



HEALTH & SAFETY organiser

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Issue 53

Held to Account?

New health and safety guidance for directors and a new law on corporate manslaughter. Will either make a difference? Will those at the top now be held to account? UNISON investigates.

The Truth, But Only Partially!

Official figures for 2006-07 reveal that: 241 workers died at work, 2.2 million suffered from work-related illness, and 36 million working days were lost through work-related illness or injury. However, these figures are a serious underestimate. At least 1,000 deaths per year occur whilst driving for work. More shockingly, occupational ill-health may account for anything between a further 20-50,000 deaths per year.

The Path Towards Accountability?

For a number of years UNISON has campaigned for legislation that would punish companies and their managers who, through their incompetence or neglect, caused the death of our members. Alongside the TUC, UNISON was party to discussions on the drafting of the new law and achieved some improvements. Not everything campaigned for was achieved, but we are one step closer towards holding individual company managers liable.

Corporate Manslaughter - at last!

After many years of promises by the government and lobbying by UNISON, a new law (act) on corporate manslaughter and corporate homicide will finally come into force in April 2008. It will make it easier to prosecute and convict most employing organisations where a death has been caused by the senior management's collective conduct, or failure to act. It will no longer be necessary to show that one individual managers act or inaction was the cause, but only that the senior management as a body or system had caused the failure.

The Act also makes it clear that juries may compare the organisations performance not

only to health and safety law; but also to any code, guide, manual, or another similar publication made under any such law, or by a body responsible for health and safety.

Upon conviction, a court can impose an unlimited fine and may order steps to remedy the management failure or any consequence stemming from this. For example, a court may insist upon a risk assessment and appropriate control measures.

An organisation may also be required to rectify deficiencies that lie behind any breach of the law. For example, if the breach indicates an organisations or its employees lack of attention to managing health and safety, it could be required to review its health and safety practices and to communicate to staff. Failure to comply with a court remedial order could result in a further prosecution.

What does this mean for UNISON branches? Whilst there is no change in the law for holding individual managers accountable, it should now be easier to convict an employing organisation where a poor system for managing health and safety was the cause of the death. In addition, the NHS and government bodies, etc. are no longer immune from prosecution.

If employers, as a consequence of this new law, improve their health and safety management systems, then it may have a trickle down effect with a more widespread benefit on workplace health and safety. It will also still be possible for individual managers to be personally convicted for manslaughter (under the common law established by the courts) or under the Health and Safety at Work, etc. Act.

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Directors - Leading the Way?

Directors and their like are responsible for health and safety. UNISON believes that this responsibility should be enforced by law and not be left to voluntary guidance. Research, including some for the Health and Safety Executive (HSE), has questioned the effectiveness of previous voluntary guidance, and shown that the risk of personal liability or prison would have the greatest impact on directors taking health and safety seriously. In 2004 a committee of MPs called for a legal duty. However, in the latest development in this area, once again we have been presented with yet more voluntary guidance.

So what does this mean for UNISON branches? Well, under the Health and Safety at Work, etc. Act directors can at present be convicted if a health and safety offence is committed with or by their consent, connivance, or neglect. And recent case law has shown that they cannot escape liability by delegating, so that they remain ignorant of the circumstances leading to the offence. However, directors should now be asked how they intend to implement the new guide from the Institute of Directors and the Health and Safety Commission. At the same time, UNISON will continue to campaign for a legal duty.

• For more information, see issue one of *Health & Safety Extra* (www.unison.org.uk/safety/organiser.asp), and the websites of the TUC (www.tuc.org.uk/h_and_s/index.cfm - which includes further links), and the HSE (www.hse.gov.uk/leadership and www.hse.gov.uk/corpmanslaughter).

Making us Better?

Are existing sickness absence policies making UNISON members better? Not according to those at a recent seminar for UNISON's Energy Branches. Several workshops were based upon UNISON's sickness absence toolkit, *Making Us Better*, and the resounding messages from these were that existing policies:

- are frequently imposed - not agreed,
- contain inflexible and harsh trigger mechanisms, and
- punish staff simply for being sick.

Further highlights include the fact that many policies:

- don't provide any support for work or domestic problems,
- don't distinguish between time off due to work injuries and non-work related absences, and
- don't offer any flexibility for disabilities.

