



RCN Safety Representative's Handbook



Contacts

Use this page to make a record of information that will be useful to you locally

Useful contacts:

RCN branch:

RCN office:

RCN officer:

RCN Direct:

Regional or country representative on
RCN UK Safety Representatives' Committee:

Name and contact for:

RCN steward/s:

RCN learning representative/s:

Other safety representative/s:

Workplace health and safety officer/risk manager:

Workplace occupational health department/nurse adviser:

Workplace infection control lead:

Local Health and Safety Executive inspector:

Human Resources:

Local security management specialist/security manager:

Other:

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If an RCN member or their friends or family has been made ill, or suffered an injury at work or anywhere else in the last three years that wasn't their fault, RCN Law can help with their personal injury claim.



RCN Law can help members obtain 100% of the compensation they deserve, free of charge.

Contact us today on 0345 772 6100
– we're available 7 days a week, 8.30am – 8.30pm.

INTRODUCTION

As an RCN safety representative you are at the forefront of making the RCN's voice heard on health and safety issues. Your commitment is an essential element in making the workplace a safer and healthier environment for nurses and health care colleagues.

This handbook is designed to help you carry out your work as a safety rep, whether you are new to the role or not. It suggests ways of getting started, and provides you with the latest information about key RCN services and resources, together with the key health and safety legislation that you need to support your members at work. Use it alongside the new RCN Representatives joint handbook designed for all RCN reps.

Use the handbook to:

- get started in your role
- find out about health and safety laws
- work in partnership
- work effectively with RCN officers
- promote a positive workplace culture
- make the workplace a safer place
- access RCN information sources.

Getting Started

It can feel daunting starting out as a safety representative, so detailed below are some ideas to get you started in your workplace:

- Work with your manager and human resources department to agree facilities time to carry out your role.
- Introduce yourself to the colleagues you are representing and ask them what their health and safety concerns are.
- Find out who the other RCN representatives are in your workplace, including stewards and learning representatives.
- Find out if there are any other trade union safety representatives in your workplace and where they exist, introduce yourself to the other safety representatives.
- Add your details to the safety representatives section of your workplace health and safety poster. See page 55.
- Introduce yourself to staff with key health and safety roles in your workplace, such as health and safety advisers/managers, occupational health staff, infection prevention and control leads and local security management specialists. On the inside front cover there is an action sheet for you to record names and contact details.
- Find out whether there is a health and safety committee in your organisation. If there is, make sure the RCN is represented. If it is not, you are entitled to have a seat on this committee. If there isn't a safety committee you can request for one to be set up. See Chapter 12 for more information.
- Gather intelligence by asking for data and information on the number of injuries and accidents that have occurred in the past year in your workplace. Where available, you can also look at staff survey results on topics such as stress, assaults and health and safety-related training. Use this data to identify hot spots or areas where there may be problems and ask your employer what is being done about the issues.
- Pick a key issue that is a concern for lots of members and develop an action plan to support you in negotiating improvements.

Remember to refer to *The RCN Representatives Joint Handbook* for general advice on being an RCN representative, including the RCN's structures, relevant policies, learning and development, mentorship and support for representatives.

The RCN and Health and Safety

The RCN works with key stakeholders across the UK, including the Health and Safety Executive, to develop and campaign for improvements in workplace health and safety standards. The RCN is an active member of the NHS Staff Council's subcommittee, the Health, Safety and Wellbeing Partnership Group, and works with NHS Employers and other national trade union representatives to raise awareness of key health and safety issues, improve health and safety compliance and share good practice.

UK Safety Representatives' Committee

The UK Safety Representatives' Committee is the national committee that represents the interests of safety representatives throughout England, Scotland, Wales and Northern Ireland. The committee is made up of elected safety representatives from each country and English region. Its function is to support RCN safety representatives in their role and advise on the development of RCN policy on workplace health and safety issues, which includes progressing health and safety-related Congress agenda items.

RCN Safety Representatives

The RCN safety representatives' role is underpinned by a set of role descriptors. The role descriptors are periodically reviewed and the current versions are available on the RCN website see www.rcn.org.uk/activist

As a safety representative, your overarching role is to promote a safe working environment, supporting members' rights to a safe and healthy workplace and, by working collaboratively with the RCN, employers and other stakeholders, to assess and influence the management of risk in the workplace.



1. THE ROLE AND FUNCTIONS OF RCN SAFETY REPRESENTATIVES

The legal basis for the role

Health and Safety at Work Act The Health and Safety at Work etc. Act 1974 (HSWA) is the core legislation that provides protection for people while they are at work. The act gives employees the right to effective safety representatives in the workplace, and describes the role of safety representatives as one method of working in consultation with employers:

“...the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.”

The act applies to England, Scotland and Wales, and was extended to Northern Ireland in 1978 with the introduction of the Health and Safety at Work (Northern Ireland) Order.

Safety Representatives and Safety Committees Regulations 1977

RCN safety representatives were first accredited in 1978, following the implementation of the 1977 Safety Representatives and Safety Committees Regulations, which were amended by the Management of Health and Safety at Work Regulations in 1999. These regulations are produced by the HSE (2012) in a document known as Consulting workers on health and safety. Some of the key requirements of the Safety Representatives and Safety Committee Regulations are discussed in more detail later in this chapter. The regulations and supporting guidance can be found in Appendix 2.

Trade union recognition and consultation

Most agreements by employers to recognise trade unions are voluntary, although under the Employment Relations Act 1999, independent trade unions in organisations employing more than 20 workers have a statutory right to claim recognition for collective bargaining.

In the NHS, the RCN is a recognised trade union. In fact, most RCN safety representatives will be employed by an organisation that recognises the RCN. This will entitle those safety representatives to all the consultation rights and functions in the Safety Representatives and Safety Committee Regulations 1977.

RCN safety representatives are sometimes accredited in organisations that do not recognise the RCN. In these cases, employers may need educating on the role of the safety representative as a representative of members in the workplace. Obtaining paid time off to carry out trade union duties and training may be difficult if the employer does not recognise the RCN. Some employers do, however, recognise the added benefits safety representatives bring, and may offer them paid time off even though they may not be ready to agree to a full recognition agreement.

The Employment Rights Act 1996 protects the employment of employees who raise concerns about health and safety in the workplace.

Sometimes employers want to consult with a mixture of trade union and nontrade union representatives or groups. The current legislation encourages employers to talk and listen to all their staff. The Health and Safety (Consultation with Employees) Regulations 1996 require employers to consult on health and safety with any employees not in groups covered by trade union representatives. Where the RCN is the only recognised trade union, the employer may also need to consult with, for example, administration and estates staff, either directly or through a representative elected by these groups. The useful ACAS (2010) advisory booklet

Representation at work contains further information on trade union recognition, representation and consultation. The booklet is available online, see References.

Health and safety and automatically unfair dismissal

The Employment Rights Act 1996 protects the employment of employees who raise concerns about health and safety in the workplace. It is automatically unfair, regardless of length of service, to dismiss an employee who:

- refuses to work in an area where there is serious or imminent danger
- takes appropriate steps for self protection or protection of others in the face of serious or imminent danger
- performs health and safety duties designated by their employer
- performs functions as an accredited safety representative or health and safety committee member
- brings harmful or potentially harmful conditions of work to the employer's attention in the absence of a rep.

What do the safety representative regulations say?

The Safety Representatives and Safety Committees Regulations 1977 codes of practice and guidance notes are key to your work as a safety representative. The key aspects are discussed here.

Regulation 3 – Appointment of safety representatives

Regulation 3(1) says: "...a recognised trade union may appoint safety representatives from among the employees of an employer by whom it is recognised; it is not a matter for joint discussion with management."

Becoming an accredited representative

Regulation 3(2) says: "...the trade union must notify the employer in writing of the names of the representatives appointed, by means of an accreditation letter. Once accredited, the safety representative can carry out any of the functions defined in the regulations."

Regulation 3(3) says: "...a person cannot be a safety representative once s/he has left the employer, or if the trade union writes to the employer terminating the representative's appointment (or if they resign). Changing employer does not mean that the member must cease being a safety representative, but he or she must be recredited with the new employer."

Regulation 3(4) says: "...so far as is reasonably practicable representatives should be appointed who have had at least two years employment with the employer or experience in similar employment."

This explains why nursing students may not become formally accredited safety representatives. The RCN has the right to have as many representatives as it feels it reasonably needs. Guidelines suggest this depends on the:

- total number employed
- variety of occupations
- size of workplace and number of sites
- shift systems
- degree of work hazards.

As a safety representative you determine your areas of responsibility, and can include more than one part of the workplace if appropriate. You can visit any part of the workplace where members work or go in the course of their jobs.

Regulation 4 – Functions of safety representatives

Regulation 4(1) states that the functions of safety representatives are to:

- investigate potential hazards and dangerous occurrences in the workplace – whether or not employees draw them to the attention of the representative – and to examine the causes of accidents
- investigate complaints by any employee whom they represent that relate to the employee's health, safety or welfare at work
- take complaints and other health and safety problems to the employer
- carry out inspections of the workplace (see regulations 5, 6, and 7 below)
- represent their employees' interests in consultations with the HSE inspectors and any other enforcing authority
- receive information from HSE inspectors
- attend meetings of safety committees.

Immunity from prosecution

Regulation As a safety representative you cannot be prosecuted for anything carried out in your capacity as an RCN representative. Your role is to:

- make verbal representations to management, usually on minor matters
- present written reports either on standard RCN forms or by other locally accepted means
- take problems through the normal grievance procedure when necessary
- contact HSE inspectors as a right when they are on site to raise health and safety concerns
- obtain factual information from an HSE inspector that relates to the premises or any action that the inspector has taken or proposes to take

- take practical steps to keep informed about the employer's health and safety policies, legal requirements, hazards in their workplace and ways of dealing with them.

Time off rules

Regulation 4 (2) covers arrangements for time off and says:

“...a safety representative is entitled to time off with pay for carrying out their functions and for undergoing training... a safety representative should be paid as if they were at work, including special duty payments.”

The amount of time needed to do the job of a safety representative is described in Regulation 4 as ‘as shall be necessary’. But it is often difficult to predict when you will be called on to act as a safety representative. For example, if an accident occurs, the time you need must be flexible.

Much of your work as a safety representative will mean that you have to take time off work to attend meetings (safety committee meetings, for example).

When this happens, you must give your manager sufficient notice to make arrangements to cover your work. You should also check with the lead steward to find out if there is a local agreement covering time off arrangements. If it is not possible to do your safety representative duties in your employer's time then you have the right to time off in lieu. For example, this could affect a nurse on night duty who has to attend meetings during the day.

You should also have time off to attend RCN:

- training courses
- updating study days
- safety representatives' conferences.

Check the clear advice from the Advisory and Conciliation Service (ACAS) (2010) in their Code of Practice No. 3: Time off for trade union duties and activities. Advice is also available in the RCN guidance (2013) *Making the Case for Facilities Agreements and Facilities Time and 2017 and Making the Case for Facilities Agreements and Facilities Time in the NHS*.



When employers have to consult safety representatives

Regulation 4a falls under the Management of Health and Safety at Work Regulations 1999. It requires employers to consult with you as a safety representative ‘in good time’ on the following issues:

- the introduction of any measure that substantially affects the health and safety of employees
- the appointment of competent persons in relation to health and safety
- any health and safety information developed for use by employees
- the planning and organisation of any health and safety training
- the health and safety consequences of introducing new technologies into the workplace.

HSE guidance on the meaning of ‘in good time’ recommends that this is before decisions are made. Employers should provide safety representatives with information about what they propose to do in order to give the safety representatives opportunity to express their views about the matter in the light of that information; and then to take account of any response.

Consultation on health and safety matters is usually covered in health and safety committee meetings.

Regulations 5 and 6 – Inspecting the workplace

Regulations 5 and 6 set out the three grounds that give safety representatives the right to inspect the workplace (also see tables on pages 83-84).

Regulation 5(1) gives representatives the legal right to make regular inspections of the workplace. Inspections are usually done at three-month intervals, though more frequent inspections, perhaps of a suspect area, may be arranged by agreement with the employer, who should be given a reasonable amount of written notice. The employer should be invited to accompany the safety representative so that solutions to any problems can be jointly agreed.

Regulation 5(2) sets out the right to carry out further inspections where there has been a substantial change in working conditions, new legislation or information from the HSE.

If this occurs, safety representatives should carry out further inspections but again, the employer must be given reasonable notice. Regulation 5(3) states that the employer must provide any ‘reasonable’ facilities and assistance required by a safety representative. This means that safety representatives can hold independent workplace investigations and private discussions with employees, although employers have the right to be present during inspections.

Inspection of facilities might include:

- taking samples and sending them for independent analysis
- getting assistance from safety advisers, fire officers or technical experts
- having access to legal standards regulations and any technical information that would assist inspections
- taking advice from other safety representatives and/or own technical advisers.

Regulation 6 gives safety representatives the authority to inspect their workplace if there has been a notifiable:

- accident
- illness or disease
- dangerous incident.

These are defined by the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 (see further information on page 93).

Regulation 6(1) gives safety representatives the right to carry out inspections of the workplace to determine the cause of an accident, incident or disease where employees might be put at risk, and provided it is safe. The employer should be notified of the inspection if it is reasonably practicable to do so.

Regulation 6(2) restates safety representatives' right to necessary facilities and assistance to carry out an investigation.

Regulation 7 – Inspection of documents and provision of information

This gives safety representatives the legal right to inspect and take copies of any documents that are relevant to the workplace or the employees they are representing, as long as the employer is given reasonable notice. The representative has no right to see a document dealing with the health record of an identifiable individual, unless that individual gives their permission. The Safety Representatives and Safety Committees Regulation Approved Code of Practice (ACoP) gives examples of the

type of information that should be made available to safety representatives:

- plans and performance of any undertaking related to safety
- details of any changes affecting health and safety, for instance new systems, procedures, equipment, substances
- technical information about hazards and precautions for machinery, equipment, systems and substances
- reports from consultants, suppliers, designers or manufacturers of any articles or substances
- information about accidents, dangerous occurrences and cases of notifiable industrial disease
- statistics on health that do not refer to named individuals
- results of any measurements and tests carried out on the workforce.

The employer has no right to withhold relevant information if it is 'within the employer's knowledge'. However, there are exceptions if the information:

- is against the interests of national security
- could not be disclosed without contravening a legal prohibition
- relates to an individual, unless they have consented to its disclosure
- causes substantial injury to the employer for reasons other than health, safety or welfare at work if it is disclosed. This applies where another person supplies information which, if disclosed, would cause injury to their business
- is obtained by the employer in order to bring, prosecute or defend any legal proceedings.

Regulation 9 – Safety committees

This sets out the arrangements for setting up health and safety committees. The regulation states that where at least two safety representatives request the employer to establish a safety committee, the employer is obliged to carry out the request not later than three months after the request is made.



For your own reference find out:

- what is the local policy on facilities and time off?
- what regular arrangements exist for circulating information to safety representatives in the workplace?
- how are workplace inspections planned and organised?
- does your employer have reporting forms for inspections?
- does your employer have a health and safety committee?

If so, is the RCN represented on the committee?

References

HSE (2012) *Consulting Workers on Health and Safety*, Sudbury: HSE Books

ACAS (2010) *Representation at Work*, London: ACAS, available at: www.acas.org.uk/index.aspx?articleid=760 (Accessed 20.11.18)

ACAS (2010) *Code of Practice 3 – Time off for Trade Union Duties and Activities*, London: ACAS, available at: <http://www.acas.org.uk/index.aspx?articleid=2391> (Accessed 20.11.18)

RCN (2013) *Making the Case for Facilities Agreements and Facilities Time*, London: RCN

RCN (2017) *Making the Case for Facilities Agreements and Facilities Time in the NHS*, London: RCN

Further information

HSE's health and safety representatives' information is available at: www.hse.gov.uk/workers/safetyrep.htm (Accessed 20.11.18)

HSE's information on the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 is available at: www.hse.gov.uk/riddor/ (Accessed 20.11.18)

Further ACAS documents are available at: www.acas.org.uk

2. UK HEALTH AND SAFETY LEGISLATION

There are several pieces of health and safety legislation that you need to be familiar with, and know how to use. You should also be aware that European legislation is playing an increasingly significant role in shaping UK health and safety law. One of the most influential European Commission directives, for example, was the Working Time Directive, resulting in the Working Time Regulations 1998, which control the health and safety risks of working hours on employees in the workplace.

UK health and safety at work regulation is a mix of criminal law, civil law, professional regulation and preventive measures. This means that breaches of statutory provisions can result in criminal prosecution, while civil claims usually relate to workplace injuries following an employer's failure to observe health and safety rules. Most health and safety legislation is applicable to England, Wales and Northern Ireland, although it does not apply to the Channel Islands, but health care organisations normally take on board the intent of those laws. Northern Ireland also has its own health and safety legislation but the content is clearly based on the Health and Safety at Work etc. Act 1974 and subsequent regulations, for example, the Health and Safety at Work (Northern Ireland) Order 1978.

Safety representatives can ensure that health and safety legislation is adhered to by providing information, observing progress, monitoring through inspections, using the safety committee, investigating accidents, reminding managers of their statutory obligations, and regular contact with HSE inspectors.

Professional regulation

The Nursing and Midwifery's Council (NMC) *Code on Professional Standards of Practice and Behaviour for Nurses, Midwives and Nursing Associates* (2018) means that all registered nurses are personally accountable for their practice. The Code requires nurses to maintain the safety of those in their care, and manage risk by acting without delay if they believe that they, a colleague or anyone else may be putting someone at risk. The Code also requires nurses to report concerns, in writing, if problems in the environment of care are putting people at risk. As the regulatory body for nursing and midwifery, the NMC has the power to suspend and remove nurses from the register to practice.

The RCN has also developed a brief guide on raising concerns for both representatives and members. The RCN leaflet on raising concerns (2017) gives advice to representatives and members on the process of raising and escalating concerns.

A brief history of UK health and safety legislation

Before the Health and Safety at Work etc. Act 1974 (HSWA) was enacted, there were several pieces of legislation that provided some protection for people at work. For example:

- Factories Act 1961
- Offices, Shops and Railway Premises Act 1963.

During the 1960s, however, there was increasing concern over the state of health and safety legislation. There were two main issues of concern:

- the large number of workers not protected by any legislation, including those people in the health service and education
- the inadequacy of existing legislation.

Pressure for change resulted in the Government-established 1970 Committee of Inquiry on Health and Safety at Work, under the chairmanship of Lord Robens. The Committee's task was to examine existing health and safety legislation and to make recommendations for change. The 1972 Lord Robens' Report formed the basis of the Health and Safety at Work etc. Act 1974.



What's the difference between an act, regulation, ACoP and guidance?

You will come across a range of terms used to describe health and safety laws. So here is a definition of those terms that explains what is enforceable by law and what is purely guidance and good practice.

Act

An act becomes law once it has been debated as a bill by parliament and subsequently given Royal Assent. It comes into force as stated in the act or in the regulations made under it. An act is enforceable in law.

Regulation

A regulation is a broad duty laid down in an act. The power to make the regulation is given in the act, and allows government ministers to make new or additional laws. Regulations have the full force of the law behind them, and it is possible for them to supersede specific provisions in the parent act. Health and safety laws, such as the 1974 Health and Safety at Work etc. Act, are a combination of direct legislative control through acts and detailed subordinate regulations.

Approved code of practice

Codes of practice, known as approved codes of practice (ACoPs), are for guidance and are officially approved in accordance with the parent act. ACoPs may be taken into consideration by courts and tribunals in situations where, for example, they provide a clear model of what someone should have done to comply with the legislation. They are not enforceable in law.

Guidance

Guidance is published by enforcement agencies such as the HSE. It gives practical advice and sound suggestions on how to comply with the law. It has no standing in law.

UK health and safety legislation today

The most significant act that lies at the heart of providing a safe and secure working environment for all workers is the Health and Safety at Work etc. Act 1974.

Subsequent regulations include:

- Control of Substances Hazardous to Health (COSHH) Regulations 2002 (see Chapter 4)
- Working Time Regulations 1998 (see Chapter 5)
- Management of Health and Safety at Work Regulations 1999 (see Chapter 6).

The Health and Safety at Work Act (HSWA) is the prime legislation which has been the catalyst for increased management activity in health and safety issues, and has created a greater awareness and concern for employees.

This is an enabling act, and has been extended through a range of regulations, including those which came into effect in 1992 to meet new European requirements that placed the primary duty for ensuring health and safety at work on employers.

Subsequently the regulations were consolidated with the 1999 Management of Health and Safety at Work Regulations.

