlooked and absence resulting from these being addressed from an absence management approach. This will not result in better health and safety protection for workers but will instead become a penalising process for those workers unfortunate enough to have suffered a work related injury.

Over three day incidents are also the injuries least likely to be identified by other means such as physician reporting schemes or compensation claims data, as workers are less likely to go to their GP and less than one in ten workers made ill, injured or killed receive any compensation at all. Many of our members are so committed to their jobs that they accept very difficult circumstances at work, being subjected to for example abuse and assaults, as simply being part and parcel of the job. For this reason when you analyse the numbers of claims referred to our solicitors over the last few years this shows no evidence of a compensation culture

Q2. What advantages will the proposed extension to over seven days make to your business?

UNISON does not believe that there are any advantages to the health and safety performance of any organisation by extending the requirements to O7D. We do not believe that the current requirement to report is a “burden” on business but could instead lead to a burden on employees. They are the ones who will bear the brunt of worsening conditions at work because the opportunity to introduce improved measures will be lost, overlooked, or ignored.

A major disadvantage will be the confusion caused by a two tier system for recording and reporting requirements as employers will still be required to record all O3D injuries, even if the regulations were changed. Organisations will be committing an offence if they fail to record an O3D incident, and fail to report an O7D incident. This, in our view will be far more burdensome than the current system.

It is also unlikely that many organisations will retain separate O3D figures in practice. This will result in less information on which to develop preventative strategies.

It is not clear from the discussion document how safety representatives will gain access to details of O3D injuries. This will greatly restrict their ability to help prevent such injuries in the future. The experience of both safety professionals and safety representatives is that, by controlling the more “minor” injuries, it is possible to prevent more serious injuries.

Q3. At annex 1 of the consultation document, the Impact Assessment paragraphs 13 – 38 focuses on the calculation of costs and benefits of the proposal to both businesses and Local Authorities. Do you agree with the assessments of costs and benefits? Are there other factors which should be taken into account?

The focus in the impact assessment is around the impact on business and local authorities with no mention of the impact on employees. However, even these costs and benefits are wrong. Most large organisations currently integrate the cost of recording and reporting with a simple process for dealing with them. Under these circumstances the financial savings will therefore be much lower.

The effect on very small organisations which have the lowest compliance rates is likely to be almost none as they tend to report only the most serious injuries. This is unlikely to be changed by the proposals.

Medium sized organisation will be the most affected. The changes to reporting requirements will mean that the number of occasions they have to report will be reduced. Were the reporting requirements be changed from O3D to O7D then a firm with 100 employees would be likely to report once every 3-4 years. With something happening so infrequently it is unlikely they will have procedures to do it, as such they will have to “re-learn” every time they record.

However the biggest group who are likely to be affected will be workers. The recording and reporting requirements were introduced to help with the employer’s duty to prevent such injuries occurring. Given that injuries that are over three day but not over 7 day make up to 70% of reportable absences it is clear that removing those from data collection will have a massive affect on the levels of preventable injuries. It will also make it more difficult for the enforcing authorities to identify and investigate clusters of such injuries. In addition the incentive for employers to investigate and introduce prevention measures will be lost as many will think it unlikely that the HSE will investigate such incidents.

The RIDDOR figures are also used by safety representatives to help in the prevention of injuries. They have a legal right to this information and use it as a way of ensuring that prevention measures are introduced. If safety representatives do not get the information on 70% of the incidents currently reported then this will clearly reduce their ability to assist in prevention.

The costs of the effect on workers have not been included and it is likely that these have not been considered. However the statement that “There would be no impact on the health and well being of those affected by the policy change” is wrong, short-sighted and clearly takes no account of the impact of poor health and safety on the workforce. It also helps to send the message that injuries to workers are acceptable.

UNISON also believes that the benefits of RIDDOR data to international and European statistics are not fully taken into account within the calculation of costs and

benefits and International comparisons being downplayed in the discussion document.

Q 4. Do you agree with the Equality Impact Assessment at annex 2 of the consultation document? Are there any other factors which should be taken into account?

Information on whether women or part-time workers are more likely to be injured in O3D and/or O7D injuries should have been included as well as those relating to Black and Migrant workers. Injuries to Black and Migrant should also be included in future reporting requirements.

The change will however have a disproportionate impact on younger workers in their first few months of work who, it is known, are more likely to suffer an injury. These will be less likely to be prevented were the proposed changes to be made.

Q 5. Can you foresee any specific problems that might arise for employers, workers, enforcing authorities or any other groups if the proposed extension to over seven days is adopted?

These are set out above but we believe that the main problems will be:

- The introduction of a two tier system which will be confusing to employers, workers and safety representatives and is likely to lead to further reductions in reporting. This will lead to less information on which prevention strategies can be based.
- There is likely to be an increase in the number of injuries suffered by employees because of less enforcement action and less prevention work. As the reporting requirements are linked to the Fit Note, workers are also more likely to be penalised through their sickness absence procedure when they are absent due to a work related injury.
- The huge reduction in data will be a major obstacle to the enforcing authorities which is useful for enforcement, planning and general prevention activities. This is particularly crucial given the cuts in their budgets as finite resources should lead to a targeted approach to prevention.

Q 6. Do you believe the loss of national data for over 3 to over 7 day injuries would have adverse consequences and, if so, what would you identify those as being?

We do not believe that the consultation document adequately considers the range of purposes to which data collected through RIDDOR is put.

UNISON would contend that information on Injuries, Diseases and Dangerous Occurrences are required for a range of reasons. These are to :

- ensure that there is sufficient knowledge of the scale of injuries, diseases and dangerous occurrences to allow informed decisions to be made on priorities for prevention by the Government, employers and regulators.
- identify new and emerging hazards
- ensure that enforcing agencies have information on which to determine their interventions, by both individual employer and sector
- ensure that employers keep information necessary to investigate and prevent injuries, and identify and prevent possible industrial diseases
- allow safety representatives, academics and others, access to meaningful data on injuries, diseases and dangerous occurrences in the workplace.
- comply with European and International requirements.

The loss of all of the data which comes from RIDDOR would mean that we would have much less data available for these purposes.

The HSE and researchers would also lose the historical link which has given us comparable data since the recording requirements were introduced. This will make future comparisons much harder. They will also have far less access to data on industries, sectors and specific employers which would help inform prevention work and enforcement priorities.

Using the LFS data is not an alternative. It is collected completely differently and is linked to the individual rather than the employer.

Q 7. Are there any further comments you would like to make on the issues raised in this consultation document?

UNISON is concerned at the message that recording data on injuries is seen as a bureaucratic burden rather than a way of preventing such incidents. Accidents and frequency rates provide an excellent way of measuring safety performance over time and more is needed to help employers to accept this. However the accuracy of such statistics depends very much on employer compliance and we believe that this is what should be the subject for consultation.

UNISON would also like to see work related road traffic accidents added to the requirements of RIDDOR. Work related road traffic accidents are the single largest cause of occupational fatality in the United Kingdom and one of its main causes is fatigue. We do not accept that collecting such information would place an additional burden on employers who we believe should be reporting such incidents anyway. Above all, we believe that more should be done to promote the relevance of RIDDOR and its importance in the prevention of health and safety accidents and injury.