However, many branches were also working hard to improve their members work conditions. One attendee, John, described how he had helped a colleague.

"In all other respects, Bob is an exemplary employee. Only because of his asthma was he up for a capability review. The company stood to lose a good employee, and Bob a job he loved. So we sat down with Bob and his managers to find a solution. We successfully argued that his condition came under the Disability Discrimination Act (DDA), and that any absences resulting from it should be excluded from the sickness absence procedure. Bob's sickness absence is now down to one day per year and he continues to do the job he enjoys, whilst the company, has kept one of their best employees."

Share your sickness absence agreement or any other work that you have done to improve members working lives, by emailing: healthandsafety@unison.co.uk or use the postal address on page 1.

"Making staff get a sick note after one day is essential if we're to make the whole system work more effectively!"



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• *Making Us Better* (stock no. 2595) is on the web (www.unison.org.uk/acrobat/B3368.pdf) or orderable from the Communications Unit (see page 4). The toolkit includes references to other useful guidance from UNISON and elsewhere.

Continuing the Campaign - HIV

Over 68,000 people within the UK are living with HIV/AIDS. UNISON is committed to challenging stigmatisation and discrimination, as well as supporting members who have HIV/AIDS.



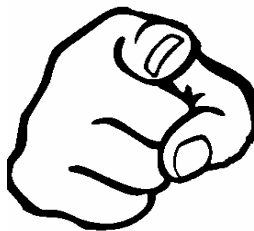
Where possible, UNISON works in partnership with employers to raise awareness and develop good workplace agreements. However, UNISON members do sometimes face

hostility. HIV/AIDS may be used as a smokescreen for bigotry and prejudices. The DDA provides for people living with HIV/AIDS, but many employers are not doing enough towards eliminating discrimination and stigmatisation at work. HIV/AIDS is a trade union issue and there is no room for complacency about its importance.

UNISON's guide on HIV/AIDS (stock no. 0866) is on the web (www.unison.org.uk/acrobat/14541.pdf) or orderable from the Communications Unit (see page 4). To mark World AIDS Day on 1 December, UNISON's poster (above) was distributed to all activists via the *Focus* newsletter.

We'd like to hear how you marked the Day for a feature in a future issue of this newsletter. Send us a copy of any policies or agreements that your employer has on HIV/AIDS and we will store them on UNISON's BIS database and make them available to other branches. Email: healthandsafety@unison.co.uk or use the postal address on page 1.

WHAT DID YOU DO?



• For more on the DDA, go to: www.unison.org.uk/acrobat/B1814.pdf If you don't have a computer or access to the web, call: 020 7551 1402.

RSI Campaign Day

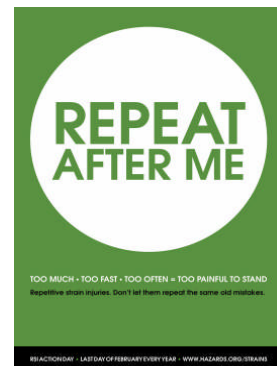
The next International RSI Awareness Day takes place on 29 February 2008, the only non-repetitive date in the calendar. Repetitive Strain Injury (RSI) is caused by the repeated and over-use of a part of the musculoskeletal system. It is a serious issue for many UNISON members including those in: cleaning, office environments, computing, the trades, catering, health care, and the community. HSE figures for 2006-07 show that musculoskeletal disorders accounted for over a third of all the days lost through ill-health.



Why not mark RSI Day with a workplace survey on the extent of RSI. Alternatively raise awareness by organising a workplace meeting, carrying out safety inspections, or conducting risk or body mapping exercises.

For more information, try: UNISON's guidance on RSI (www.unison.org.uk/acrobat/B179.pdf), our MSDs leaflet (see above), and issue 51 of *Organiser* (for further resources, body and risk mapping - www.unison.org.uk/file/a3468.3.pdf), the special webpages from *Hazards* magazine (www.hazards.org/strains/index.htm) and RSI Action (www.rsiaction.org.uk).