The 1992 regulations became known as the 'Six Pack' and they took effect in January 1993. The Six Pack regulations, which are all based on European Directives, are:

- Management of Health and Safety at Work 1999 (known as the Management Regulations)
- Manual Handling Operations Regulations 1992
- Workplace (Health, Safety and Welfare) Regulations 1992
- Health and Safety (Display Screen Equipment) Regulations 1992
- Provision and Use of Work Equipment Regulations 1992
- Personal Protective Equipment (PPE) at Work 1992.

A further directive on lifting equipment and lifting operations was introduced in 1998.

The 1999 amendments to the Management of Health and Safety at Work Regulations also tightened the laws for particular areas and groups of workers. These include:

- Pregnant Workers Directive 1992
- Protection of Young Persons at Work Directive 1994
- Fire Precautions (Workplace) Regulations 1997 (amended 1999).

This ambitious programme of safety, hygiene and health laws has a common theme based around the need:

- to take steps to prevent harm
- to carry out risk assessments
- for organisations to appoint at least one specific person responsible for health and safety (known as the 'competent person')
- for effective consultation with employees
- for safety systems to recognise the needs of vulnerable workers and react appropriately
- for employers to establish systems to monitor the health of the work force for employers to take steps to communicate and co-operate with other employers or contractors.

It is also important to remember that your role of safety representative is enshrined in law (see Chapter 1 – The role and functions of RCN safety representatives).

Pressure for change resulted in the Government-established 1970 Committee of Inquiry on Health and Safety at Work, under the chairmanship of Lord Robens.



References

Nursing and Midwifery Council (2018) *Code of Professional Standards of Practice and Behaviour for Nurses, Midwives and Nursing Associates*, London: NMC

Lord Robens (1972) *Safety and Health at Work: Report of the Committee 1970-72*. Cmnd. 5034, London: HMSO

RCN (2017) *Raising Concerns*

Available at: www.rcn.org.uk/employment-and-pay/raising-concerns/guide-for-rcn-reps

Further information

Statutory Instruments (Acts and Regulations) including the Health and Safety at Work etc. Act 1974 can be accessed at: www.legislation.gov.uk

You can access guidance on the six pack regulations on the HSE Books website at: <http://books.hse.gov.uk/hse/public/home.jsf>

This includes:

- Workplace (Health, Safety and Welfare) Regulations 1992 Approved Code of Practice and Guidance, Series code L24
- Health and Safety (Display Screen Equipment) Regulations 1992 Approved Code of Practice and Guidance, Series code L26
- Provision and Use of Work Equipment Regulations 1998 Approved Code of Practice and Guidance, Series code L22
- Personal Protective Equipment Regulations 1992 Guidance on the Regulations, Series code L25
- Manual Handling Operations Regulations 1992 Guidance on Regulations, Series code L23.

3. LAWS IN DETAIL: HEALTH AND SAFETY AT WORK ETC ACT 1974

The Health and Safety at Work Act (HSWA) has four parts:

- Part I: deals with health, safety and welfare at work
- Part II: covers the Employment Medical Advisory Service
- Part III: deals with building regulations
- Part IV: deals with a number of miscellaneous and general provisions.

Objectives of the act

The HSWA has four main objectives:

- secure the health, safety and welfare of people at work
- protect people other than those at work against the risks of other people's work activities
- control the storage and use of explosive, highly flammable or dangerous substances
- control the release into the atmosphere of noxious or offensive substances from premises.

The act puts in place a strong and unified system for protecting people at work by involving both employers and employees in the creation and maintenance of safe and healthy working conditions. Joint consultation and co-operation between employers and employees is seen to be the key to good standards.

The act applies to England, Scotland and Wales, with the exception of certain building regulations that do not apply in Scotland. It does not cover Northern Ireland (with minor exceptions), which has its own laws with a very similar content, for example, Health and Safety at Work Act (Northern Ireland) Order.

HSWA 1974: Sections 2-8

Sections 2 to 8 of the act look firstly at an employer's duty towards staff, and their responsibility towards hospital visitors and non-health service staff. They then tackle the question from the employees' point of view.

Section 2 in practice: General duties of employers and employees

Section 2(1) states that "it shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees".

'Reasonably practicable' implies that risks must be measured against the time or money required to avert them. It is possible that safety measures that are practicable, that is physically possible, may not be 'reasonably' practicable. So an assessment must be made on two levels:

1) is it practicable? 2) is it reasonable?

The HSE definition of 'reasonably practicable' is: "It may be reasonable for an organisation to undertake a particular measure, but not be physically practicable to do so, alternatively it may be practicable to do something, but in terms of the likely risk involved it would not be reasonable." (HSE, 2010)

In court, the onus of proving that compliance with a statutory obligation under HSWA is not 'reasonably practicable' is placed on the defendant. Ultimately, the courts will decide what is or was reasonable or practicable in individual cases.

In *Edwards v. National Coal Board* (1949) reasonably practicable was defined by the judge as follows:

‘Reasonably practicable’ is a narrower term than ‘physically possible’ and seems to me to imply that a computation must be made by the owner in which the quantum of risk placed on one scale and the sacrifice involved in the measures necessary for averting risk (whether in money, time or trouble) is placed in the other, and that, if it be shown that there is a gross disproportion between them – the risk being insignificant in relation to the sacrifice – the defendants discharge the onus on them.

Plant and systems of working

2(2)(a) requires “the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health”. This section is the most frequent source of prosecution. It covers all plant, and includes machinery, equipment and appliances used in the workplace. It requires employers to make a wide ranging assessment of risk, but does not supersede more detailed and specific provisions covering certain equipment in existing laws.

What are the implications for the nursing workforce?

You should consider:

- does equipment meet current health and safety standards?
- is the equipment regularly inspected and serviced? For example, systems of planned, preventive maintenance can save money and save the frustration of equipment not being available because it has broken down. Accidents have occurred because brakes on beds have failed, frames for supporting oxygen cylinders have broken, and wheelchair footrests have given way. Scavenging systems to remove waste anaesthetic gases require methods of monitoring the atmosphere to ensure effective removal of gases
- is the system of working safe? For example, a system is needed for handling patients that eliminates lifting, such as using a hoist, and employers have a duty to provide and maintain hoists
- is there a written system for safe drug use nurses can refer to? For example, when using cytotoxic drugs
- are there safe systems for repair and maintenance operations? For example, the system for decontaminating equipment must be specified before repair
- how is personal protective equipment issued, stored, checked and maintained? For example, the lead-lined gloves used in radiography.

The duty to provide a safe system of work applies to the community nursing workforce as well as those based in hospitals. The fact that the nurse will be working in a patient’s home does not diminish the employer’s duty.



Articles and substances

2(2)(b) places a duty on employers to make: “...arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances.” Section 53 of the HSWA defines substances as “any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour”. This means that literally everything used at work is covered by the act, and it has been made more explicit by the 2002 Control of Substances Hazardous to Health (COSHH) Regulations.

What are the implications for the nursing workforce?

You should consider:

- if procedures have been identified for the handling of substances. For example, staff should follow a written policy for the safe disposal of clinical waste (remember that community nurses need different systems to protect them)
- if your workplace covers the safe storage of medical gas cylinders and methods of transporting them
- if storage can be improved to make it safer. For example, think about where flammable substances are kept and in what quantity. Often good housekeeping in ward storage areas will improve the safety conditions, such as storing glass objects at the back of cupboards to reduce the risk of accidental breakage.

Information and training

[A25]Section 2(2)(c) requires “the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of employees”. This requires employers to provide information and training in safe ways of working such as handling the drugs and chemicals being used in the workplace. This also applies to any equipment being used such as hoists.

What are the implications for the nursing workforce?

You should consider:

- what mechanisms are there for opening windows or restricting the opening of windows?
- what type of health and safety training is given to new staff during induction, and does it adequately inform them about the hazards of work activities?
- how is health and safety information communicated to employees? For example, are hazard bulletins circulated to staff?
- do nurses know the health and safety legal requirements? When these change, how are nurses updated?
- how are sisters/charge nurses/ward managers trained to manage the maintenance of safe systems of work?
- how effective are emergency training procedures – for example, fire evacuation?
- how are new working practices introduced into the workplace, and are staff adequately trained?

Physical working environment

Section 2(2)(d) requires “so far as is reasonably practicable as regards any place of work under the employer’s control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks”. This section cannot be applied to community nurses. This is because a patient’s home is not ‘under the employer’s control’. If the working environment for a community nurse is physically unsafe, management must decide what action to take to ensure the nurse’s safety. The withdrawal of the nursing service is one option, albeit extreme.

What are the implications for the nursing workforce?

You should consider:

- is general cleanliness and housekeeping adequate?
- are fire exits identified and kept free from obstruction?
- are fire extinguishers provided and maintained, and do staff know how to use them correctly?
- does the fire alarm system work and are fire drills held?
- do the buildings comply adequately with safety standards?
- are sources of danger, such as radiators, guarded where necessary?
- if there are hazards such as swing doors, is visibility a problem?

Welfare

Section 2(2)(e) requires “the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.”

What are the implications for the nursing workforce?

You should consider:

- are there any problems with heating, lighting, or ventilation?
- what arrangements are there for first aid?
- are hepatitis B vaccinations available to all nurses?
- is there access to a counselling service?
- is there a ‘no smoking’ policy?
- are there adequate rest facilities and toilets?
- do night staff have access to a hot meal when on duty?

Section 3 in practice: Employers' duties towards non-health care staff and visitors

Section 3 of HSWA gives responsibilities to the employer to protect people who are not employees. This covers, for example, patients' visitors and non-health service employees working on the premises.

3(1) states that "it shall be the duty of every employer, to conduct his undertakings in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health and safety."

Section 3(3) places a duty on employers to inform non-employees about workplace health or safety procedures. For example, an employer may need to explain safety rules to agency nurses or the employees of a contractor. This is particularly relevant to hospitals where services have been contracted out, and where two or more employers share the same premises. Where this occurs the law requires the employers to ensure that they do not put the employees of the other employer at risk.

Example

Who is responsible for training a contractor's staff? Who provides domestic services?

- The contractor has to ensure that the staff can operate the cleaning equipment.
- The health care organisation has to provide training on dealing with some hazards of the work environment such as cleaning in an infectious diseases unit.

Prosecutions

There have been a number of prosecutions under this part of the Act. For example:

- an NHS trust was prosecuted after an incident where an elderly patient fell 5.5 metres from a hospital window which was not adequately restricted
- an independent sector care home was prosecuted following the death of an elderly quadriplegic patient who fell from her bed while being dressed by a lone, inexperienced care assistant. The care home operators had failed to ensure that adequate numbers of trained staff were available to move and handle residents
- a GP was prosecuted and fined when a young child drank disinfectant in the surgery while the mother was consulting the doctor.

Section 4: Employers' duties to provide a safe working environment

Section 4 describes how employers have a duty to provide safe access, safe plant and equipment and safe premises. This is aimed at premises where people work or use plant and substances but who are not employees.

This is particularly relevant for nurses who are employed by trusts, but who are based and work in the community, for example, clinics and GPs' surgeries.



Section 6: Suppliers' duties

Section 6 focuses on designers and manufacturers of industrial products. It places a duty on them to design and produce products and substances that are safe and without health risks for use at work. This involves safe design and construction, testing and the provision of information to consumers about the proper use of the product. The installation of products in the workplace is also covered by Section 6 of the HSWA. Suppliers have a duty to ensure that the products they install are safe to use, clean and maintained. Manufacturers too are responsible for substances used in the workplace. They must specify any health risk associated with the substance and describe clearly how to use the product safely.

What are the implications for the nursing workforce?

Management has a duty to report any faults with products and substances, particularly in the design. The Medicines and Healthcare Products Regulatory Agency (MHRA) will follow up this information with the supplier. Management also has a duty to respond to any equipment alerts produced by regulatory bodies.

Sections 7 and 8 in practice: Employees' duties

Sections 7 and 8 of the HSWA define employees' health and safety duties in the workplace.

Section 7 says: "It shall be the duty of every employee while at work:

- a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work.
- b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-

operate with him so far as is necessary to enable that duty or requirement to be performed or complied with."

Section 8 says: "No person shall intentionally or recklessly interfere with or misuse... anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions."

What are the implications for the nursing workforce?

You should consider:

- are horseplay or practical jokes the right behaviour in the workplace? No: they may have tragic consequences and are often a breach of section 7.
- should nurses wear the protective equipment provided? Employees must co-operate and wear/use the equipment provided. Failure to do so could lead to disciplinary action.
- how familiar are staff with these sections of HSWA? If health care workers are not familiar with the HSWA it is very easy to breach the regulations. For example, two nurses were prosecuted under Section 7 of HSWA because they breached the rules – they worked in a residential home where an elderly patient died as a result of being placed in a bath of hot water. Neither nurse had checked the temperature of the water because each assumed that the other had done so.

Other important sections of the Act

- Section 20, which sets out the powers of HSE inspectors
- Section 28, which requires HSE inspectors to supply certain information on health and safety, including enforcement to employees or their representatives.

REFERENCES AND FURTHER INFORMATION

References

HSE (2010) *ALARP at a Glance* – includes the HSE definition of ‘reasonably practicable’. Available at: www.hse.gov.uk/risk/expert.htm (Accessed 17.8.18)

Further information on the Health and Safety at Work etc. Act 1974 and the meaning of ‘reasonably practicable’ can be found at: www.hse.gov.uk/legislation/hswa.htm (Accessed 17.8.18)

4. LAWS IN DETAIL: CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS 2002 (COSHH)

The Control of Substances Hazardous to Health Regulations (COSHH) is the most significant piece of health and safety legislation after the Health and Safety at Work Act. The regulations are designed to protect workers against the risks of exposure to substances hazardous to health. The regulations are detailed as follows:

- a general description of the types of substance that are hazardous to health
- a specific list of materials currently regarded as being hazardous
- 19 regulations that include key duties such as assessment and training
- an Approved Code of Practice (ACoP).

COSHH was amended by the COSHH (Amendment) Regulations in 1990, 1991, 1994, 1999 and 2002. The following details the key regulations and the associated ACoP.

Regulation 2: Hazardous substances

Regulation 2 defines what is meant by a 'substance hazardous to health'. COSHH covers chemicals, products containing chemicals, fumes, dusts, vapours, mists, gases and biological agents that cause disease. The definition includes:

- substances designated as very toxic, toxic, corrosive, harmful or irritant under product labelling legislation (these substances should be labelled with the standard orange and black symbols)
- substances assigned a Workplace Exposure Limit
- biological agents
- dust of any kind at a substantial concentration in the air
- substances that can cause occupational
- asthma, known as asthmagens
- carcinogens and mutagens.

COSHH doesn't cover lead, asbestos or radioactive substances. These substances are hazardous but have their own specific regulations.

There are a number of hazardous substances in health care environments including anaesthetic gases, blood-borne viruses, cytotoxic agents, diathermy/surgical smoke fumes, formaldehyde and latex. Cleaning products including hypochlorite solutions may also be hazardous.

Regulation 3: Employers' duties

Regulation 3 imposes duties on an employer, which also includes contractors, sub-contractors and self-employed workers. It states: "...in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work carried on by the employer."

The ACoP outlines the employer's specific duties towards employees and others at the premises.

Regulation 4: Prohibited substances

This covers prohibited substances, which are listed in Schedule 2 of the COSHH regulations. However, the HSE may grant exemptions from these prohibitions: "but only where it can be satisfied that the health of persons will not be prejudiced as a consequence".

Regulation 6: Risk assessments

This regulation requires employers to make a “suitable and sufficient assessment of the risks created by that work to the health of those employees and of the steps that need to be taken to meet the requirements of these regulations”.

The regulations require the risk assessment to include:

- the hazardous properties of the substance
- information on the health effects (for example, information on the safety data sheet)
- the level, type and duration of exposure
- the circumstances of the work, including the amount of the substance involved
- activities such as maintenance where there is a potential for a high level of exposure
- any relevant exposure limits
- the effectiveness of measures put in place to prevent or control exposure to substances
- the results of health surveillance
- the results of monitoring of exposure.

Regulation 7: Prevention of exposure

This regulation deals directly with the prevention of exposure to substances hazardous to health or, where this is not reasonably practicable, adequate exposure control. The employer's main responsibility is to consider how exposure to harmful substances can be prevented. This can be achieved by eliminating the use of the substances or substituting them with non-harmful or less harmful substances.

Where prevention of exposure is not reasonably practicable (for instance, where the costs of reducing exposure would be grossly disproportionate to the benefits) the employer must control exposure to minimise risks to health.

Schedule 2a of the regulation defines good practice in controlling exposure as follows:

- design and operate processes and activities to minimise emission, release and spread of substances to health
- take account of all relevant routes of exposure – inhalation, skin absorption and ingestion – when developing control measures
- control exposure by measures that are proportionate to the health risk
- choose the most effective and reliable control options which minimise the escape and spread of substances hazardous to health
- where adequate control of exposure cannot be achieved by other means, provide, in combination with other control measures,
- suitable personal protective equipment
- check and review regularly all elements of control measures for their continuing effectiveness
- inform and train all employees on the hazards and risks from the substances they work with and the use of control measures developed to minimise risks
- ensure that the introduction of control measures does not increase the risk to health and safety.

Workplace exposure limits

Regulation 7 also requires employers to ensure that workplace exposure limits are not exceeded. About 500 substances have 'workplace exposure limits' (WELs) set under the Control of Substances Hazardous to Health Regulations. WELs are concentrations of hazardous substances in the air, averaged over a specified period of time referred to as a time-weighted average (TWA).

Substances such as nitrous oxide and gluteraldehyde are assigned WELs.

Employers are required to measure exposure to substances to ensure that exposure limits are not exceeded, and reduced, as far as reasonably practicable, and that equipment to reduce exposure (for example, ventilation) is correct and working. Examples of substances used in the health sector that have an exposure limit include:

- nitrous oxide
- plaster of Paris
- formaldehyde.

Specialist monitoring is required to ensure that these limits are not exceeded and that the measures put in place to reduce exposure are effective (for example, local ventilation, such as 'scavenger units', is used in theatre environments).

Regulation 8: Using control measures

There is a duty on both employers and employees to use control measures properly. As a safety representative you must also be aware that there is a duty on employees to report any defect or problem.

Regulation 9: Maintaining control measures

This regulation is all about how employers are required to maintain any control measures they put into operation. The regulation states: "Every employer who provides any control measure to meet the requirements of regulation 7 shall ensure that it is maintained in an efficient state, in efficient working order, and in good repair." The regulation also requires employers to test respiratory protective equipment regularly and to keep a suitable record of all examinations and tests.

The ACoP explains what is meant by testing and examination, and includes the need for preventive and remedial work on plant or equipment. The ACoP has specific sections on the testing of local exhaust ventilation plant and respiratory protective equipment.



Regulation 10: Monitoring exposure

This explains how employers should monitor exposure at the workplace and keep relevant records for at least five years. But records should be kept for at least 30 years “where the record is representative of the personal exposures of identifiable employees”. The ACoP explains when monitoring is necessary, suitable procedures for monitoring, who to monitor, frequency of monitoring, record keeping and the competencies required of someone carries out monitoring.

Regulation 11: Health surveillance

All employees faced with any significant exposure to hazardous substances should have their health monitored. The employer must ensure that each worker has a personal health record that contains details approved by the HSE. A record should be kept for at least 40 years from the date of the last entry made in it. This individual surveillance should take place “under the supervision of an employment medical adviser or appointed doctor at intervals of not more than 12 months”.

The associated ACoP outlines where health surveillance is appropriate and suitable types of surveillance. For example, health surveillance for dermatitis in health care workers exposed to ‘wet-work’ is listed.

Accessing health records

Under the regulation employees have the right to access their health records, provided that reasonable notice is given to the employer. The regulation states: “Where it is appropriate for the protection of the health of his employees who are, or liable to be, exposed to a substance hazardous to health, the employer shall ensure that such employees are under suitable health surveillance.”

Regulation 12: Providing training and information

This regulation makes it clear that training and information must be available to staff. This should include ensuring staff know what precautions to take; what cleaning, storage and disposal procedures are required; and the procedures to be followed in an emergency. The regulation states: “An employer who undertakes work which may expose any of his employees to substances hazardous to health shall provide that employee with such information, instruction and training as is suitable and sufficient for him to know – (a) the risks to health by such exposure, and (b) the precautions which should be taken.”

The ACoP adds that information on risks, control measures, monitoring and health surveillance should be made available to employees’ representatives such as RCN safety representatives.

Training courses should cover:

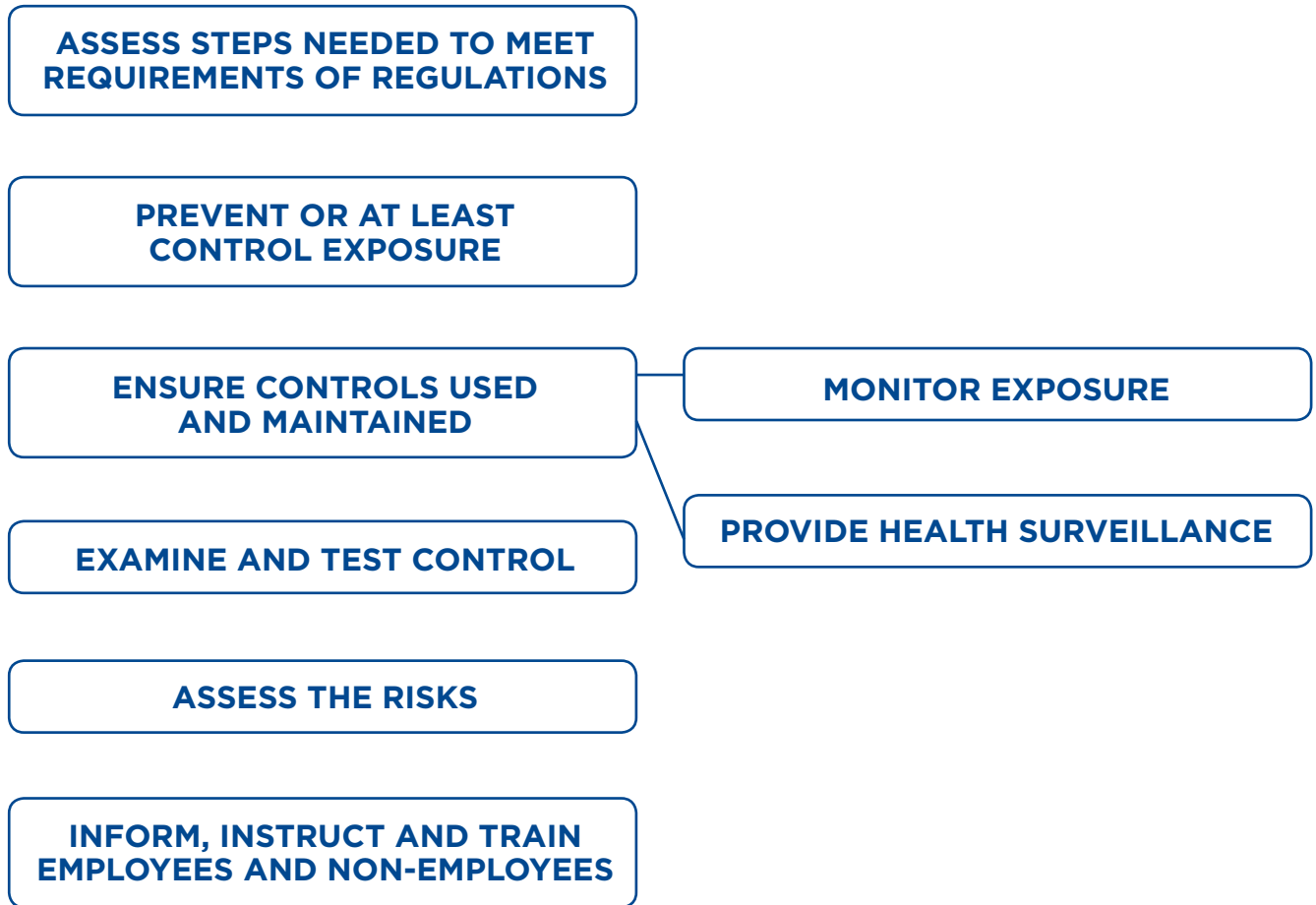
- methods of control
- use of personal protective equipment
- emergency measures.

The regulation also says that employers must ensure that any person who carries out work in the workplace receives similar health monitoring, whether or not they are an employee.

Biological agents

The COSHH regulations cover biological agents including micro-organisms such as bacteria, viruses and fungi. Schedule 3 of the regulations sets out additional provisions relating to biological agents.

Summary of employer's duties under COSHH





Further information

Further information on COSHH, including health surveillance and exposure limits, can be found at: www.hse.gov.uk/coshh/index.htm (Accessed 17.8.18)

You can access guidance on the COSHH regulations on the HSE Books website at: <http://books.hse.gov.uk/hse/public/home.jsf>, including: The Control of Substances Hazardous to Health Regulations 2002.

Approved code of practice and guidance. Series code L5, available at: www.hse.gov.uk/pubns/books/L5.htm (Accessed 17.8.18)

RCN guidance

RCN (2018) *Tools of the Trade, RCN Guidance for Health Care Staff on Glove Use and the Prevention of Contact Dermatitis*, London: RCN

RCN (2013) *Sharps Safety, RCN Guidance to Support the Implementation of The Health and Safety (Sharp Instruments in Healthcare) Regulations 2013*, London: RCN

5. LAWS IN DETAIL: WORKING TIME REGULATIONS 1998

The Working Time Regulations 1998 were transposed into UK law from the European Working Time Directive.

The Working Time Regulations are health and safety-related regulations because they place controls on working hours and place a duty on employers to provide rest breaks during working hours and rest periods between shifts. They also place a duty on employers to provide paid annual leave.

This is an important issue for RCN safety representatives as long working hours can lead to fatigue, health problems and an increased risk of accidents and errors.

The main requirements of the regulations are as follows:

- limit of an average working week of 48 hours
- right to 11 consecutive hours rest a day
- right to 35 hours off each week
- right to a 20-minute in-work rest break if the working day is longer than six hours
- restrictions on hours of night work for those who regularly work between the hours of 11pm and 6am
- right to a free health assessment for night workers
- right to 5.6 weeks (28 days) paid annual leave per year for full-time staff (pro-rata for part-time staff).

The opt out

Employees can opt out of the 48-hour week restrictions. Choosing to work more than an average 48-hour week must be voluntary and put in writing.

Where members have more than one employer, all of the employers are required to take 'reasonable steps' to ensure compliance with the 48-hour limit. Where it is likely that the 48-hour limit may be breached, an opt-out agreement should be signed for each employer. In order to monitor hours worked, the RCN advises that it is reasonable for an employer to ask for details of any other jobs held and hours worked, but not further details such as salary.

Working Time Regulations in health care

In August 2009 the limit of an average 48-hour working week was extended to junior doctors. Nurses' and health care assistants' hours have had to be compliant with the 48-hour limit since the introduction of the regulations in 1998.

Compensatory rest

Compensatory rest is the rest time given if a worker has worked over the recommended daily or weekly hours. The Working Time Regulations state that compensatory rest must be given when the daily/weekly rest requirements cannot be met. Compensatory rest will most likely be necessary when workers are:

- working a shift pattern and the shift extends due to an unforeseen situation or emergency
- working on-call from home and are called upon to work
- in resident on-call situations where work extends to more than 13 hours continuously.

In each situation the rest provided should make up for the rest missed and, under the provisions of recent judgements, the rest should be taken immediately after the end of the working period.

The arrangements for taking compensatory rest will need to be determined locally in light of individual circumstances. The regulations recognise that services such as the NHS and Social Care will have instances where a continuous emergency service must be maintained.

The Agenda for Change agreement has a section on working time which outlines issues such as compensatory rest and on-call. Safety representatives should be consulted in 'good time' and involved in any decision to review or change shift systems, as changes have the potential to impact on the health and welfare of staff and patients' safety.

Who can investigate working time complaints?

The HSE is responsible for the enforcement of some parts of the Working Time Regulations, namely:

- the maximum weekly limit
- night work limits
- night worker health assessments.

Complaints on other issues including time off, rest breaks and annual leave are made through an employment tribunal.



Further information

Further information can be found at www.gov.uk

The Working Time Regulations 1998 and subsequent amendments can be downloaded at www.legislation.gov.uk

Section 27 of the NHS terms and conditions of service handbook contains the agreement on implementation of the working time regulation within the NHS. It can be accessed at: <http://www.nhsemployers.org/tchandbook> (Accessed 17.8.18)

HSE provides the useful document *Managing Shift Work – Health and Safety Guidance*, which can be downloaded at: <http://books.hse.gov.uk/hse/public/home.jsf>

RCN guidance

RCN (2012) *A Shift in the Right Direction. RCN Guidance on the Occupational Health and Safety of Shift Work in the Nursing Workforce*, London: RCN



6. LAWS IN DETAIL: THE 'SIX PACK' REGULATIONS

Each of the regulations from the 'six pack' plays a vital role in the UK's health and safety legislative infrastructure. The six groups of regulations are:

- The Management of Health and Safety at Work Regulations 1999
- Manual Handling Operations Regulations 1992
- Workplace (Health, Safety and Welfare) Regulations 1992
- Health and Safety (Display Screen Equipment) Regulations 1992
- Provision and Use of Work Equipment Regulations (PUWER) 1998
- Personal Protective Equipment (PPE) at Work Regulations 1992.

A brief summary of each follows with a checklist of questions at the end. This action checklist is designed to help you assess what has been done to meet the regulations in your workplace, what still needs to be done, and who should do it.

The Management of Health and Safety at Work Regulations 1999

These regulations, often referred to as the Management Regulations, extend the requirements of the HSWA and in some areas make them more explicit. The aim is to encourage employers to create a safety culture so that the management of health and safety is incorporated into the management system. The management regulations introduce the concept of risk assessment which is covered in more detail in Chapter 17.

These regulations have also been extended to include several important pieces of legislation that affect pregnant women, young people, fire precautions, safety signs and signals, and temporary workers at work.

Pregnant workers and new mothers

Employers have to assess the health and safety risks at the workplace for a new or expectant mother and put in place any necessary protective measures. This includes altering working conditions or hours of work. Where this is not possible, an employer can suspend the worker for as long as necessary for her health and safety, providing the woman's GP provides a certificate to support the action.

Annexes I and II of the EC directive 92/185/EEC and regulation 3 (1) of the Management of Health and Safety at Work Regulations require employers to carry out a risk assessment of the workplace. This is to ensure the health and safety of pregnant workers and workers who have recently given birth or who are breast-feeding. The assessments include any physical agents that would be likely to cause foetal lesions or disrupt placental attachment such as:

- vibrations
- handling of loads
- noise
- ionising radiation
- extremes of heat and cold
- movements and posture
- travel
- mental and physical fatigue.

The regulations also require employers to carry out risk assessments when they employ women of child-bearing age to protect a woman's health, or the health of a child if the woman becomes pregnant.



Protection of young people

Because young people are new to work and lack the experience or awareness of risk that older colleagues have, employers must not employ a young person in the following conditions:

- if the work is beyond their physical or psychological capacity
- if their inexperience, lack of training or awareness could cause an accident
- if they are exposed to harmful radiation or other toxic substances.

Employers are also obliged to provide supervision for young people in the workplace and appropriate training.

Fire precautions – The Fire Precautions (workplace) Regulations 1997

This regulation requires employers to provide employees with information about fire safety, including the measures needed to fight fires, and to identify the people whose job it is to implement the procedures. When employers do this they must consult with safety representatives and employees.

Where more than one employer shares a workplace, which is now common in NHS workplaces, the employers must co-operate and co-ordinate to develop fire precaution measures. Fire authorities enforce these regulations.

Safety signs and signals – The Health and Safety (Safety Signs and Signals Regulations 1996

This regulation is a last-resort control measure. It ensures that when employers have done everything possible to minimise a health and safety risk at the workplace, they should install appropriate safety signs to warn workers about hazards.

Temporary workers

Before a temporary worker starts a contract, the employer must provide them with information on:

- special qualifications or skills needed to carry out the job safely
- health surveillance.

Employers also have to give employment agencies information about jobs. The agencies then have a duty to pass on that information to the workers they place in temporary work. The information should include:

- any special qualifications or skills needed to carry out the work safely
- the specific features of the temporary job that could affect the worker's health and safety.

Employers' duties under the Management Regulations

Employers have a number of key duties that they must carry out. They are to:

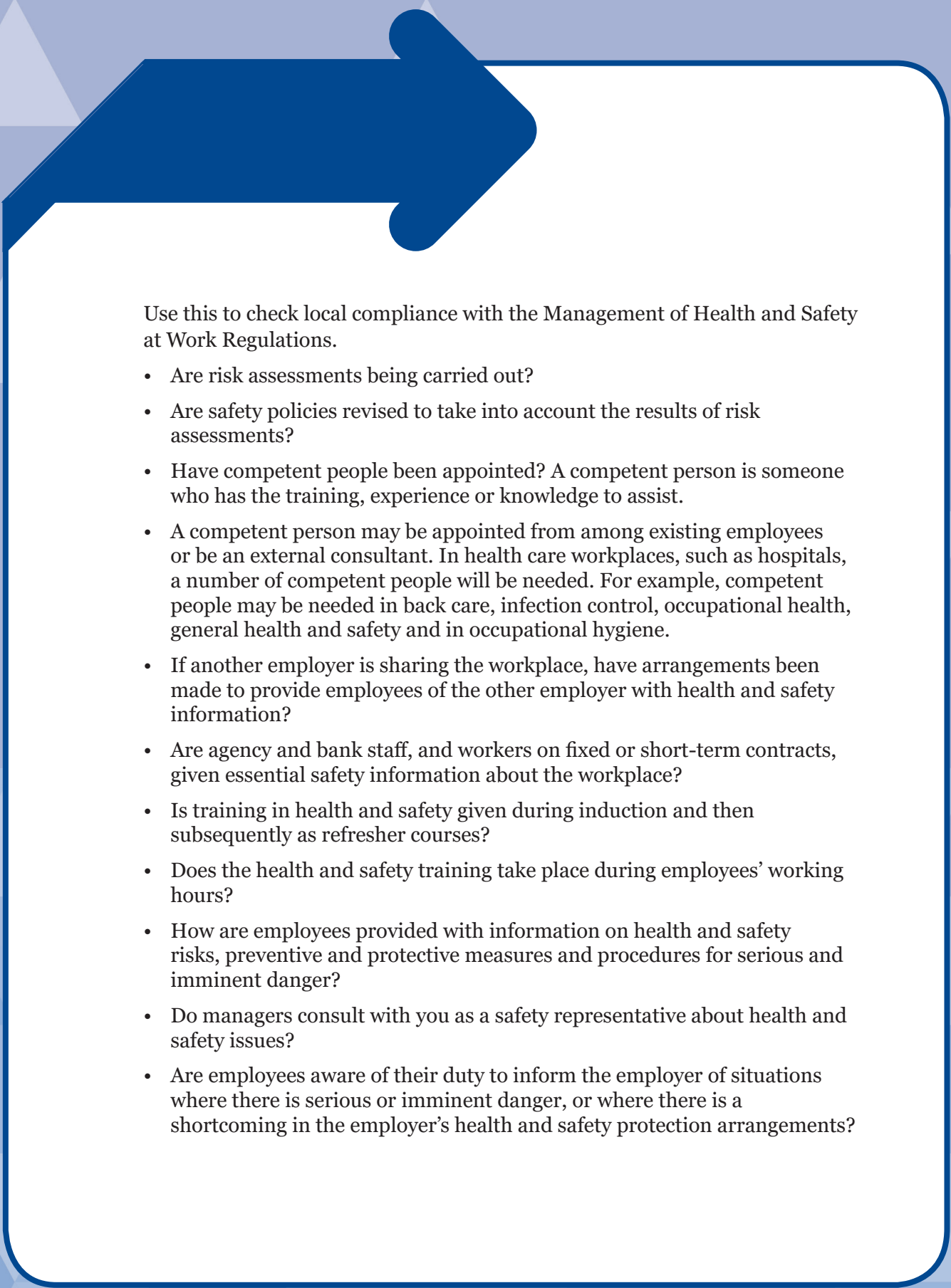
- assess the risk to health and safety of employees and to anyone else who may be affected by the work activity. This is to ensure that necessary preventive and protective steps can be identified
- record significant findings of the assessment – this applies to employers with more than five employees
- identify the measures necessary to comply with the requirements of health and safety law by carrying out risk assessments

- put into practice the preventive and protective measures identified by the risk assessment
- put into practice preventive and protective measures that cover planning, organisation, control, monitoring and review
- record preventive and protective measures
- co-operate and co-ordinate with other employers where they share premises or workplaces
- appoint competent persons to provide health and safety assistance
- ensure that employees are provided with appropriate health surveillance
- have procedures in place in the event of serious and imminent danger
- provide information to employees on any risks to their health and safety identified by the risk assessment
- provide information to employees on measures in place to protect their health and safety
- ensure that employees are provided with adequate health and safety training when new to an organisation or role and when exposed to new or increased risks.

Employees' duties under the Management Regulations

Employees too have a number of key duties that they have to carry out. They include:

- making full and proper use of any arrangements established by the employer for health and safety at work
- reporting to the employer details of any work situation that might represent a serious and imminent danger.



Use this to check local compliance with the Management of Health and Safety at Work Regulations.

- Are risk assessments being carried out?
- Are safety policies revised to take into account the results of risk assessments?
- Have competent people been appointed? A competent person is someone who has the training, experience or knowledge to assist.
- A competent person may be appointed from among existing employees or be an external consultant. In health care workplaces, such as hospitals, a number of competent people will be needed. For example, competent people may be needed in back care, infection control, occupational health, general health and safety and in occupational hygiene.
- If another employer is sharing the workplace, have arrangements been made to provide employees of the other employer with health and safety information?
- Are agency and bank staff, and workers on fixed or short-term contracts, given essential safety information about the workplace?
- Is training in health and safety given during induction and then subsequently as refresher courses?
- Does the health and safety training take place during employees' working hours?
- How are employees provided with information on health and safety risks, preventive and protective measures and procedures for serious and imminent danger?
- Do managers consult with you as a safety representative about health and safety issues?
- Are employees aware of their duty to inform the employer of situations where there is serious or imminent danger, or where there is a shortcoming in the employer's health and safety protection arrangements?

Manual Handling Operations Regulations 1992

These regulations present a real challenge for nursing, because they require an ergonomic approach to manual handling. They apply to both animate loads (such as people) and inanimate loads (for example, equipment).

Employers' duties under the Manual Handling Regulations

The Manual Handling Regulations present employers with a series of key duties. They are to:

- avoid hazardous manual handling operations as far as is reasonably practicable
- assess those which cannot be avoided
- reduce risk of injury so far as is reasonably practicable
- give all workers precise information on the weight of each load, for example indicate its heaviest side if the centre of gravity is not positioned centrally. Where this is not possible, provide general indications.

Employees' duties under the Manual Handling Regulations

Employees have a duty to make full and proper use of any work system provided by their employer. The key feature here is the need to make a risk assessment. The HSE guidance to the regulations specifies the considerations required in the assessment, and emphasises the use of appropriate mechanical handling aids in order to reduce the risk of injury. It also recommends that employees are involved in organising safer handling methods.





Action checklist

Use this to check local compliance.

- Have competent assessors been appointed?
- Are all manual handling tasks assessed?
- Are new systems of work developed as a result of the assessment?
- Is relevant training for the job provided for assessors, managers and staff?
- Are all handling incidents recorded?
- Is manual handling equipment available when necessary?
- Are the needs of community staff considered?
- Have policies for handling patients been developed?
- Does existing uniform design affect ability to lift safely?
- What happens to nursing staff with an existing back injury?
- What arrangements are made for pregnant staff?
- Is manual handling equipment adequately maintained?

Table 3: Summary of Manual Handling Risk Assessment Considerations

1. Assessing the task	<ul style="list-style-type: none"> • distance of the load from trunk • posture • twisting and stooping • reaching upwards • excessive lifting or lowering distances • excessive carrying distances • excessive pushing or pulling of a load • risk of sudden movement of the load • frequent or prolonged physical effort • insufficient rest or recovery periods • handling while seated • team handling
2. Assessing the load	<ul style="list-style-type: none"> • what is its weight? • is it bulky or unwieldy? • is it difficult to grasp? • is it unstable or likely to shift? • is it sharp or otherwise potentially damaging?
3. Assessing the working environment	<ul style="list-style-type: none"> • do space constraints prevent good posture? • are floors uneven, slippery or unstable? • are floor levels variable? • are there extremes of temperature or humidity? • are there ventilation problems or gusts of wind? • is there poor lighting?
4. Assessing the individual	<ul style="list-style-type: none"> • is unusual strength or height needed? • does the job put at risk employees who are pregnant or who have a health problem? • does it require special information or training?

Risk assessment forms

Risk assessment checklists should be designed to meet local needs.

Look at the sample assessment form reproduced here.

Sample assessment form: Checklist for assessing manual handling risks

Summary of assessment	
Operations covered:	
Locations:	
Personnel involved:	
Date of assessment:	
Priority for remedial action:	
Remedial action to be taken:	
Date by which action is to be taken:	
Date for reassessment:	
Assessor's name:	
Signature:	

Notes on completing the assessment

You need not necessarily try to reply to every question on this list, just note areas of concern. Consider not only heavy manual handling tasks, but also tasks which may strain the body in other ways (or example, causing small but cumulative damage).