Also available is this great new poster (left) which includes the text: *Too much, too fast, too often = too painful to stand. Repetitive strain injury. Don't let them repeat the same mistakes.*



Provided free by the *National Hazards Campaign*, UNISON has 2,000 to give away (Maximum of 10 per order). Email healthandsafety@unison.co.uk, tel: 020 7551 1156, or download it from at www.hazards.org/strains/index.htm

Organising on Health and Safety

UNISON Branches in Action



Bullying and Harassment - The Silent Plague

It took a year of requests before UNISON safety rep Chris Durnall got the go ahead to run a joint workshop on bullying and harassment. Below Chris recalls the event.

“The day has finally arrived, I'm actually doing a workshop/training session on bullying and harassment - with the proviso that a senior colleague oversees and provides some support.”

As a safety rep Chris has battled over the last two years to ensure that fellow members were safe and treated with respect and dignity at work. This began with Chris experiencing bullying first hand, and continued with him “supporting members through their own trials and tribulations. Beginning to sound familiar!”

“I was given less than a weeks notice and no time on shift to prepare, hence one SOS email to the CVS national officer and a very supportive response from Vincent Borg at the Health and Safety Unit.”

“The day started with an icebreaker. Everyone was very vocal and found it difficult to be attentive at the beginning of the session. Then the real work began. The morning consisted of interactive sessions which in turn lead to the formation of small groups, who were given a flip chart and then sent away to discuss, explore, and feedback on their conceptions, ideas, and experiences. Then we discussed facts and figures from surveys conducted by the HSE, ACAS, and bullying support/advice groups and networks.”

“As the morning progressed the room became quieter and colleagues who were normally very vocal and confident appeared to be more reflective; whilst others became very animated and vocal. This was especially so with the issue of how bullying affects the individual and their surrounding environment. I can only equate the

effect to dropping a stone in a puddle and watching the effect of the ripples.”

“Everyone either knows someone or has experienced bullying themselves, or has at least inadvertently bullied someone. If a child were being bullied I can confidently say that we would be stopping it there and then. So why do we allow it to happen to ourselves and colleagues? In effect, we allow it to become a hidden plague as we used to with racism and domestic abuse. We must acknowledge the issues and work with and support each other, and continually bringing the issues to the surface so that they can be dealt with.”

“So the next time your colleague, friend or family member is less confident, withdrawn, experiencing an increase in bouts of illness, or has sudden outbursts - please don't ignore these facts. Ask if you can help, offer support, listen actively, and explore the issues with them; all with a resolve that bullying can be stopped.”

“At the end of the training session a couple of colleagues who were victims of bullying and harassment felt sufficiently empowered to informally discuss the issue with the persons concerned and as a consequence the bullying has stopped. Everyone reflected on their own behaviour and openly discussed how negative behaviour can impact on others and themselves. One safety rep recognised how much bullying and harassment had taken its toll upon her life and one previously very anti-union manager was so impressed that he intends to continue the training for staff on a regular basis.”

“So was it worth it and would I encourage and help others to deliver workshops and to continually raise issues around bullying and harassment. The answer is a resounding YES. Lets keep it a live issue and sound a death knell to a hideous and debilitating silent plague.

• If you'd like to contact Chris about his workshop or one that you plan to run, email him at: chrisdurnall@hotmail.com



Lightening the Load

During the recent European Health and Safety Week (from 22 October) UNISON safety rep Ken Moore organised and ran a joint manual handling course with the employers health and safety advisor. Parking attendants who have a responsibility for emptying pay and display machines took part in the training, with both UNISON members and non-members. During the course it was identified that a trolley was probably required to avoid the carrying of heavy loads and this has since been purchased. Further courses are planned for new entrants to the job.

Info. Request - Can You Help?

Branch safety officer Sarah Friday would like to know how recommendations from the HSE report into the 2002 legionnaires outbreak in Barrow-in-Furness (www.hse.gov.uk/legionnaires/barrowreport.pdf) have been implemented in other local authorities. Can you help with this? Of particular interest is whether the recommendations in Joyce Edmond Smiths letter on page 55 have been implemented by any local authority. Please email: Sarah.Friday@camden.gov.uk



Puzzled, perplexed, confused, or just wondering!!! Have a query or a problem that you need further advice or information on, but the standard sources just aren't helping? Are you wondering how other UNISON branches or safety reps have:

- negotiated a solution with their employer,
- organised to campaign on a workplace hazard, or
- turned a health and safety concern into a recruitment strategy?