Identify any high risks, as they will require your attention first.

If some points can't be answered with a yes or no, note your comments and attach extra sheets if necessary. Record any measures which should be taken to further reduce risk. If any measures go beyond your budget or authority, note these anyway so that a decision can be taken at a higher level.

Risk	Yes	No	Notes
The load			
Heavy, bulky or unwieldy?			
Asymmetrical?			
Unstable or could move suddenly?			
Texture/temperature/sharp corners?			
Difficult to grasp?			
Posture and movement			
Holding loads away from the body?			
Twisting and/or stooping?			
Reaching upwards?			
Large vertical movement (eg floor to overhead)?			
Long carrying/pushing/pulling distances?			
Awkward posture, hand/limb position, grip?			
Tiring, strenuous?			
Restrictions on posture from uniform/clothing?			

Workplace (Health, Safety and Welfare) Regulations 1992

All workplaces must conform to these regulations, many of which were provisions covered by the 1961 Factories Act and the Offices, Shops and Railway Premises Act 1963.

Employer's duties under the Workplace Regulations

Employers and others in control of health care workplaces are required to comply with a set of minimum health, safety and welfare standards. They cover the provision and maintenance of minimum standards on a broad spectrum of situations that range from drinking water to lighting. Here is the list:

- ventilation
- temperature in indoor workplaces
- lighting (including emergency lighting)
- cleaning and decoration
- room dimensions and space
- suitability of workstations
- falls from heights and falling objects
- glazing, windows and skylights (safe opening, closing and cleaning)
- safe passage of pedestrians and vehicles
- glazed doors and partitions (use of safe material and marking)
- doors, gates and escalators (safety devices)
- floors (construction and maintenance, obstructions, and slipping and tripping hazards)
- sanitary conveniences
- drinking water, seating, clothing storage, facilities for washing, changing and eating
- rest area, which must include suitable arrangements to protect non-smokers from tobacco smoke
- rest facilities for pregnant women and nursing mothers.

Employees' duties under the Workplace Regulations

There are no specific duties imposed on employees under the Workplace Regulations.





Action checklist

Use this to check local compliance.

- Is management consulting with you over the implementation of the regulations?
- Is a compliance audit being carried out to establish how existing arrangements meet the requirements of the legislation?
- Are there any implications for the workplace resulting from the risk assessments?
- Are workplace inspections being carried out to check the safety and quality of the work environment?

Health and Safety (Display Screen Equipment) Regulations 1992

The aim of these regulations is to prevent health problems by encouraging good ergonomic design of equipment, furniture, the working environment and the job. They apply not only to office-type equipment such as visual display units (VDUs) but also to some display screen technology used in health care.

Some equipment is excluded, such as:

- portable systems not in prolonged use
- any equipment that has a small data or measurement display required for direct use of the equipment, for example cardiac monitors, oscilloscopes and instruments with small displays showing a series of digits.

Employers' duties under the Display Screen Regulations

Employers should:

- identify users, operators and display screen equipment (DSE) workstations
- assess workstations to determine risks to users and operators
- reduce the risks identified in the assessment
- ensure new workstations meet the minimum requirements set out in the regulations
- plan breaks and activity changes to the daily work of users
- provide users with eye and eyesight tests if requested, and special glasses if normal ones cannot be used
- give users training and information to ensure that DSE work can be undertaken safely and without health risks.

Employees' duties under the Display Screen Regulations

These regulations do not impose any duties on employees. But other health and safety legislation requires all employees to make proper use of any health and safety at work arrangements established by their employer.

Risks associated with display screen equipment

Display screen equipment (DSE) does not cause epilepsy, although anyone with photosensitive epilepsy may be affected. There is also no risk to health from radiation, and therefore no effect on pregnancy. If pregnant women are concerned, local policies should require managers to respond sympathetically.

Some of the main risks workers face when they use display screen equipment include:

- upper limb pain and discomfort – repetitive strain injury (RSI), and awkward positioning of hands and wrists
- temporary visual fatigue leading to sore eyes and headaches, but there is no evidence of actual damage to eyesight
- fatigue and stress due to poor job design, and high speed repetitive work.

Portable equipment

Portable computer equipment such as laptops, netbooks and tablet devices are increasingly in use in the health sector. Where such equipment is in prolonged use by an individual worker, the employer is required to assess risks and put measures in place to reduce the risk to health.

Minimum requirements for workstations

Display screen	<ul style="list-style-type: none"> • well defined, with adequately sized and spaced characters • stable, non-flickering image • easily adjustable brightness and contrast • freely and easily swivelling and tilting screen • separate base or adjustable table for the screen • no reflective glare
Keyboard	<ul style="list-style-type: none"> • able to tilt and separate from screen • sufficient space in front to provide support for hands and arms • matt surface • easy to use • legible symbols
Work desk or surface	<ul style="list-style-type: none"> • sufficiently large, low-reflective surface to allow flexible arrangement of screen, keyboard, documents etc. • stable and adjustable document holder • adequate space
Work chair	<ul style="list-style-type: none"> • stable and adjustable • footrest if required by user
Space	<ul style="list-style-type: none"> • sufficient for the user to change position and vary movements
Lighting	<ul style="list-style-type: none"> • appropriate contrast between screen and background taking into account type of work and user's vision requirements
Reflections and glare	<ul style="list-style-type: none"> • no direct glare and no distracting reflections on screen • windows shall be fitted with a suitable system of adjustable covering
Noise	<ul style="list-style-type: none"> • should not distract attention or disturb speech
Heat	<ul style="list-style-type: none"> • equipment shall not produce excess heat that could cause discomfort to users
Radiation	<ul style="list-style-type: none"> • all radiation, with the exception of the visible part of the electromagnetic spectrum, shall be reduced to negligible levels
Humidity	<ul style="list-style-type: none"> • an adequate level of humidity should be established and maintained
Software	<ul style="list-style-type: none"> • must be adequate for the task, easy to use, adaptable to the knowledge or experience of the user • no quantitative or qualitative checking facility may be used without the user's knowledge
Systems	<ul style="list-style-type: none"> • must provide feedback to users on the performance of those systems • information must be displayed in a format and at a pace that is adapted to users

HSE guidance

Health and Safety (Display Screen Equipment) Regulations 1992. Guidance and Regulations, Series code L26 has further information on the requirements for portable equipment.



Action checklist

Use this to check local compliance.

- Have DSE users (as defined by the regulations) been identified?
- Have workstation assessors been identified and trained if necessary?
- Have jobs of users been examined to see if they can be redesigned to incorporate breaks or activity changes?
- Have users' managers been trained?
- Do users know about their rights to eye and eyesight tests, layout of workstation and daily work routine?
- Are there arrangements for eyesight tests by a competent person at regular intervals? (Regulations do not define 'regular' but this should be the judgement of the optometrist or doctor and may be affected by individual requirements)
- Is the employer paying for special corrective lenses where normal lenses are found to be inadequate?
- What are the monitoring arrangements for the regulations?
- Are assessments made of portable equipment that is in prolonged use?



Provision and Use of Work Equipment Regulations (PUWER) 1998

PUWER 1998 replaces PUWER 1992 which implemented the European Directive about work equipment. The regulations place a duty on employers to provide safe plant and equipment. They contain general requirements covering hazards, and specific minimum requirements on particular hazards. The regulations cover all equipment provided for use at work, whether new, second-hand, leased or hired. Though PUWER 1998 applies to all lifting equipment, there is a separate set of regulations called Lifting Operations and Lifting Equipment Regulations (LOLER) 1998 which deals with specific hazards and risks associated with lifting equipment and lifting operations.

Employer's duties under the Workplace Regulations

The regulations apply to all employers from health care organisations to external organisations providing work equipment. They place duties on employers to ensure that all equipment is suitable and properly maintained and that specified risks are addressed. On multi-occupier sites, where more than one employer uses the same piece of equipment, employers must consider arrangements for allocating responsibilities for that work equipment. Health care employers have to apply the regulations to all work equipment used, including medical equipment, if it presents risks to people at work.

Employees' duties under Work Equipment Regulations

These regulations do not impose any duties on employees. But other health and safety legislation requires all employees to make proper use of any health and safety at work arrangements established by their employer.

However, employees who have received specialist training to use work equipment are required to use the equipment correctly.



Action checklist

To check local compliance, make sure work equipment is suitable for the purpose for which it is provided and properly maintained.

Check that:

- information, instruction and training is given in the safe use and maintenance of work equipment
- information and training is given on what to do if things go wrong
- all work equipment complies with the regulations.

Check this includes:

- suitable guarding for mechanical hazards
- protection against burns and scalds from hot or cold equipment or its products
- control devices that are visible, identifiable, marked and located outside danger zones
- control systems that are safe
- work equipment that is stabilised by clamping or other means
- sufficient lighting when equipment is used
- that work equipment is marked clearly and incorporates warnings where there are health and safety hazards.

Personal Protective Equipment (PPE) at Work Regulations 1992

The main aim of all the 'six pack' regulations is to eliminate hazards, which will reduce or remove the need for personal protective equipment (PPE). The duties in the PPE Regulations relate to the assessment, selection, provision, maintenance and use of PPE to ensure that equipment and clothing worn by people at work protects them against risks to their health and safety. Protective gloves, goggles and aprons would be considered as personal protective equipment.

Employees' duties under the PPE regulations

Employees should:

- make full and proper use of PPE provided
- take all reasonable steps to ensure it is
- returned to the storage provided for it after use
- report any loss or obvious PPE defect to the employer.





Action checklist

Use this to check local compliance.

- Have competent assessors been appointed?
- How are decisions made about the purchasing of suitable PPE? Are the users involved? 'Suitable' means: appropriate for the risk, fits the wearer correctly, controls any risk without increasing risks elsewhere.
- How is PPE cleaned, maintained and stored?
- How are managers and staff trained in the use of PPE?
- If contractors' employees also use PPE, what arrangements exist to ensure compliance with the regulations?
- How and when are assessments reviewed?

Further information

HSE Books gives access to guidance on the six pack regulations through its website at: <http://books.hse.gov.uk/hse/public/home.jsf>, including:

- *Workplace (Health, Safety and Welfare) Regulations 1992. Approved Code of Practice and Guidance.* Series code L24.
- *Work with Display Screen Equipment: Health and Safety (Display Screen Equipment) Regulations 1992. Guidance and Regulations.* Series code L26.
- *Provision and Use of Work Equipment Regulations 1998. Approved Code of Practice and Guidance.* Series code L22.
- *Personal Protective Equipment at Work Regulations 1992. Guidance on Regulations.* Series code L25.
- *Manual Handling Operations Regulations 1992 Guidance on Regulations.* Series code L23.

7. MISCELLANEOUS HEALTH AND SAFETY LAWS

There are a number of other key health and safety laws which RCN safety representatives should be aware of.

Lifting Operations and Lifting Equipment Regulations 1998 (LOLER)

These regulations aim to reduce risks to people's health and safety from lifting equipment used at work. In addition to the requirements of LOLER, lifting equipment is subject to the requirements of the Provision and Use of Work Equipment Regulations 1992.

LOLER requires that lifting equipment is:

- strong and stable enough for the particular use and marked to indicate safe working loads
- positioned and installed to minimise risk
- used safely – the work is planned, organised and performed by competent people
- subject to ongoing thorough examination and, where appropriate, inspection by competent people.

Hoists used to move people are covered by these regulations.

Health and Safety Information for Employees (Amendment) Regulations 2009

These regulations require employers to display the HSE's approved health and safety law poster or to distribute leaflets in the form of pocket cards.

The posters/leaflets give key messages on health and safety and details of who is responsible for health and safety in the organisation. There is also a box where the details of the local safety representative can be filled in.

The Health and Safety (First Aid) Regulations 1981

These regulations require employers to provide adequate and appropriate equipment, facilities and personnel to ensure their employees receive immediate attention if they are injured or taken ill at work. The regulations apply to hospital and health care environments. However, they do not require employers to make first aid provisions for members of the public, although the HSE strongly recommends that non-employees are included in an assessment of first-aid needs and provision is made for them.



Ionising Radiation Regulations 1999

The ionising radiation regulations lay down rules about how radiation may be used and limits on exposure for all staff, including pregnant workers.

Employers are required to ensure:

- employees' exposure is restricted
- there is controlled access to areas where radiation may be present
- the appointment of suitably trained or qualified persons to ensure safe use of sources
- the implementation of rules for the safe use of sources
- any employee who uses radiation sources receives training and instruction
- that exposure levels of employees working with radiations are measured
- the provision of medical examinations for staff exposed to sources
- any damage to, or loss of, a source is reported to the HSE
- cases of over-exposure are investigated and corrective action taken.

The Control of Asbestos at Work Regulations 2006

These regulations include a duty to manage asbestos in non-domestic premises and controls on asbestos removal activity.

The regulations require duty holders (the organisation/person with the responsibility for maintenance and repair of the premises) to:

- take reasonable steps to find out if there are materials containing asbestos within the premises and, if so, the amount, where it is and what condition it is in
- presume materials contain asbestos unless there is strong evidence that they do not
- make and keep up-to-date records of the location and condition of the asbestos containing materials
- assess the risk to anyone being exposed to fibres from these materials

- prepare a plan that sets out in detail how the risks from these materials will be managed
- take necessary steps to put the plan into action
- periodically review and monitor the plan, and the arrangements to act on it, so that the plan remains relevant and up-to-date
- provide information on the location and condition of the materials to anyone who is liable to work on or disturb them.
- provide employees with hearing protection if they cannot reduce the noise exposure enough by using other methods
- make sure the legal limits on noise exposure are not exceeded
- provide employees with information, instruction and training
- carry out health surveillance where there is a risk to health.

Reporting of Injuries and Dangerous Occurrences Regulations 2013

These regulations place a legal duty on employers, self-employed people and those in control of premises to report workrelated deaths, major injuries, over seven-day injuries (injuries where an employee or self-employed person is away from work or unable to do their normal duties for more than seven consecutive days) and dangerous occurrences (near misses).

Fire

The Regulatory Reform (Fire Safety) Order 2005 and Part 3 of the Fire (Scotland) Act 2005, as amended, the Fire Safety (Scotland) Regulations 2006, and the Fire Safety (Northern Ireland) Regulations 2006 introduce a requirement to assess fire risks in the workplace.

The emphasis of the regulations is on prevention of fires and reducing the risks.

The Control of Noise at Work Regulations 2005

These regulations require employers to prevent or reduce risks to health and safety from exposure to noise at work. They require employers to:

- assess the risks to their employees from noise at work
- take action to reduce the noise exposure that produces those risks

Health and Safety Information for Employees Regulations (HSIER) 1989

Employers have a legal duty under the Health and Safety Information for Employees Regulations (HSIER) 1989 to display the approved poster in a prominent position in each workplace or to provide each worker with a copy of the approved leaflet which outlines British health and safety law. The poster and/or leaflets can be found at HSE books.

The poster has optional boxes where details of any worker health and safety representatives and other health and safety contacts can be added.

Health and Safety (Sharp Instruments in Healthcare) Regulations 2013

These regulations require employers to implement a range of measures to reduce the risk of sharps injuries in health care employees. These measures include avoiding the use of medical sharps; if sharps have to be used there is a requirement to provide safer sharps devices, where reasonably practicable.

There is also a requirement to provide information and training, record and investigate incidents and have arrangements in place to provide follow up treatment following an injury.

Further information

Guidance on various regulations can be found at: <http://books.hse.gov.uk/hse/public/home.jsf> including:

- LOLER 1998: *Lifting Operations and Lifting Equipment Regulations* (LOLER) 1998 Open learning guidance
- First aid at work: *The Health and Safety (First Aid) Regulations 1981*. Approved Code of practice and guidance. Series code: L74
- Work with ionising radiation: *Ionising Radiation Regulations 1999*. Approved Code of Practice and Guidance. Series code: L121
- Controlling Noise at Work: *The Control of Noise at Work Regulations 2005*. Guidance on Regulations. Series code: L108

The HSE's topic-related web pages (accessed 17.8.18) provide useful information on the regulations and implementation for:

- Asbestos: www.hse.gov.uk/asbestos
- First Aid: www.hse.gov.uk/firstaid
- Ionising Radiation: www.hse.gov.uk/radiation
- Noise: www.hse.gov.uk/noise

Fire: Information on fire safety and fire regulations specific to health care can be accessed at:

- England: www.gov.uk/government/collections/fire-safety-guidance
- Scotland: www.firescotland.gov.uk/your-safety/for-businesses.aspx
- Wales: <https://gov.wales/topics/people-and-communities/communities/safety/fire/fire-safety-law/?lang=en>
- Northern Ireland: www.nifrs.org/fire-safety/

Health and safety: information on regulations: www.hse.gov.uk/legislation/

Sharps injuries: www.hse.gov.uk/healthservices/needlesticks/

RCN (2013) *Sharps Safety, RCN Guidance to Support the Implementation of The Health and Safety (Sharp Instruments in Healthcare) Regulations 2013*, London: RCN

8. ENFORCING HEALTH AND SAFETY LAWS

The UK's system of enforcing health and safety legislation ensures that workplaces are inspected and that accidents are investigated. Failure to comply with health and safety laws incurs penalties that range from fines to conviction and imprisonment. Before 1986, the NHS had immunity against prosecution under the Health and Safety at Work etc. Act (HSWA). This immunity was revoked in the NHS (Amendment) Bill in 1986.

The HSE believes in firm but fair enforcement of health and safety law. The HSE says this should be informed by the principles of:

- proportionality in applying the law to secure compliance
- consistency of approach
- targeting enforcement action
- transparency about how the regulator operates and what people may expect
- accountability for the regulator's action.

HSE strategy

The HSE's mission is to prevent death, injury and ill health in Great Britain's workplaces. Every aspect of the HSE's work is about promoting compliance with health and safety law. The HSE achieves this by:

- developing proposals for effective legislation
- guidance
- preventive inspections
- investigations
- enforcement
- prosecution.

The following section describes how the HSE enforces health and safety law, and how you link into the Agency as a safety representative.

Enforcement agencies

Health and safety legislation in England, Scotland and Wales is enforced primarily by the HSE. The HSE was set up as the result of the Health and Safety at Work Act, and unified the many health and safety inspectorates that had been set up for different industries. The HSE covers the NHS and the majority of workplaces where RCN members work. However, in some workplaces health and safety law is enforced by local authority environmental health officers; these include retail premises and restaurants. In residential care homes (where the main activity is the provision of residential accommodation, not nursing or health care) the law is also enforced by the local authority. In Northern Ireland it covers the NHS and the majority of workplaces where members work. However, residential care is enforced by District Councils.

The HSE is the primary enforcer of workplace health and safety in health care organisations but works with other health care regulators such as the Care Quality Commission in England on issues concerning patient incidents.

The Health and Safety Executive (HSE) Board

Following the merger of the Health and Safety Commission and the HSE on 1 April 2008 the Health and Safety Commission became the Executive Board. The Executive Board is comprised of nine members who are appointed following consultation with representative groups including employers and employees.

The board has a number of functions including the proposing and setting of health and safety standards and securing compliance with those standards. They are also responsible for the delivery of the HSE strategy.

The HSE has a number of expert advisory committees which recommend standards and guidance, and comment on policy issues. They cover areas such as agriculture, construction, dangerous pathogens and toxic substances. The committees are made up of representatives from employer and employee organisations, public interest groups, and technical and professional experts.

HSE inspectors' role

HSE inspectors have the right to enter any workplace without giving notice and many of their visits to health care premises each year are unannounced. They also inspect in response to a specific problem or incident reported at a workplace. HSE inspectors have legal powers under Section 20 of the Health and Safety at Work Act.

During a visit, an inspector will hold discussions with management, safety representatives and sometimes other employees.

Safety representatives and employees should always be given the opportunity to speak privately to the inspector. The inspector should provide information to the safety representative on any action taken or proposed. The type of information that an inspector should provide includes:

- matters which an inspector considers to be a serious concern

- details of any enforcement action taken by the inspector
- any intention to prosecute the organisation (but not before the duty holder is informed).

The purpose of an inspection is to make sure that employers comply with the law, and that health and safety standards are:

- observed
- maintained
- improved.

Inspectors' powers

When inspectors make routine visits to hospitals and other health service workplaces they have powers to:

- inspect the workplace at any reasonable time
- take a police officer if it is likely the inspection may be obstructed
- observe work activities
- look at the management of health and safety
- check whether the employer is complying with health and safety laws
- talk to safety representatives and staff
- take authorised people and equipment to carry out the investigation or inspection
- take photographs and samples of anything that is likely to cause a health and safety risk and use in an investigation
- examine samples for use as evidence
- take recordings and use in an investigation
- compel employers to leave parts of their premises undisturbed for as long as necessary
- inspect and copy relevant documents
- require any person to provide information or answer questions, and sign a declaration that the answers are true
- require any person to provide the inspector with facilities and assistance
- serve improvement notices
- take action if there is an immediate risk to health and safety.

Working with inspectors as a safety representative

There is an inspector specialising in the health service in each HSE area office – and you should contact the HSE to find out who it is. You can contact your inspector for their advice or ask them to visit because of a problem in the workplace. The inspector is likely to discuss the problem informally on the telephone first, and may suggest solutions to the problem before making a visit. The inspector will always check with you that you have already discussed the problem with management.

An HSE inspector can assist you with help and advice. You should:

- find out who the local inspector is for your premises and how to contact them. Let the inspector know who you are and how you can be contacted
- contact the inspector for general advice and information
- know when to call in an inspector. This will depend on individual circumstances, and may be necessary if you are unable to achieve improvements through normal management channels (note: HSE inspectors will not get involved if there is an industrial relations aspect to the problem. If this is the case, contact your RCN steward)
- arrange to have access to copies of reports and recommendations from inspectors' visits. You should receive information from inspectors about the workplace, and any action they plan
- agree with management that you will be told whenever an inspector visits the premises (remember this will not be possible if an inspector makes an unannounced visit).

What happens when an inspector finds a health and safety breach?

The action that an inspector takes depends on how the law has been breached, and is based on the HSE's Enforcement policy statement (2009). As a safety representative you will be told about any action taken.

Enforcement action is taken in several ways:

Improvement notice – for more serious breaches

The notice tells the employer which statute or regulation has been breached and why. The employer is told to make an improvement to comply with the law by a set date with an indication of how it should be done.

Prohibition notice – for risks of serious personal injury

Employers will be stopped from carrying out an activity immediately and not allowed to resume until remedial action is taken.

Prosecution – fines or imprisonment may result

For failure to comply with an improvement or prohibition notice. Employers can appeal to an industrial tribunal against an improvement or prohibition notice. A tribunal does not accept shortage of resources to make an improvement as an explanation. A claim can only be made using the argument of 'reasonably practicable'. Until the appeal is heard an improvement notice is suspended but a prohibition notice remains in force. Improvement notices are made for good reason and few appeals are successful.

How are improvement notices used?

Improvement notices are used in the health service for a wide variety of situations, including:

- inadequate safety policies
- inadequate instruction on the safe handling of cytotoxic drugs
- transport of specimens
- inadequate waste storage and disposal systems.

Example of an improvement notice:

In 2013 Western Sussex Hospitals NHS Foundation Trust were served with an improvement notice for failing to investigate the circumstances and cause of a sharp injuries to employees.

How are prohibition notices used?

Prohibition notices are issued in a variety of situations, for example, when:

- bath water temperatures above 44°C were accessible to vulnerable people (elderly patients)
- the rotating blades of a waste disposal unit were not effectively guarded
- an ethylene oxide steriliser was banned from use because of likely high levels of exposure
- entry into a plant room without respiratory protective equipment was banned because of loose asbestos insulation material
- an autoclave was in unsafe use.

Prosecuting employers

Health and safety law gives the courts considerable scope to punish offenders, including ordering unlimited fines and imprisonment. However, the HSE has a policy of persuasion and uses prosecution as a last resort.

The HSE may prosecute for offences where:

- a workplace death is caused by a breach of the law
- there has been reckless disregard of health and safety requirements
- the offender's standard of health and safety management is far below what is required.

In England and Wales the decision to proceed with a court case rests with the HSE as the enforcing authority. In Scotland, the Procurator Fiscal decides whether to bring a prosecution, often based on a recommendation from the enforcing authority. The Procurator Fiscal does have powers to investigate cases independently of the enforcing authority.

Penalties

Penalties for health and safety offences can be found in Section 33 of the 1974 Health and Safety at Work Act. They are:

Failure to comply with an improvement or prohibition notice or a court remedy order (breach of HSWA sections 21, 22, 42)

Lower court maximum: £20,000 fine and/or 12 months' imprisonment.

Higher court maximum: Unlimited fine and/or two years' imprisonment.

Failure to protect the health and safety of workers and the public (breach of HSWA sections 2 to 6)

Lower court maximum: £20,000 fine and/or 12 months' imprisonment.

Higher court maximum: Unlimited fine and/or two years' imprisonment.

The Health and Safety Offences Act 2008 extended the maximum £20,000 threshold for fines to more offences and makes imprisonment available for 13 offences (previously it was two).

Fee for intervention

Since 2012, the HSE has operated a Fee for Intervention Scheme. Under the Health and Safety (Fees) Regulations 2012, those who break health and safety laws are liable for recovery of HSE-related costs including inspection, investigation and taking enforcement action.

An organisation is guilty of the offence if the way in which it organises or manages its activities causes a death, and this amounts to a gross breach of a relevant duty of care owed to the victim.

Corporate manslaughter

The Corporate Manslaughter and Corporate Homicide Act 2007 came into force in April 2008.

The act does not contain any new duties but changes the basis on which manslaughter convictions can be made against organisations. An organisation is guilty of the offence if the way in which it organises or manages its activities causes a death, and this amounts to a gross breach of a relevant duty of care owed to the victim.

The police will lead an investigation if a criminal offence is suspected and will work in partnership with other regulatory bodies including the HSE. An organisation guilty of an offence will be liable to an unlimited fine. The act also provides for courts to impose a publicity order, requiring the organisation to publicise details of its conviction and crime. Courts may also require an organisation to take steps to address the failures behind the death, known as remedial orders.

Examples of recent penalties for breaches of health and safety law

- In 2013 United Lincolnshire Trust was fined £30,000 costs and £15,128 for exposing a radiologist to significant amounts of ionising radiation.
- In 2013 Lothian Health Board was fined a total of £32,000 for failing to manage the risks associated with lone working when a nurse was violently assaulted by a client.
- In 2010 a care home provider, Lifeways Community Care Ltd, was fined £100,000 after a disabled teenager was fatally scalded in an excessively hot bath. Although the bath was fitted with a special valve to prevent scalding, the valve had never been set. The staff had no training in the risks of scalding and there was no bath thermometer.
- In 2009, Princess Alexandra NHS Trust was fined £6,500 and ordered to pay £4,500 in court costs for failing to comply with an improvement notice requiring it to manage the risks of staff exposed to occupational dermatitis and failing to report that one of its employees had been diagnosed as latex-allergic.

You can find a public database of all health and safety enforcement action on the HSE's website, www.hse.gov.uk



References

HSE (2009) *Enforcement Policy Statement*, Sudbury: HSE Books

Further information

More information on the HSE, including its structure and strategy, can be found at: www.hse.gov.uk/aboutus

More information on the HSE in Northern Ireland can be found at: www.hseni.gov.uk

9. SAFETY POLICIES

What is a safety policy?

A written safety policy is a legal commitment under the Health and Safety at Work Act (HSWA, Section 26) that applies to all employers, apart from those who have fewer than five staff. Your employer's safety policy statement sets out how it plans to manage health and safety.

It details exactly how it is going to achieve a safe workplace by showing who does what, and when and how they do it. The safety policy is the key to achieving acceptable health and safety standards, reducing accidents and cases of work-related ill health.

Safety policies and the HSWA

Safety policies underpin the HSWA's approach to health and safety. The law makes it clear that health and safety is not a marginal or a technical issue, but an integral part of management, organisation and how people do their work. Detailed regulations, for example the handling of pathogens, only work properly if the organisation as a whole actively promotes health and safety at work.

What should a safety policy contain?

Your employer's safety policy should describe in detail the systems and procedures that will ensure health and safety in the workplace. It has to show exactly who is responsible for different things such as advice, accident reporting and first aid. The policy should also record the arrangements for ensuring that risk assessments are done and kept up-to-date. Findings from risk assessments are recorded in a separate document.

How often should a safety policy be revised?

It is good practice to review a safety policy every year, and if there are changes the policy can be revised to include them.

Who is responsible for ensuring health and safety?

Any employing organisation has to name a number of individuals whose role it is to ensure the health and safety of staff and a safe working environment.

1. Board

As the head of the organisation, the chief executive has overall responsibility for health and safety. The policy should reflect this and the chief executive should sign the policy statement. A nominated member of the employing authority, trust or board is responsible for providing a focus for health and safety at board level. The safety policy must name who that person is.

2. Management

The safety policy must name the managers who are responsible for health and safety in particular workplaces, locations or departments. The policy also has to state what their responsibilities are and how staff can contact them.

3. Employees

Employees too have a duty to take care of their own health and safety and that of other people who could be affected by their actions at work. This includes co-operating with their employers to meet health and safety legal obligations.

4. Safety experts

Many health service workplaces have safety officers, occupational health nurses and other staff with safety expertise. A part of their role in the workplace is to advise management on health and safety issues.

Defining responsibilities

The safety policy should make clear the different health and safety functions of staff and managers by:

- defining the individual safety functions of staff with safety expertise
- defining the health and safety responsibilities of managers.

Cover arrangements

The safety policy must include arrangements to provide cover for key safety personnel if they are absent.

Who do employers have to consult and inform?

Employers have a duty to inform their staff about the safety policy and to keep it updated. They do this by following safety committees' recommendations, and reporting any changes to the staff who have responsibility for health and safety.

Employers must also include any new health and safety guidance or legislation from organisations such as the HSE. Employers have to consult staff about the safety policy through you as a safety representative.

Drafting a safety policy

When an employer drafts a written safety policy statement they must ensure the following are covered:

- the general policy
- an organisational chart
- arrangements for carrying the policy out.

If you are based in a large trust, for example, these subjects may appear in separate documents. An alternative way of dealing with the general policy and arrangements is to place both in a concise statement that can be distributed to all employees. This statement refers staff to a more detailed document, or set of documents, such as manuals of rules and

procedures. These should be easily accessible to all staff in wards and departments, or posted on notice boards.

Organisational charts

The safety policy organisational chart should make it clear what responsibility for health and safety each grade of employee has. Staff have to be aware of their responsibilities, for example, if they are allocated specific health and safety duties. Employers must ensure that all staff who undertake health and safety duties are competent to carry these duties out by providing the appropriate training.

Arrangements for following a safety policy

A safety policy has to contain a section that lists the arrangements for following that policy. Detailed arrangements could include:

- accident reporting procedures
- fire and emergency evacuation procedures
- first aid and fire warden arrangements
- manual handling regulations
- welfare arrangements
- inspection and auditing
- noise at work regulations
- staff training
- mechanisms for consultation, including the role of the health and safety committee
- Six pack regulation compliance
- COSHH compliance
- RIDDOR compliance.

(This list is not exhaustive.)

These arrangements can be part of the health and safety policy or of stand-alone policies.



Further information

The Health and Safety Executive provide guidance on health and safety policy at: www.hse.gov.uk/simple-health-safety/write.htm



10. WORKPLACE CULTURE AND HEALTH AND SAFETY

As a safety representative, your role is to work in partnership with your employer to develop and support a positive workplace culture around health and safety. Much is spoken about workplace or organisational cultures and the need for the NHS, in particular, to change its culture.

The Francis Inquiry into standards of care at Mid Staffordshire NHS Trust (2013) criticised the culture of the organisation and suggested that poor cultures were evident across the NHS. The culture was described as unhealthy, dangerous and negative, with a culture which featured bullying, target-driven priorities and an acceptance of poor and unsafe behaviours.

What do we mean by workplace culture?

Workplace or organisational culture can be described as: 'the way we do things around here'. 'Here' might be anything from a small group to a team to a whole organisation. This culture is a mixture of shared values, behaviours and attitudes.

Psychologists and philosophers have written extensively about workplace culture and describe different types of cultures such as 'role culture' and 'task culture'.

What do we mean by safety culture?

The Francis Inquiry (2013) commented on safety cultures and suggested that a safety culture should be an inherent component of an overall culture in health care. Constructing a good safety culture can take time and means more than having the right policies and procedures in place.

The HSE (2013) provides a useful definition of safety culture:

The safety culture of an organisation is the product of individual and group values, attitudes, perceptions, competencies and patterns of behaviour that determine the commitment to, and the style and proficiency of, an organisation's health and safety management.

To provide the foundations for a good safety culture it is important to have an effective health and safety management system in place. Chapter 11 provides further information on health and safety management systems.

How safety representatives can support a positive workplace culture for health and safety

One of the key roles as a safety representative is to encourage members to report health and safety incidents, including near misses, using established accident reporting systems. A positive safety culture is one that accepts incident reports, even those on near misses, and investigates them to prevent reoccurrences and to feedback to staff any action taken.

You should also work with employers to investigate incidents and ensure that staff are given feedback on action taken to prevent reoccurrences.

The table below is adapted from the HSE's guidance on safety culture (2014) and can be used by safety representatives to check workplace safety culture and raise concerns where organisations are not meeting the behaviours and attitudes listed.

Assessing workplace safety culture

A positive health and safety culture is one where there is...	This is shown when management...	... and is helped when management...
Visible commitment to safety by management	<ul style="list-style-type: none"> • Make regular constructive visits to work areas • Discuss safety matters with frontline personnel • Will stop work activity for safety reasons regardless of cost • Spend time and money on safety • Will not tolerate violations of procedures and unsafe behaviours and actively try to improve systems so as to discourage violations eg plan work so that short cuts aren't necessary to do the work in time 	<ul style="list-style-type: none"> • Makes time to visit work areas (not just following an accident or incident) • All show commitment • Has good non-technical skills (for example, communication skills) • Are interested in workforce safety when they are not at work • Show concern for wider issues (for example, workforce health and wellbeing) • Actively sets an example
Workforce participation and ownership of safety problems and solutions	<ul style="list-style-type: none"> • Consults widely about health and safety matters • Does more than the minimum to comply with the law on consultation • Seeks workforce participation in: setting policies and objectives; accident and near miss investigations 	<ul style="list-style-type: none"> • Supports an active safety committee • Have a positive attitude to safety representatives including providing adequate facilities time to carry out the role • Trust between workforce and management
Trust between workforce and management	<ul style="list-style-type: none"> • Encourages all employees to challenge anyone about safety without fear of reprisals • Keeps their promises • Treats the workforce with respect 	<ul style="list-style-type: none"> • Promotes job satisfaction/good industrial relations and high morale • Promotes a no blame culture • Encourages trust between all employees and professional groups

Assessing workplace safety culture

A positive health and safety culture is one where there is...	This is shown when management...	... and is helped when management...
Good communications	<ul style="list-style-type: none"> • Provides good (clear, concise, relevant) written materials (safety bulletins, guidance, risk assessments) • Provides good briefings on current issues day to day and in formal safety meetings; listening and feedback 	<ul style="list-style-type: none"> • Encourages employee participation in suggesting health and safety topics that need to be communicated • Provides specific training in communication skills • Has more than one means of communicating
A competent workforce	<ul style="list-style-type: none"> • Ensures that everyone working in their work areas is competent in their job and in safety matters 	<ul style="list-style-type: none"> • Is supportive • Implements role specific learning and development including mandatory training • Has an effective appraisal system



References

Francis R (2013) Mid Staffordshire NHS Foundation Trust Public Inquiry, available at: www.midstaffpublicinquiry.com/report

HSE (2013) *Managing for Health and Safety (HSG 65)*, HSE Books: Sudbury

HSE (2014) *Organisational Culture*, available at: www.hse.gov.uk/humanfactors/topics/culture.htm

11. HEALTH AND SAFETY MANAGEMENT SYSTEMS

To ensure that policies and working practices are being implemented effectively and to support a positive health and safety culture, organisations, regardless of their size, should have a health and safety management system in place. There is also a legal requirement under the Management of Health and Safety at Work Regulations 1999 for employers to put in place arrangements to control health and safety risks, a health and safety management system is an arrangement to control risks.

There are national and international health and safety management systems, namely:

- ISO 45001 - a global health and safety management system.
- ISO 9001 - a global quality management system.

These systems are most commonly found in large multinational organisations. Suppliers to large organisations are often expected to have these systems in place. Implementation of these standards is less common in health care settings.

The Health and Safety Executive has a methodology for organisations to follow which is similar to the principles within national and international standards.

The key actions within any health and safety management system can be described as PLAN, DO, CHECK, ACT.



Plan, do, check, act

Plan, do, check, act helps employers review the systems and organisational behaviours that are in place to support good health and safety management. Involving the workforce and consulting with safety representatives is a key element of a good health and safety management system. The following guidelines for employers are taken from the HSE's guidance *Plan, Do, Check, Act – An Introduction to Managing for Health and Safety* (HSE, 2013).

Plan

- Think about where you are now and where you need to be.
- Say what you want to achieve, who will be responsible for what, how you will achieve your aims, and how you will measure success. You may need to write down this policy and your plan to deliver it.
- Decide how you will measure performance. Think about ways to do this that go beyond looking at accident figures; look for active indicators as well as reactive indicators.
- Consider fire and other emergencies. Co-operate with anyone who shares your workplace and co-ordinate plans with them.
- Remember to plan for changes and identify any specific legal requirements that apply to you.

Check

Measure your performance:

- make sure that your plan has been implemented – paperwork on its own is not a good performance measure
- assess how well the risks are being controlled and if you are achieving your aims. In some circumstances formal audits may be useful.

Investigate the causes of accidents, incidents or near misses.

Do

Identify your risk profile:

- assess the risks, identify what could cause harm in the workplace, who it could harm and how and what you will do to manage the risk
- decide what the priorities are and identify the biggest risks.

Organise your activities to deliver your plan:

- involve workers and communicate, so that everyone is clear on what is needed and can discuss issues – develop positive attitudes and behaviours
- provide adequate resources, including competent advice where needed.

Implement your plan:

- decide on the preventive and protective measures needed and put them in place
- provide the right tools and equipment to do the job and keep them maintained
- train and instruct, to ensure everyone is competent to carry out their work
- supervise to make sure the arrangements are followed.

Act

Review your performance:

- learn from accidents and incidents, ill health data, errors and relevant experience, including from other organisations.

Take action on lessons learned, including from audit and inspection reports.



Action checklist

It is not your responsibility as a safety representative to introduce a health and safety management system, but you can work in partnership with your employer to support the development of such a system. You can critique your organisation's health and safety management system using the following checklist, and work with your employer to make any necessary improvements.

- What are the strengths and weaknesses of your organisation's health and safety performance, and are there any barriers to change?
- How reliable and sustainable for the future are the measures currently in place?
- If your organisation is getting risk control right, why is that? For example, does performance depend on one person's dedication and enthusiasm or is it a key value across the organisation?
- If there are problems, what are the underlying reasons, eg competence, resources, accountability, or lack of engagement with the workforce?
- Have you learned from situations where things have gone wrong?

References

HSE (2013) *Plan, Do, Check, Act – An Introduction to Managing for Health and Safety*, Sudbury: HSE

Further information

The HSE's guidance, *Managing for Health and Safety* (HSE, 2013), informally known as HSG 65, provides more detail on management systems. This can be found at: www.hse.gov.uk/pubns/books/hsg65.htm

The NHS Staff Council sub-group looking at health, safety and wellbeing (HSWPG) has also developed a set of workplace standards that include sections on 'Plan, Do, Check, Act'. This can be found at: www.nhsemployers.org/your-workforce/retain-and-improve/staff-experience/health-work-and-wellbeing/protecting-staff-and-preventing-ill-health/partnership-working-across-your-organisation/partnership-working-on-health-safety-and-wellbeing/hswpg-resources-page



12. SAFETY COMMITTEES

The safety committee is the usual mechanism for safety representatives and managers to work together on health and safety issues. However, many health care employers have developed their own structures to deal with both clinical and non-clinical risk, and the safety committee may be incorporated into risk management committees.

There is a danger that risk management committees concentrate mainly on clinical or financial risks and focus insufficiently on non-clinical risks. For this reason, the RCN supports an organisation-wide, stand alone health and safety committee. Safety representatives have an important contribution to make and, whatever the set-up, there should be the opportunity to meet formally with managers to discuss health and safety matters.

The 1977 Safety Representatives and Safety Committees Regulations (SRSC) give a safety representative the right to request that their employer sets up a safety committee, if one does not already exist. The employer must then make the arrangements. In most cases, however, you will find that a safety committee already exists and your first task will be to find out how many RCN places there are on the committee and how to get yourself on to it.

The main activity of a safety committee is to monitor and review workplace health and safety measures with the employer. Usually, union representatives and management sit on the committee in equal numbers. However, health and safety issues are the primary responsibility of your employer.

The continuous restructuring that takes place throughout the health service can lead to safety committees falling into disuse. It is important for you, as an RCN safety representative, to ensure that, whatever structural changes take place, your safety committee continues to function and there is a healthy and safe workplace. Independent sector employers should also have a committee structure which allows management to consult with employees or their representatives.