Then email us at healthandsafety@unison.co.uk With over 1.3 million members and almost 12,000 safety reps, branch safety officers, and other health and safety activists, we're sure that there is someone out there who has come across your problem before. Give us the details, your name, and how you can be contacted; and we will put your request in the next issue of this newsletter.

Hazards Conf. 08

2007 saw another very successful Hazards Conference with 224 delegates from UNISON (41% of all those attending). Delegates attended plenaries, campaign and information meetings, and workshops - all focusing on health and safety and how to campaign and organise effectively.

Hazards Conference is the UK's best and largest safety reps conference, and in 2008 takes place from 18 - 20 July at the University of Keele, Staffordshire. Put this date in your diary **NOW!** The Conferences focus is on improving workplace health and safety via the key set of demands, the Hazards Charter. Delegates contribute to the Charter, develop organising strategies around health and safety, and get to network with other safety reps. There is plenty to interest everyone.

UNISON nationally, plus many branches sponsor the Conference each year. This allows the delegates fees to be kept at a reasonable figure. Organised on a not for profit basis, the Conference is very good value for money. Your branch can support the Conference by returning the financial appeal sent to all branch safety officers and also available on the web at www.hazardscampaign.org.uk Further details about the 2008 Conference will follow in due course.

Employers must not Charge

UNISON, along with colleagues from other unions, has protested strongly against the decision by NHS Employers to charge for internet access to its latest edition of *The healthy workplaces handbook: NHS Reference guide to staff well being*, which is otherwise known as the *Blue Book*. Robert Baughan, UNISON national health and safety officer, said: "It is an absolute disgrace that they are seeking to make money from guidance designed to protect the safety and welfare of their own workers. We have reminded them that employers must provide, free of charge, the necessary information and instruction to ensure the health and safety of their employees, and we encourage our safety reps to pursue these arguments with their employers."

Health branches can read about the arguments in more detail in the branch circular hc/141/07. Information on obtaining the *Blue Book* can be found at: www.healthyworkplaces.org.uk

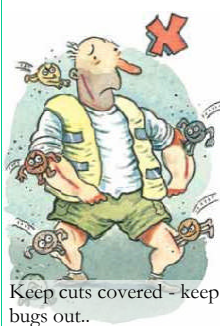
Pocket Card for Waste/Recycling Sector

The HSE has produced a new pocket card (see below) for workers in the waste management and recycling industry. It illustrates the importance of personal hygiene and protective clothing to avoid infection.

UNISON has a limited number to give away on a first come first serve basis. Email healthandsafety@unison.co.uk or tel: 020 7551 1156. Single free copies are also available from the HSE (tel: 01787 881165 or go to: www.hsebooks.com) or on the web at: www.hse.gov.uk/pubns/indg415.pdf Employers may also buy them in packs of 10.

Health Hazards in the Waste and Recycling Industry, gives further guidance for employers, but will also be of use to safety reps and is available on the web (only) at www.hse.gov.uk/pubns/waste15.pdf Topics covered include: the health hazards, risk assessing, the prevention and control of exposure, control measures, personal hygiene, and health surveillance.

- If you work or represent members in the waste and recycling sector, then check out the special HSE webpages for this sector at: www.hse.gov.uk/waste/index.htm



Keep cuts covered - keep bugs out..



There can be dangerous microscopic "bugs" and chemicals in waste.



Keep bugs away. Always wear protective clothing.



They can make you very ill (vomiting, stomach cramps, diarrhoea).



Wash your hands.



Don't drink, eat, or smoke with dirty hands.



If you are very ill, tell your boss and your doctor.

UNISON's H&S Guides



Most of UNISON's health and safety materials are available at: www.unison.org.uk/safety Items with a stock no. can also be ordered from the Communications Catalogue at: <http://217.150.120.242/>



No computer or web access? Then for items with a stock no. call 020 7551 1455 (or email communications@unison.co.uk) and state: the title and stock no. of your chosen document, the number required, your name, branch name and no, tel. no, and full postal address. For all other materials from the Health and Safety Unit, call 020 7551 1156 (or email; healthandsafety@unison.co.uk).

Seasons Greetings

Wishing you a Merry Xmas and a happy, safe, and healthy new year.

The Health and Safety Unit, UNISON