What a safety committee does

The formal definition of a safety committee's functions is: "keeping under review the measures taken to ensure the health and safety at work of employees and such other functions as may be prescribed." HSWA, 1974, Section 2(9).

Setting objectives

Safety committees should establish broadbased objectives to carry out health and safety measures by promoting co-operation between employer and employees to develop health and safety initiatives and reduce accident rates. Within these broad objectives, safety committees should define specific functions such as:

- studying accident and work-related ill health statistics and trends to identify problem areas
- devising safety measures
- examining safety audits
- examining HSE inspectors' reports
- considering reports by safety representatives
- assisting in the development of safety rules and safe systems of work
- monitoring the effectiveness of safety training for staff
- monitoring the adequacy of health and safety publicity, and communications in the workplace
- providing a good link with the local HSE.

A safety committee should report any findings from accident and disease audits, and any initiatives to improve health and safety in the workplace, to management.

Safety committees – the basis in law

Regulation 9 of the 1977 Safety Representatives and Safety Committees Regulations sets out the arrangements for setting up safety committees. The regulation states that where at least two safety representatives request the employer to establish a safety committee the employer is obliged to carry out the request.

Regulation 9 guidance notes give some broad principles about how committees should be set up and function. The law is explicit in the demands it makes of employers. Under the regulations your employer must:

- consult with the safety representatives who made the request
- consult with the representatives of the recognised trade unions whose members work in areas that are covered by the safety committee
- post a notice in an area accessible by all employees that states the composition of the committee and the work place(s) covered by it
- establish the committee not later than three months after the original request.

Setting up a safety committee

First find out if a safety committee already exists; if it does you should find out how to get on it. But if no safety committee exists at your workplace then you should meet with RCN safety representative colleagues and other recognised trade unions to discuss proposals for a joint committee. This should include structure, procedures and working arrangements. Take your agreed proposals to your employer.

Who decides safety committee membership and structure?

The safety committee membership and structure should be agreed through negotiation between the unions and management. The management representatives you negotiate with must have adequate knowledge and experience of the organisation's policies and plans in areas such as:

- medical
- nursing
- finance
- administration.

At least one management representative must have “adequate authority to give proper consideration to views and recommendations” to give the committee effective power.

What's the make-up of the committee?

It is up to the unions to decide who represents staff on the safety committee. The RCN and other unions which represent the largest staff groups usually have one or more safety representatives on the committee. The number of management representatives should not exceed the number of employee representatives.

Relevant specialists such as risk managers, security leads, occupational health nurses or fire officers should be ex-officio committee members. Other specialists can be co-opted for meetings as required. The HSE points out that management representation should be aimed at ensuring the necessary knowledge and expertise to provide accurate information to the committee on company policy and technical matters.

How should the safety committee work?

It is important for you and colleagues to discuss and agree with management the way in which the committee should work. This should form the committee's constitution (sometimes called terms of reference) and should include the following key points:

- how often the committee meets
- who chairs the meetings
- who acts as secretary
- who prepares and issues the meeting agendas
- how the agenda is put together
- the timescale for issuing agendas
- when to display agendas on notice boards
- who issues minutes
- who receives copies
- how information is circulated.

Effective working

Safety committees which work effectively become the workplace forum where health and safety problems are discussed and agreements are reached on necessary actions. They are the place where time is given to detailed discussion of health and safety issues, reviews of statistics, policy development, and assessment of management action. Staff side premeetings are an important way to share information between the various unions represented on the committee and agree a staff side position on matters.

As safety representatives, you and your colleagues are responsible for ensuring that the safety committee is effective in bringing about improvements. The committee should not be used as a blocking device by management to deal with union complaints.

Mechanisms should be in place for any escalating issues that cannot be resolved at the health and safety committee, for example, the risk management committee or board. The regulations and effectiveness The regulations give you guidance on how to make your safety committee effective in its work. This includes the following points:

- good communication between management and the committee
- the committee and staff management must want to use the knowledge and experience of staff, and staff must also want to improve health and safety
- effectiveness depends on the pressure and influence the committee is able to exert
- regular meetings with good publicity about discussions and recommendations
- speedy decisions and actions by management on the committee's recommendations, and good publicity to tell staff
- joint inspections by committee members ensure that everyone on the committee knows what the state of health and safety is throughout the entire workplace
- effective committees should develop ways of involving employees.

Remember

A good safety committee will give staff confidence in management's safety policy and help management appreciate health and safety matters. However, it does not remove the primary responsibility for health and safety in the workplace from the employer.



Action checklist

Find out:

- is there a safety committee in your workplace?
- is there an RCN representative on the safety committee? If not, take steps to become a member of the committee
- does the safety committee representative consult with other RCN safety representatives?
- do you get copies of safety committee minutes?
- how effective is the committee?
- how do trade union safety representatives let members know the outcomes of what has been discussed?

13. INSPECTING THE WORKPLACE

A safety inspection is an opportunity to talk to members and to listen to their concerns, showing members that the RCN is active and committed to improving workplace conditions.

As an RCN accredited safety representative, these are some of the circumstances when you can inspect your employer's workplace. If:

- the workplace has not been inspected for three months
- there has been a substantial change in work conditions
- there has been a notifiable accident, illness or dangerous occurrence
- new information becomes available relevant to hazards in the workplace
- an RCN member complains
- you believe there is a potential hazard that should be investigated.

This chapter explains the circumstances and mechanics of undertaking an inspection.

A safety inspection involves a 'walkthrough' of the workplace and inspection of documents required by health and safety legislation – such as risk assessments and certificates to show that equipment has been tested.

When to inspect?

It is good practice to establish an annual calendar of inspections and to approach the employer with reasonable notice to negotiate time off to carry out inspections.

The time of day may be significant, particularly if the members you represent work shifts.

Publicise the forthcoming inspection to members one or two weeks before and invite people to contact you with any concerns.

What to do before an inspection

There are three basic requirements before you can start an inspection.

1. Make sure you are acquainted with the

relevant manager or safety supervisor for the area, and that the manager is fully aware of your role and responsibilities as a safety representative. Ideally, inspections should be joint activities, so you should invite your manager to participate in the inspection.

2. If the workplace area is fairly large or complicated, have a plan that includes the positions of plant and equipment, fire exits and fire fighting equipment. You may also want to mark out a good inspection route on the plan. This will ensure the whole area is covered, and emphasise the need to examine large pieces of equipment from different angles. Alternatively, break up the workplace and carry out separate inspections. Estimate how long the inspection might take, and factor in talking to workers and checking documents.
3. You should be familiar with the statutory regulations, codes of practice and guidance that are relevant to your workplace, including local operational policies and working practices. What you look for and check will depend on the nature of the workplace: have a look at previous chapters of this handbook to establish the issues which need to be checked (see in particular RIDDOR, COSHH and SRSC regulations, and their approved codes of practice).
4. Before you start the inspection ask your employer for key documents (you are legally entitled to inspect accident books and training records).

During the inspection

If you have prepared well, the inspection should be fairly straightforward. Take your time to talk to people and listen to their concerns. Don't dismiss issues that may seem outside your remit.

It is always helpful to have a checklist to work from, but jot down your own notes as well and your impressions about how the workplace is functioning as a whole. Below is an example of a checklist which can be modified to suit local circumstances.



Model inspection checklist

Fill this out for your workplace area/inspection. If the answer to any of the questions is 'no' or 'don't know' please give details.

	Yes	No	Don't know/notes
Systems of work			
1. Are there up-to-date procedures and policies?			
2. Ensure risk assessments are carried out for all hazards including: <ul style="list-style-type: none"> • manual handling • sharps and biohazards • exposure to hazardous substances • display screen equipment • violence • work-related stress. 			
3. Are staff aware of the results of the risk assessments?			
4. Are there any specific hazards such as materials that are: <ul style="list-style-type: none"> • toxic • radioactive • inflammable • other? 			
5. Is protective clothing: <ul style="list-style-type: none"> • suitable • available? 			
6. Are there provisions for security such as: <ul style="list-style-type: none"> • guards • panic buttons • alarms • other? 			
7. Is there a satisfactory system in operation for monitoring maintenance and repair of equipment?			
8. Do staff comply with standard (universal) precautions?			
First Aid/Accidents			
9. Do staff have access to a trained first aider at all times of the day?			
10. Is provision made for staff to report accidents themselves at all times of the day?			
11. How many accidents have happened in the department in the last three months?			
Lighting			
12. Is it adequate?			
Heating			
13. Is it suitable?			
14. Can it be controlled locally?			

Housekeeping			
15. Is there an overall impression of cleanliness and tidiness?			
16. Are the ceilings, windows, floors, paintwork and so on in a good state of repair?			
Ventilation			
17. Is equipment stored in corridors or in front of fire exits?			
18. Is equipment in store cupboards safely stacked and easily accessible?			
19. Does it feel stuffy?			
20. Are there any noticeable smells?			
21. Is there a hazard from <ul style="list-style-type: none"> • fumes • steam • vapour <i>If yes, give details of what precautions have been taken.</i>			
Fire			
22. Are the fire exits clear and well-marked?			
23. Are fire extinguishers easily available and regularly serviced?			
24. Are fire extinguishers of an appropriate type (that is CO ₂ , water, powder, foam)?			
25. Is there a sprinkler system, and if so how often is it checked?			
26. Are the fire alarms checked regularly?			
27. Are fire drills held regularly?			
Waste disposal			
28. Is suitable provision made for the disposal of household and clinical waste?			
29. Is suitable provision made for the disposal of sharps?			
30. Welfare			
31. Is there an adequate number of toilets for staff?			
32. Are showers provided?			
33. Are there facilities to obtain food at all hours of a working shift?			
34. Is it possible to obtain food at all hours of a working shift?			
35. Are rest areas provided away from the public?			
36. Is there compliance with no smoking policy?			
37. Is there adequate access to fresh drinking water?			

Issues to check: Fire and accidents

Fire exits

Fire exits should be clearly marked and easily opened in the event of an emergency, and must not be obstructed in any way, internally or externally.

Fire instructions

There should be fire instruction notices in prominent positions, explaining what action must be taken in the event of an emergency, and any other relevant information. Where necessary, notices should be in more than one language.

Emergency equipment

Emergency equipment usually means firefighting equipment, but it could include other equipment, depending on the nature of the work and hazards. The equipment should be properly maintained and clearly marked.

First aid boxes

The Health and Safety First Aid Regulations (1981) and associated guidance specify that every workplace must have first aid boxes, regardless of the number of people employed. The regulations and code lay out in some detail what is required.

Hazard manuals

Many workplaces have some form of hazard or safety manual, which must be readily available to everyone who may be affected. This details the action(s) that need to be taken when handling dangerous substances or articles, or when performing dangerous tasks. Manuals also explain exactly what needs to be done in the case of an accident. Workplace procedures or policy documents may serve the same purpose. Whatever the form of the document, it should contain information on:

- the nature of the hazard(s)
- safe systems of work
- protective clothing required
- action in the event of an accident.

If hazard manuals or workplace procedure documents do not exist in areas where you think they are necessary, you should raise the matter with your employer.

Accident recording

Every workplace should have an accident book. In many workplaces, particularly the NHS, accident books are online (see Chapter 15 for further information).

Issues to check: The total work environment

Housekeeping and general conditions

Workplaces should be kept tidy and items should be stacked or stored safely. Passageways should not be cluttered with equipment, boxes and bags of laundry or rubbish. There should be no trailing cables or other tripping hazards, or slipping hazards due to spillages or leakages. Walls, windows and furnishings should be clean, and paintwork and surfaces should be in good order.

Too much equipment

The workplace should not have too much machinery, equipment or furniture that creates congestion and makes the working environment unsafe. For more information look at the Workplace (Health, Safety and Welfare) Regulations 1992 and the Approved Code of Practice, which cover this and related safety issues.

Lighting

Lighting must be adequate throughout the workplace, including corridors and stairways. Poor lighting – or abrupt contrasts created when moving from brightly-lit to dim areas – can be dangerous. You should also check that types of lighting are appropriate to the nature of the work being carried out.

Temperature levels

The Workplace (Health, Safety and Welfare) Regulations 1992 and its Approved Code of Practice say that workplace temperatures should be at least 16°C, or 13°C where staff are using

considerable physical effort to do their jobs. Attention should also be given to humidity and draughts. A thermometer should be placed in a sensible position in, or near, each workplace. The ACoP does not specify a maximum temperature, but it should be reasonable.

Ventilation

All work areas should have a means of ventilation that is sufficient for the work carried out. Incoming air should not be contaminated by air intake inlets being placed near flues or areas where vehicles manoeuvre. Extraction equipment may be necessary where there are fumes, gases or dust. You may need to ensure that further precautions are taken in some hazardous areas (see COSHH regulations).

Any air-conditioning system, extraction or ventilation equipment must be maintained to ensure that air is not contaminated.

Flooring

Flooring must be stable, in good condition and suitable for the work being carried out, including the type of floor covering used. Tripping or slipping hazards must be dealt with immediately.

Internal transport

Some hospital and health care sites have specific internal transport arrangements for patients and equipment. The arrangements must be suitable for the work process. If mechanical devices are used, they should be maintained in a safe and serviceable condition. Where mechanical transport equipment is used, check the traffic routes for blind spots, crossover points, narrow corridors and obstructions. This should take into account people with impaired sight or hearing.

Waste disposal

If not disposed of correctly, health care waste can create a hazard to the environment and to individuals. The Hazardous Waste Regulations 2005 place a duty on all producers of waste to segregate hazardous and non-hazardous waste. An assessment of waste needs to be carried out to ensure that it enters the correct waste stream. In 2013 the Department of Health issued guidance, Safe Management of Healthcare Waste, about complying with the various regulations and best practice. The guidance details the different types of waste including:

- health care waste – defined as waste from the diagnosis, treatment or prevention of disease in humans/animals
- infectious waste – waste known to contain (or potentially contain) microorganisms or their toxins which can lead to disease
- medicinal waste – including cytotoxic waste
- offensive waste – waste which is defined as non-infectious non-hazardous waste, which does not require special treatment or disposal but which may cause offence to those who come into contact with it (previously known as sanpro or human hygiene waste).

A national colour-coding system was introduced properly to help with waste segregation. The RCN has produced guidance on the management of waste from health, social and personal care (2014).

Noise

Noise may be a problem in an environment where workers have to raise their voices to carry out a normal conversation when about two metres apart from each other. The use of power tools and heavy machinery can also lead to excessive noise levels which need to be acted on. Employers must provide hearing protection and hearing protection zones where the noise levels are 85 decibels or above. Employers must also assess the risk to workers' health and provide them with information and training where the level is 80 decibels or above. Further information on noise can be found in the Control of Noise at Work Regulations 2005.

Issues to check: Specific workplace environment issues

Machinery hazards

Machinery can present many hazards such as:

- inadequate guards
- operating on an unstable surface
- inadequate safety stop buttons.

Machinery should be used only in approved and safe ways, be properly maintained in a safe condition and be used only for the purposes for which it was designed.

Chemical hazards

Chemicals can be gas, liquid or solid in form – this includes dust. It is important that staff who handle chemicals know:

- what the chemical is
- what potential hazards it presents
- the correct procedure for handling it
- what protective clothing, if any, must be worn
- what actions to take in the event of an accident.

Physical hazards

As well as sources of hazards covered above, you should also be aware of hazards associated with electricity, radiation, lasers and disease.

Electricity

All electrical equipment should be properly fitted and maintained; it should be appropriate for the task and used in accordance with the manufacturer's instructions. Defects must be reported immediately and equipment withdrawn from use until it has been repaired. On no account should electrical systems be overloaded.

Radiation

Some treatment techniques require the use of ionizing or non-ionizing radiation, and all staff should be informed about the potential hazards, the correct and safe working procedure, and the proper use of any protective clothing or equipment required.

Lasers

Staff should be informed about the potential hazards posed by lasers, the correct and safe working procedure, and of any protective clothing or equipment they will need when using lasers.

Biological hazards

Health service work means that staff face potential exposure to biological hazards within blood and body fluids. These could include:

- HIV
- hepatitis B and C
- CJD
- tuberculosis (TB).

All health care workers who might be exposed to a biological agent must be told about the nature of the organism and the potential hazard.

This information should include the correct and safe working procedure, any protective equipment or clothing that must be worn or used, and the actions to take in the event of an accident.

The Management of Health and Safety at Work Regulations, the Health and Safety (Sharp Instruments in Healthcare) Regulations and the COSHH Regulations provide the basis for good infection control and prevention practices to protect both staff and patients (see Chapters 4 and 6 on this legislation). Employers are responsible for introducing appropriate infection control procedures and accessing competent advice – such as from infection control teams. HSE inspectors consider whether appropriate procedures are in place as part of their preventive inspections.

Issues to check: Safe systems of work

All staff should use the safest possible work methods. As a safety representative, you should find out whether there are clearly defined procedures for particular tasks. Where they don't exist you should find out whether a process is needed in order to ensure safety. If methods exist you should scrutinise them to find out whether they are effective. If procedures need to be changed or put in place, you will need to explain why and make recommendations for change.

Issues to check: Welfare issues

The Workplace (Health, Safety and Welfare) Regulations (1992) cover the following welfare issues in the workplace:

Drinking water (Regulation 22)

There must be an adequate supply of healthy drinking water in the workplace, which should be readily accessible and conspicuously marked at suitable places.

Sanitary conveniences (Regulation 20)

Suitable and sufficient sanitary conveniences must be provided at readily accessible places. They must be kept clean and properly maintained, with adequate lighting and effective ventilation.

Washing facilities (Regulation 21)

Suitable and sufficient washing facilities must be provided. There should be hot and cold running water, soap and clean towels, or other suitable methods for cleaning and drying. Washing areas must be properly lit, cleaned and maintained.

Facilities for storing clothing (Regulation 23)

Employers must provide facilities such as individual lockers in which staff can keep clothing that is not worn for work, or working clothes not taken home. If staff have to change into a uniform and more than outer clothing is removed, employers have to provide separate changing facilities for men and women.

Rest and meal facilities (Regulation 25)

Employers must provide suitable and sufficient rest facilities for staff at readily accessible places. This is important to avoid contamination if food is eaten in the workplace. Rest rooms and rest areas must have a sufficient number of seats, and suitable facilities for pregnant or nursing mothers. Employers must put in place arrangements to protect non-smokers.

Seating

For people who are seated while they work, seats must be suitable in design, construction and dimensions for the worker and the type of work done.

Smoking

The Health Act 2006, in force across the UK by July 2007, effectively banned smoking in most enclosed workplaces and public places. This means premises that have a ceiling or walls at least half the way around, including doors and windows. Temporary or moveable walls or roofs (such as awnings) also count as substantially enclosed. The act created the offence of 'smoking in a smoke-free place' and 'failing to prevent smoking in a smokefree place' for anyone who 'controls or is concerned in the management of smokefree premises'. The latter offence generally applies to employers or occupiers of premises, but there is also a duty on drivers of smoke-free vehicles to prevent smoking.



What to do after an inspection

Submitting a report form

Your inspections may identify a number of problems or features that you are unhappy about and which need management attention. You should use the RCN safety representatives' report form to outline your concerns. The HSE website also has forms you can download.

Be as detailed and comprehensive as you can (you can add further pages to the template). Report any immediate serious problems, for example, faulty lifting equipment or an overfull sharps bin, by speaking to the manager at the time of the inspection. Follow this up in writing so action can be taken quickly.

The RCN recommends that you complete report forms in triplicate – you should keep one copy for reference and send two to your management. If you have used a checklist, then attach a copy to the report form.

Management should complete one of the two forms, indicating what action will be taken, or if no action will be taken, why not. The completed copy should be returned to you and you should attach it to your own copy. At the next inspection you or your safety representative colleague will pay particular attention to these points to ensure that the proper action has been taken. You can use the RCN record form to record that an inspection took place. This should be completed and a copy sent to the manager involved in the inspection.

Share the information with members by, for example, putting a copy of the report on the RCN notice board or publishing your findings in a newsletter. You can also report findings at a branch meeting, but if it is a large branch covering multiple sites you may need to share general trends with other safety reps within the RCN and with other unions. Information you gather about shared concerns, such as a lack of training or out-of-date policies, should be presented to the health and safety committee.



Action checklist

- Find out how inspections are organised in your workplace
- Find out if inspections are not centrally co-ordinated, decide which parts of the workplace you will inspect
- Develop a timetable for inspections
- Carry out an inspection with management
- Develop or amend the checklist to suit your purposes
- Publicise the results of the survey to members.

Safety Representative Report Form

Form to be used for notifying the employer's representative of unhealthy or unsafe conditions and working practices or unsatisfactory arrangements for welfare at work.

One copy should be retained by the RCN safety representative(s) and two copies given to the employer's representative, one of which should be returned to you completed.

Area or workplace inspected:	
Date of inspection:	
Name(s) of safety officer or management's representative for the area or workplace:	
Name of safety representative(s) taking part in inspection:	

This record does not imply that the conditions are safe and healthy or that the arrangements for welfare at work are satisfactory.

Signature(s) of safety representative(s)

Signature(s) of safety officer or management representative

Date



References

Department of Health (2013) *Health Technical Memorandum 07-01: Safe Management of Health Care Waste*, London: The Stationery Office

RCN (2014) *The Management of Waste from Health, Social and Personal Care*, London: RCN

14. PREVENTING ACCIDENTS AT WORK

Preventing accidents at work

Your employer is responsible for ensuring that health and safety measures are in place throughout the workplace to minimise risk to staff and the public. They also have responsibility for reporting, collating and analysing accident information, which they should then use to inform risk assessment and safety policy, and to develop new safety initiatives. However, you have an important role to play when an accident does happen – you need to ensure that an appropriate investigation takes place so that action is taken to prevent the accident happening again.

What is an accident?

The term ‘accident’ is not defined in health and safety legislation, but the simple HSE definition that is usually applied is: “an event that results in injury or ill health” (HSE, 2014).

The term ‘accident’ includes non-consensual physical violence done to a person at work. For example, this could include situations where a nurse is assaulted in the accident and emergency department. The result of an accident may be physical harm such as an injury or disease.



What is an incident?

An ‘incident’ can be split into two categories: a ‘near miss’ or an ‘undesired circumstance’. The HSE (2014) defines a near miss as an event that, while not causing harm, has the potential to cause injury or ill health (including a dangerous occurrence). Information from near misses can be extremely useful for prevention. An undesired circumstance is a set of conditions or circumstances that have the potential to cause injury or ill health, for example, untrained nurses handling heavy patients.

What is a dangerous occurrence?

A ‘dangerous occurrence’ is a specified event that may not result in a reportable injury, but has the potential to do significant harm. Dangerous occurrences must be reported to HSE under the RIDDOR Regulations.

For example, a reportable dangerous occurrence could be:

- a patient hoist fails due to overload
- a nurse suffers a needlestick injury from a needle and syringe known to contain hepatitis B-positive blood
- a container of TB culture is broken and releases its contents asbestos is released from ducting during maintenance work.

How do accidents happen?

Accidents in the workplace happen as a result of unsafe conditions and practices.

Unsafe conditions

Some of the most common unsafe conditions in a workplace include:

- inadequate machinery guards
- equipment, tools or machinery defects
- incorrect dress for the job, such as inadequate or no personal protective equipment
- lack of knowledge, skills or training, such as not knowing the handling procedures for cytotoxic drugs
- poor housekeeping, such as wheelchairs left in corridors, unclean working surfaces, tripping hazards
- inadequate lighting
- inadequate ventilation
- unsafe work systems, such as poor clinical waste disposal methods.

Unsafe practices

Some of the most common unsafe practices in a workplace include:

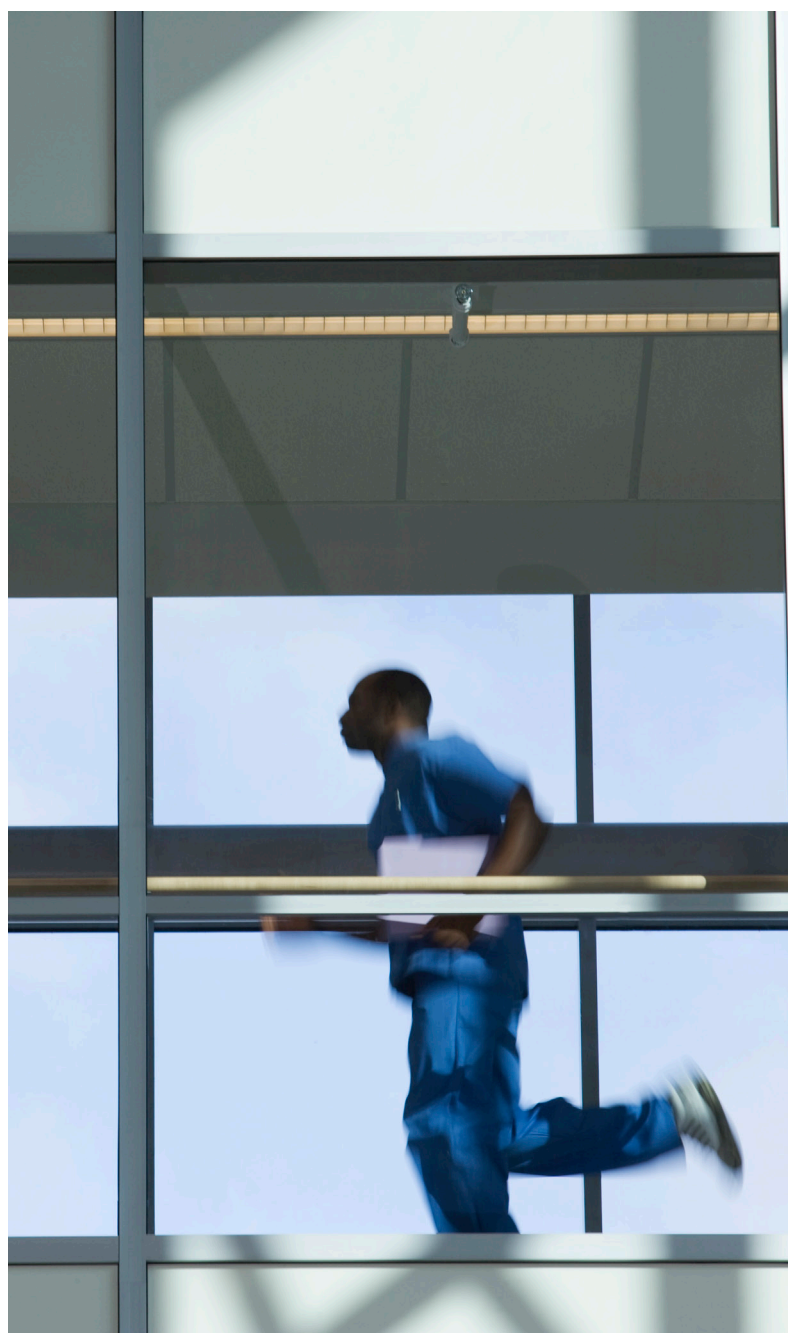
- operating or using equipment incorrectly, and/or without permission
- making safety devices inoperative by, for example, removing guards
- adopting an unsafe posture or position by, for example, using incorrect manual handling methods, or standing on chairs to reach high places
- failing to use protective clothing
- playing practical jokes
- making an error of judgement
- failing to obey safety rules or specific instructions
- making hazardous movements, such as running or jumping.

The two safety principles

There are two basic safety principles that you should apply to your workplace:

- preventing accidents will ensure no one will be injured
- preventing unsafe conditions and practices will remove all possibility of accidents or injuries.

Any programme you and your employer follow to improve safety must be based on all relevant information that has been analysed to reveal the actual and potential causes of accidents.



Recording and analysis

Accident books

Your employer should make sure that all relevant accident and incident information is reported and collated, however minor, and keep a workplace accident book updated and maintained at all times. You should encourage your employer to do this, but it is not a safety representative's responsibility to do this task.

As a safety representative you have the right to inspect the accident book. The accident book is also a useful tool for your safety committee to use to monitor, analyse and review accident trends.

Many health care organisations have moved to electronic accident reporting systems. Electronic systems can make analysis of trends and reporting of data easier.

Factual statistics

The accident book should be analysed regularly by your safety committee, to compile factual statistics that record all accidents.

Types of accident statistics analysis that you might use include:

- types of injury
- part(s) of the body injured
- occupation of the staff injured
- level of staff involved (students, trained, etc)
- location of accidents
- time of day, or shift
- age of employees
- time lost as a result of different types of accident.

Here's an example:

The book shows that 80 accidents occurred among trained nurses and 40 among student nurses over a specific period of time. Compare these figures with the total number of nurses employed. If there were 600 trained nurses, the accident rate per 100 employees would be 13.3. If there were 200 trainees, the accident rate per 100 employees would be 20. Therefore, the figures show that student nurses have a worse accident record than trained nurses do.

Analysis

There are a number of methods you can use to collect qualitative accident information for analysis.

Workplace inspections

Undertaking workplace inspections is a key role for safety representatives. Inspections are successful in revealing potential hazards or unsafe actions or conditions in the workplace after an accident has happened. You can inspect the area of the workplace where an accident has occurred when the area is safe and it is in the interests of the staff you represent.

Your inspection should determine the cause of the accident, and this could include looking at other parts of the workplace if they can help identify the problem. But before you start the inspection, it's always important to remember to notify your employer that you plan to do this.

Safety audits

A safety audit is a more comprehensive approach to accessing qualitative material. It is a wide-ranging assessment that is usually carried out by a small group. The audit subjects each activity area to a systematic examination of safety policy, attitudes, training and work procedures, building layout, and emergency plans.

Safety sampling

Safety sampling is a random inspection that aims to identify hazards before they cause accidents. A tour of a specific workplace should identify how many hazards there are. For example:

- blocked fire exits
- manual handling aids not used
- protective clothing not worn
- rubbish left in corridors.

Informal accident inquiries

Informal accident inquiries aim to uncover accidents that could have caused injury or damage, but because of the circumstances did not. They involve regular discussions with employees about recent incidents. If an accident was a 'near miss' and could have resulted in an injury, you or your employer's safety officer should make recommendations to prevent

similar incidents occurring. You should check the RIDDOR Regulations for more detail about reporting accidents.

Improving safety in the workplace

Improving safety performance in the workplace is an important dimension in accident prevention. Information for making improvements will come from inspections, audits, regulations, codes of practice and guidance. You should consider the following steps:

1. Design safety into the system
2. Isolate hazards
3. Supply protective equipment
4. Involve staff.

1. Design safety into the system

Your employer should put in place systems of work or work practices that are designed to eliminate hazards wherever possible. These are some examples that you can check to see if your employer is taking the right approach to safety in the workplace:

- work space layout that allows safe passage to and from work areas
- adequate space in the workplace
- safe methods of moving articles and substances
- clear and well-understood instructions and procedures
- safe provision for removing hazardous materials from the workplace
- preventive maintenance schedules for plant and equipment
- adequate lighting, heat and ventilation.

2. Isolate hazards

If there is an identified hazard that cannot be removed because it is an integral part of work, it may be possible to isolate it to reduce risk.

3. Supply protective equipment

The use of personal protective equipment (PPE) is always the last resort when no other measures can be taken to protect staff. Before choosing any PPE your employer must ensure that an assessment is made to determine whether the personal protective equipment provided is suitable.

PPE is defined in the Personal Protective Equipment at Work Regulations as all equipment that is intended to protect a worker against one or more risks to their health and safety. For example, this includes:

- protective clothing – aprons, waterproof clothes, gloves, safety footwear, safety helmets, high visibility waistcoats
- protective equipment – eye protectors, life jackets, respirators, safety harnesses.

You should also check the other health and safety regulations made under the Health and Safety at Work etc. Act that also relate to PPE. For example, Control of Substances Hazardous to Health Regulations and Noise at Work Regulations.

4. Involve staff

Employees have health and safety responsibilities under Sections 7 and 8 of the Health and Safety at Work Act – although the overall duty for ensuring safety in the workplace always lies with the employer. There are two important ways of involving staff in health and safety.

Safety training

There should be ongoing safety training courses available to all staff, not just a one-off induction. The training programme should also include specific courses for particular needs, such as the introduction of new equipment or procedures.

Publicity

Through internal publicity, staff should be constantly reminded about the importance of health and safety. For example, you could use:

- posters in the workplace
- competitions
- film shows
- Nurses' Day events
- suggestion schemes
- one week each year, usually in October, is designated European Week of Health and Safety at Work by the European Agency for Occupational Safety and Health
- use the *RCN Bulletin* and *Activate* to share ideas on good practice.

Investigating an accident

If an accident happens, an RCN member may ask you, as their safety representative, to investigate how and why it occurred, in order to prevent similar accidents occurring.

Management also have a responsibility to carry out their own investigation. Your investigation needs to be approached in a systematic way, so that the facts can be established quickly and accurately. Throughout, you must remain objective and remember that the purpose of the investigation is to discover the cause of the accident so that action can be taken to prevent a recurrence. It is not your function to blame any person directly or indirectly for an accident. Some accidents may result in disciplinary action, but this is a separate employee relations issue.

Claiming compensation

If the investigation appears to suggest that there may be adequate reasons to pursue a compensation claim, you should discuss this with the RCN member concerned. The member should be advised to contact RCN Direct who will complete the necessary paper work and refer onto RCN Law to assess.

Remember, it is vital that you keep all records and statements for three and a half years following an accident. The records will be needed to support a member's legal claim. Your nearest RCN office will give you details about archiving of records and case management.

What to look for in an investigation

These are the points that you should cover in your investigation.

1. Make notes of the general environment, equipment or machinery concerned.
2. Establish the time sequence of events.
3. Make a sketch plan of the layout or, if possible, take photographs.
4. List all the witnesses and interview them to find out what they saw, did and heard.
5. Try to arrive at conclusions about the cause of the accident, based on these facts.
6. Evaluate and check the facts by considering their accuracy, reliability and relevance.
7. Make sure that you have all the relevant background information, which might include factors such as:
 - was the task within the person's job description? If not, who should have been carrying out the task?
 - was the accident reported immediately, and to whom?
 - was the person specifically warned about any hazards in performing the task?
 - was the person instructed to carry out the particular task?
 - was the work carried out according to instruction or normal practice?
 - was the task within the capabilities of the person concerned?
 - was the person familiar with the type of plant or equipment?
 - was any specified protective clothing being worn?
 - was the protective clothing adequate to deal with the hazard?
 - was the plant, equipment and/or premises in normal condition and regularly serviced/maintained?

- were warning notices displayed to advise people about the hazards or to use protective clothing?
- were there any failures of service, plant or machinery?
- are procedures or instructions laid down for the task?
- is there a system for monitoring procedures or instructions?
- is there an accepted safe method for carrying out the task?
- had a risk assessment been carried out?

Investigation conclusions

After asking these questions, you should have found out the following information about the accident:

- the exact nature of the injury or damage
- the unsafe acts and/or conditions that contributed to the accident
- details of the accident
- who was involved, either directly or indirectly
- what action should be taken to prevent a recurrence.

Setting up a monitoring system

Your safety committee should set up an accident monitoring system so that lessons are learned from a particular accident. You can help the committee with this by ensuring that the lessons are incorporated into:

- safety committee agendas, for discussion and action
- all similar workplace systems, and not just the one where an accident occurred
- safety procedures and instructions
- training and publicity programmes.



Action checklist

Find out:

- is there a regular analysis of accident statistics?
- if yes, do you receive a copy?

If no, ensure you get onto the circulation list

- is there a systematic approach to the investigation of accidents?

If no, consider raising this in the safety committee

- is there a local employer's procedure for reporting accidents?
- what are the RCN procedures for reporting an accident? Do you know what paperwork is needed, and where to get the right forms from?

References

HSE (2014) *Investigating Accidents and Incidents - A Workbook for Employers*. HSE Books: Sudbury

Further information

HSE (2004) *Investigating Accidents and Incidents*, Sudbury: HSE Books (HSG 245). Available at: www.hse.gov.uk/managing/delivering/check/investigating-accidents-incidents.htm



15. REPORTING ACCIDENTS AND INCIDENTS AT WORK

Evidence suggests that many accidents go unreported, with as many as two out of three falling through the formal recording procedures. Employers have a legal duty to report accidents, but they need full details before they can conduct a thorough investigation and take action to prevent future accidents. You have a key role in raising awareness of the need for proper accident reporting and recording systems.

Remember, any incident should be recorded whether or not anyone was injured. Accurate reporting protects individual employees' rights and benefits if they suffer personal injury or loss of income as the result of workplace accidents.

Reporting procedures

1. Accident forms

Employers

It's up to your employer to devise a method to record accidents. The records could be accident report forms, or an accident book, or an electronic recording system. These form the basis for management investigations into the accident circumstances, and for monitoring statistics.

Safety representatives

Accident forms provide critical information that may be used in personal injury litigation cases. This is why it is essential that you ensure that statements on the forms accurately reflect what happened. For example, avoid making a statement such as 'she hurt her back while moving a patient'. You need to make a full statement that answers questions such as:

- what system of work was involved?
- who decided the system for moving the patient?
- what is the weight, height and name of the patient?
- what part of the body was injured?

- were mechanical aids used? If not, why not?
- was anyone else involved? If yes, record their names and addresses
- was there a written assessment on the procedure to be used?

The injured person and/or witness may be asked to make a statement, but there is no compulsion to do this immediately. You can help RCN members with statements by ensuring that the statement consists of a factual record of the events. You should ensure that the member keeps a copy of the accident form.

2. Accident books

An accident book should also be available in every workplace. A standard accident book - B1 510 - is available from The Stationery Office. Any employee, or someone acting bona fide on their behalf, should have access to the accident book and complete the details of the accident.

Many health care organisations hold their accident book online.

3. Industrial injury

The injured member may be eligible for Industrial Injuries Disablement Benefit. An accident at work should be registered as an industrial accident. This is not a claim for benefit, but may help the member if they want to claim disablement benefit in the future.

Forms should be completed as soon as possible after the accident, and are available from the government website at: www.gov.uk/industrial-injuries-disablement-benefit/how-to-claim

In Northern Ireland, forms can be accessed via the Northern Ireland Direct Government services website at: <https://www.nidirect.gov.uk/articles/industrial-injuries-disablement-benefit>

4. Employers' duty to report

The 2013 RIDDOR Regulations give employers a duty to report certain accidents at work to the HSE. The types of accidents that must be reported are:

- accidents resulting in more than seven days off work (or unable to carry out normal duties)
- fatal accidents
- accidents that result in major injuries
- dangerous occurrences
- diseases.

What must be reported?

RIDDOR applies to all work activities, and accidents must be reported to the HSE regardless of who is injured. This includes accidents to employees, contractor's employees, self-employed people working on the premises, visitors, students and patients as long as the injury does not arise from medical treatment. These are the categories that must be reported:

Fatal injuries

Death, either immediate or if the person dies within one year of the accident.

Major injuries

- fracture of the skull, spine or pelvis
- fracture of any bone in the arm or wrist, or in the leg or ankle
- amputation of a hand or foot, finger, thumb, or toes, or any part of these, if the joint or bone is completely severed
- permanent or temporary loss of sight, a penetrating injury to the eye, or a chemical or hot metal burn to an eye
- an injury (including burns) resulting from an electric shock from equipment or a circuit which requires immediate medical treatment, or which causes a loss of consciousness
- loss of consciousness resulting from lack of oxygen
- acute illness requiring treatment or loss of consciousness caused by absorption of any substance by inhalation, ingestion or through the skin

- acute illness requiring medical treatment if it is believed that it resulted from exposure to a pathogen or infected material
- any other injury that results in the injured person being admitted immediately to hospital for more than 24 hours.

Loss time accidents

Any accident or incident that leads to a person being absent from work or unable to carry out normal duties for more than seven days must be reported to the HSE.

Dangerous occurrences

Dangerous occurrences must be reported to the HSE, whether or not anyone has been injured. These are incidents that have the potential to kill or seriously injure. These incidents must be investigated by employers and their causes identified. The type of dangerous occurrences that are likely to occur on health service premises are:

- collapse, overturning, or the failure of any load-bearing part of lifts and lifting equipment
- accidental release of a biological agent (a hazard group 3 or 4 pathogen)
- explosion, collapse or bursting of any closed vessel or associated pipe work
- an electrical short circuit or overload causing fire or explosion
- an explosion or fire causing a stoppage or suspension of normal work for more than 24 hours
- any collapse or partial collapse of any building, floor or wall
- a needlestick injury should be reported to HSE if the sharp is known to be contaminated with infected blood.

Diseases

RIDDOR specifies a number of reportable diseases that are linked to work activities.

For nurses the possible reportable diseases are:

- infections such as hepatitis, tuberculosis, legionellosis and tetanus
- infection attributable to work with biological agents



- infection attributable to exposure to blood or body fluids or any potentially infective material
- some skin diseases such as occupational dermatitis
- occupational asthma or respiratory sensitisation
- other conditions such as occupational cancer and certain musculoskeletal disorders.

Reporting equipment failure

Equipment or medical device failures should be reported to the Medicines and Healthcare Products Regulatory Agency (MHRA), which is an executive agency of the Department of Health.

Its job is to ensure the safety and quality of all medical devices and equipment used in the UK.

The MHRA relies on all health care staff to report any device failure to the Adverse Incident Centre. So it is important that health care professionals inform the MHRA about any device or equipment-related fault or failure. An adverse incident is an event that can, or has the potential to affect adversely the safety of users, patients and others. All incidents are investigated and, depending on the outcome, the MHRA may issue advice to the health service through a safety, advice or hazards notice.

Making the accident report It is your manager's responsibility to make an accident report, but as a safety representative all accidents, diseases and dangerous occurrences may be reported to the Incident Contact Centre, telephone **0845 300 9923**. Reports can also be made via the internet at www.hse.gov.uk/riddor



Further information

HSE's information on the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 is available at: www.hse.gov.uk/riddor

16. COMMON WORKPLACE HAZARDS

The major workplace hazards for nurses are:

- violence and aggression
- working alone
- exposure to blood-borne viruses, including sharps injuries
- slips and trips
- dermatitis
- work-related stress
- musculoskeletal injuries
- cytotoxic drugs.

Violence and aggression

Violent and aggressive behaviour towards health service staff is now a familiar and everyday event. It ranges from verbal abuse and bullying to serious physical injury – and it all contributes towards stress in people's working lives.

The RCN believes that all nurses and health care support workers have the right to a working environment that is free from undue stress, anxiety or fear. RCN safety representatives have an important role in representing and supporting people who may be victims of violent and aggressive behaviour. They are also key in raising awareness about the serious consequences of this conduct, and advising employers about their duty to take preventive steps.

You and your colleagues may experience attacks made by aggressive patients, clients or relatives, either in hospital or in their homes, by intruders or by members of the public when you travel or work in the community.

The HSE (2014) defines work-related violence as 'any incident in which a person is abused, threatened or assaulted in circumstances relating to their work'.

Unacceptable behaviour includes:

- verbal abuse which prevents staff from doing their jobs or makes them feel unsafe
- significant threats or risk of serious injury
- actual violence to staff, fellow patients or visitors
- damage to hospital property.

Your employer has a legal duty under HSWA and the management of health and safety at work regulations to ensure that you are not exposed to any unnecessary health and safety risks, and this includes preventing violence and aggressive behaviour. All health service employers should have policies for dealing with this, or be developing procedures.

The causes of violent and aggressive behaviour are complex. It is difficult, if not impossible, to eliminate all aggressive behaviour in the working environment, whether in the hospital or community. But your employer has an obligation to make an assessment of the risk and to implement action as necessary. Measures to combat violence in the workplace should be included as part of your employer's safety policy. Conducting risk assessments are a key stage in managing the problem of violence and aggression at work.

There are a number of questions you should raise with your management as part of the assessment process.

- Is there the potential for violent or aggressive behaviour in the unit/workplace?
- Who is at risk?
- What is the level of the problem? There should be a recording system for all incidents.
- Discuss with members the problem of violence and aggression at work.
- If a problem is known to exist, is the data regularly analysed to provide a basis for deciding action?
- Are suitable prevention measures in place?
- Is the problem adequately covered in the safety policy?

- If prevention measures are in place, how is their effectiveness measured and monitored?
- Are staff trained in the prevention and management of violence? RCN guidance on work-related violence (2009) provides a framework for assessing the risks of violence. The guidance on dynamic risk assessments looks at the following:
 - individual characteristics of the assailant, for example, previous history of violence
 - individual characteristics of the employee, for example, experience and training
 - type of interaction that is taking place between the assailant and the employee, for example, breaking bad news
 - factors in relation to the workplace/work environment, for example, noise levels, staffing levels and waiting times.

This list can be used as a learning tool to investigate violent incidents and prevent future occurrences.

Lone workers

The HSE (2009) defines lone workers as those who work by themselves without close or direct supervision. Many nurses work alone either in the community or at a permanent base. While physical attacks are rare, working alone, especially during unsocial hours, leaves many nurses feeling vulnerable.

Employers have a legal requirement under the Health and Safety at Work Act and Management of Health and Safety at Work Regulations to protect lone workers and put safety measures in place to reduce the risks of lone working.

Following a surveys of lone-working members in 2007 and 2011, the RCN developed a five point plan of action to help improve the protection of lone workers.

The RCN's five point plan to protect lone workers

1. Risk assessments

Organisations must carry out risk assessments to manage the risks to lone workers and reduce potential harm. Nursing staff and health care workers must be provided with information to help them assess risks and decide how to ensure their safety.

2. Prevention

Employers must implement safe systems of work that deal with the risks. For example, if the risk is caused, or increased, by visiting a patient, it may be safer if the patient visits a hospital/health care building. Safe systems of work would include the provision of a safe, effective and discreet means of raising the alarm such as the identity card lone worker device.

3. Policy

Every organisation needs a lone worker policy to inform lone workers about the arrangements in place to protect employees and identify who is accountable for ensuring the policy is implemented.

4. Training

As part of the risk assessment, employers have a duty to identify any training needs of lone workers. While training alone will not reduce the incidence of violence, it's an essential part of an organisation's approach to managing violence and aggression.

5. Support

Employers should have systems in place to support lone working individuals following a near miss or an incident. This could include line management support, such as investigating the incident and putting measures in place to prevent it happening again, advising how to access counselling support, and liaising with the police in the case of prosecutions.

Various strategies and legislation to address violence and lone working are in place across the four countries of the UK.

Exposure to blood-borne viruses

Blood-borne viruses can be transmitted following a needlestick or sharps injury (when a needle or other sharp instrument accidentally penetrates the skin). This is known as a percutaneous injury. Exposures can also occur when blood or other body fluid splashes into the eyes, nose or mouth or onto broken skin, known as mucocutaneous exposure.

The risk of transmission of infection is lower for mucocutaneous exposure than for percutaneous exposures. Other potential routes for exposure are bites and scratches. The blood-borne viruses of most concern are hepatitis B, hepatitis C and HIV. However, more than 20 infectious agents have the potential to be transmitted by occupational exposure.

Sharps injuries

Every day nurses and other health care staff face the possibility that they may injure themselves on a sharp object such as a needle or scalpel blade. A 2008 RCN survey found that almost half of all nurses had been stuck by a needle or sharp that had previously been used on a patient.

There is widespread concern about the possible transmission of hepatitis, HIV and other blood-borne infections from sharps injuries. Accidental inoculation with infected blood presents a real risk to the nurse. In most cases, the risks of contracting a blood-borne virus, known as seroconversion, is low, however the stress and anxiety caused by the uncertainty and waiting for the results of blood tests can be debilitating. Medication given post exposure, known as post exposure prophylaxis, can also have unwanted side effects.

Employers have duties under the Health and Safety at Work Act, the COSHH Regulations and the Health and Safety (Sharp Instruments in Healthcare) Regulations 2013, to avoid and reduce the risk of exposure to biological hazards. Risk assessment should be made of all situations where a health care worker may be exposed to blood-borne viruses, to identify how exposure could be eliminated, allow consideration of possible alternative systems

(for example, needleless systems) and eliminate the unnecessary use of sharps by implementing devices incorporating sharps protection mechanisms (for example, retractable needles).

Where the use of sharps cannot be avoided, safe systems of work should be in place including:

- sharps are not passed directly from hand to hand
- handling is kept to a minimum
- needles are not broken or bent before use
- disposal syringes or needles are not dismantled by hand and are disposed of as a single unit
- needles are never re-sheathed/re-capped
- health care workers take personal responsibility for any sharps they use and dispose of them in a designated container at the point of use. The container should conform to UN standard 3291 and British Standard 7320
- sharps containers are not filled by more than two thirds and are stored in an area away from the public
- sharps trays with integral sharps bins are in use
- sharps are disposed of at the point of use
- sharps boxes are signed on assembly and disposal
- sharps are stored safely away from the public and out of reach of children (not stored on the floor or at low levels)
- nurses and health care workers are aware of and comply with their local sharps or inoculation injury policy. The risk assessment should also indicate where and when personal protective equipment such as gloves and eye protection should be used.

Vaccination

The RCN advocates that all nurses and nursing students should have free hepatitis B immunisation. Nevertheless immunisation should not be viewed as a substitute for good infection prevention and control practice.



Training

Training is a key part of an organisation's approach to managing the risk of sharps injuries. Training should encompass safe working practices, how and why to report exposure incidents, the use of safety devices, the safe disposal of waste and use of sharps bins, as well as post-incident actions.

Incident follow up and support

Information on what to do and where to go following a sharps injury should be readily available and communicated to employees. All nurses should be able to access timely and competent advice following a needlestick injury.

Under RIDDOR, exposure to hepatitis B or C, or HIV is reportable to the HSE as a dangerous occurrence ('accidental release of a biological agent likely to cause severe human illness') see Chapter 14.

Slips and trips

Slips and trips are the single most common cause of injuries at work. The HSE (2013) reports that there are over 2,000 injuries to employees in health care each year which are attributed to slips and trips. Wet floors, poor lighting, unsuitable flooring, trailing cables, uneven surfaces, obstructions and unsuitable footwear can lead to slips and trips, and to serious injuries to health care staff and patients.

The HSWA requires employers to ensure the health and safety of all employees and anyone who may be affected by their work. This includes taking steps to control slip and trip risks. Employees must not endanger themselves or others and must use any safety equipment provided.

The Management of Health and Safety at Work Regulations 1999 build on HSWA and include duties of employers to assess the risks (including slip and trip risks) and, where necessary, take action to safeguard health and safety.

Risk assessments should start by identifying potential slip and trip hazards in both indoor and outdoor workplaces. For example, car parks: Look at who is at risk of an accident, in particular elderly patients. Check to see whether existing precautions are adequate and, if not, put additional precautions in place.

More specifically, the Workplace (Health, Safety and Welfare) Regulations 1992 require floors to be suitable, in good condition and free from obstructions.

Simple steps can be taken to reduce the risks, including dealing with spillages immediately, relocating trailing wires, and keeping work areas tidy and free of obstructions.

The selection of suitable floor surfaces is also important as are cleaning methods and the equipment used (highly buffed floors are a potential hazard). Floors need to be checked for loose finishes, holes and cracks or worn coverings. A workplace inspection is a good opportunity to check floor surfaces.

The HSE's campaign, *Shattered Lives*, highlights the serious consequences of slips and trips, and outlines the duties of employers and employees to reduce the risks. An e-learning tool (Slips and Trips eLearning Package – STEP) with health sector-specific sections is also available at:

www.hse.gov.uk/slips

Latex allergies and occupational dermatitis

Latex allergies

A significant number of nurses and other health care staff have developed latex allergies. For many nurses this can lead to chronic ill health, and for employers it means the loss of skilled staff and increased sick leave. The demand for disposable latex gloves has grown rapidly since the introduction of standard (universal) precautions to protect nurses and health care workers from the risks of transmission of infections from blood and body fluids.

Unfortunately, many nurses find that wearing latex gloves can cause skin reactions. Powdered latex gloves have also led to an increase in occupational asthma in wearers.

Latex is also present in many common medical devices such as catheters, syringes and bungs, and all could affect a health care worker or a patient with an allergy. By wearing gloves it is also possible to cause an allergic reaction in a colleague, so it is important to be aware of the health and safety of other health care staff.

Wearing gloves only when they are required is important. Over-use of gloves can cause several problems including:

- poor compliance with hand hygiene
- risk of skin problems such as contact dermatitis or exacerbation of skin problems on hands.

The Control of Substances Hazardous to Health Regulations 1999 require employers to assess any substances hazardous to health, including biohazards within blood and body fluids, and take steps to reduce the risk of exposure. Where exposure cannot be avoided, as in the case of a number of health-care related activities, personal protective equipment including gloves should be used.

Gloves should be worn whenever there might be contact with blood and body fluids, mucous membranes or non-intact skin. They should be put on immediately before the task to be performed, then removed and discarded as soon as the procedure is completed. Hand hygiene must always be performed following their removal.

Natural rubber latex (NRL) is a substance hazardous to health, so your employer should undertake a risk assessment of its use, eliminating it where appropriate, substituting other less hazardous substances, or limiting exposure where its use is deemed absolutely necessary.

Polythene gloves are not suitable for use in health care. Neoprene and nitrile gloves are good alternatives to natural rubber latex. These synthetic gloves have been shown to have comparable in-use barrier performance to natural rubber latex gloves in laboratory and clinical studies. Vinyl gloves can be used to perform many tasks in the health care environment, but are not appropriate when handling blood, bloodstained fluids, cytotoxic drugs or other high-risk substances. Please check the local policy for your workplace.

There is a requirement to carry out health checks, known as health surveillance, on those exposed to hazardous substances. The HSE advises that health checks are carried out on those exposed to NRL as follows:

- an assessment of the worker's respiratory health and skin condition when they start a relevant job to provide a baseline record
- a regular (at least annual) enquiry for dermatitis and asthma. This might be via a written questionnaire or orally, for example, during an appraisal review. Positive results should be referred to an occupational health professional for assessment
- a responsible person should be identified and known to staff, they should be competent to deliver these duties, and have lines of referral to an occupational doctor or nurse, for the reporting of symptoms as they might occur
- for staff known to be sensitised to NRL, and those considered to be at a high risk of developing sensitisation (atopic individuals), a higher level of health surveillance – including a periodic clinical assessment by an occupational health doctor or nurse – will normally be deemed appropriate
- there should be a written record of the health surveillance.

Under the Reporting of Diseases and Dangerous Occurrences Regulations 2013, there is a legal requirement to report occupational asthma or dermatitis related to NRL to the HSE.

As a safety representative it is important that you know what your employer's policy is on glove use and the management of latex sensitisation. You should be able to get this information from your occupational health or infection control nurse.

Occupational dermatitis

Latex gloves are not the only cause of skin problems; over-use of gloves (causing the hands to sweat), poor hand washing techniques and chemicals (known as accelerators) found in other types of gloves have all been linked to dermatitis. Handling certain chemicals and drugs can also cause skin problems. Your employer has a duty to assess the risks to your skin at work and put measures in place to prevent or control exposure.

Work-related stress

Work-related stress is increasingly common in today's workplaces and nursing is recognised as a stressful profession. It is physically demanding, mentally challenging and emotionally tough as nurses work closely with patients and their families. Excessive demands put on nurses due to inadequate staffing levels are a major cause of stress.

Stress is not an illness but can lead to both physical and mental ill health. The HSE defines stress as 'the adverse reaction people have to excessive pressures or other types of demands placed on them at work'.

The HSE recognises pressure as being good and beneficial to performance, but when the pressure becomes excessive this can lead to stress which is unhealthy and may lead to illness. Stress is not a weakness. Employers have a duty under HSWA and the Management of Health and Safety at Work Regulations 1999 to protect their employees' health and safety at work. As a safety representative you can work with your employer to produce ideas to reduce work-related stress.

To help employers carry out stress risk assessments, the HSE developed 'Management Standards'. The Standards come under six headings: demands, control, support, relationships, role and change. They outline what an employer can do to meet the standards or 'states to be achieved'. Employers can measure themselves to see how well they are meeting the Standards by carrying out a survey of staff and exploring the results of the survey with focus groups. The RCN has detailed guidance for RCN representatives to work with employers to ensure that the standards and stress risk assessments are being carried out (RCN, 2009).

Real benefits can be achieved if the Standards are implemented properly. A case study from and NHS Trust on the HSE's website (2018) shows that addressing workplace stress using the HSE's standards resulted in a reduction in sickness absence and improvements in workplace culture.



Musculoskeletal injuries

In the NHS, sickness absence due to back pain and other musculoskeletal disorders account for the majority of sickness absence and injuries of over seven days.

The difficulty of handling patients

Handling patients creates unique difficulties. Every patient is challenging to move. Patients are human beings – unlike equipment, they are unstable, don't have carrying handles, are prone to move suddenly, aren't rigid, and are liable to damage if they are dropped.

An increase in the number of bariatric (obese) patients needing care in both hospital and home environments has also increased the risk to health care workers. This is especially the case with regard to the provision of suitable moving and handling equipment.

Safer patient handling

In the past, the solution has been to provide manual handling training for staff. This is no longer enough. A different attitude must be adopted, based on assessing first before the

patient is moved. It is acceptable to give a patient some support, but this should not involve supporting all, or most of, a patient's weight.

What does the law say on safer patient handling?

Employers' responsibilities The 1992 Manual Handling Operations Regulations state that the need for manual handling should be avoided, and places a clear duty on employers. The regulations also say that where this is not reasonably practicable, a suitable and sufficient assessment should be made.

The employer's duty is made explicit in the regulations: "Each employer shall, so far as is reasonably practicable, avoid the need for his employees to undertake any manual handling operations at work which involve a risk of their being injured. Where that is not reasonably practicable they must make a suitable and sufficient assessment and take appropriate steps to reduce the risk of injury to those employees arising out of their undertaking any such manual handling operations to the lowest level reasonably practicable."

What this means for employers is that they can only justify doing nothing if the cost of putting in place new measures greatly outweighs the risk. The burden of proving this rests on the employer, although legally, even if measures are too expensive for an organisation, that does not prevent them from being 'reasonably practicable'.

Employees' responsibilities

Employees too have a part to play in ensuring their own and their colleagues' health and safety in the workplace. There are two relevant pieces of legislation that cover this:

- Manual Handling Operations Regulations (1992): "Each employee shall make full and proper use of any system of work provided."
- Health and Safety at Work etc. Act (1974): Staff should "take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions... and... co-operate with his employer".

Planning a safer handling policy

Before work can begin with staff, safety representatives and management to implement a safer handling policy, the following must be in place:

- sufficient and suitable handling equipment and furniture
- a suitable environment that includes, for example, larger cubicles, extra hand rails, improved floor quality and so on
- adequate staff training that includes patient assessment and using the equipment. Training must be relevant to the work environment and the equipment used in the workplace
- supervision of clinical skills – essential in ensuring manual handling competence is maintained and enhanced.

Introducing a safer patient handling policy

Setting up a safer patient handling policy means that staff assess the capabilities and rehabilitation needs of patients, which will determine the methods or handling aids needed.

A safer patient handling policy should include a commitment to use safer principles and to



reduce manual handling and the associated risk of injury as far as possible. The key message is that much of the time manual handling of patients can be avoided through the provision and use of a variety of lifting equipment and handling aids.

Making an assessment

Staff trained in the risks of manual handling operations should carry out the risk assessments of the need to move patients. They should have sufficient time to gather information, to discuss problems with those carrying out the manual handling and to examine the workplace.

Developing a safe system of work

Once an assessment has been made, the information must be used to develop a safe system of work. The main purpose must be to eliminate manual handling operations. But if this is not possible, other steps must be taken such as provision of equipment, distribution of manual handling tasks and the provision of a sufficient number of staff.

Training

An integrated approach to manual handling needs to be taken to affect staff health positively. To achieve an integrated approach, management issues, staff issues, problem solving, a change management process, and provision of equipment and training, all need to be taken into account.

However, training is frequently the first, and perhaps the only, line of action which many employers take in an attempt to comply with manual handling legislation – this is not acceptable under the UK health and safety legal framework. Nevertheless, training is an important component of the integrated approach.

Cytotoxic drugs

Cytotoxic drugs are toxic compounds that are known carcinogens. Direct contact with them can also cause irritation to skin, eyes and mucous membranes, ulceration and necrosis of tissues. As a result of the powerful toxicity of these drugs the exposure of health care staff should be minimised.

Cytotoxic chemotherapy is widely administered by intravenous (IV) therapy nurses, both in cancer care centres and units, and in patients' own homes. This places many health care staff at risk from the drugs.

Practitioner responsibilities

It is the responsibility of staff whose long-term responsibilities include handling cytotoxic drugs to:

- learn the principles of safe practice
- maintain safe practice
- comply with national legislation and guidelines, with professional requirements, and with local policies and protocols
- comply with health and safety requirements.

Handling activities include:

- packing/unpacking and transporting cytotoxic drugs
- handling cytotoxic drugs during dose preparation and administration
- direct contact with patients receiving cytotoxic drugs
- handling and disposal of unused drugs, patient waste and equipment used for preparation and administration

- managing accidental spillage and contamination.

An individual practitioner must agree to accept the responsibility of administering each dose of drugs and can refuse if they feel that they lack sufficient knowledge, skill and experience.

Employers' responsibilities

Your employer is responsible for:

- delegating the task of cytotoxic drug handling and patient care to appropriately qualified staff
- delegating the storage, transport and waste disposal of cytotoxic drugs
- delegating the cleaning and maintenance of contaminated areas
- providing and monitoring appropriate staff information.

Safe team practice

Individual safe practice is not enough to ensure a safe environment for others. Careful planning and co-ordination between staff is important, as well as readily available support services, such as a resuscitation team. Handling cytotoxic drugs should not be rushed or interrupted, and staff will need enough time to use protective equipment properly and use safe working practices.



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RCN (2016) *Personal Safety When Working Alone: Guidance for Members Working in Health and Social Care*

Further information

For further information on hazards related to health care environments visit: www.hse.gov.uk/healthservices

17. RISK ASSESSMENT AND THE SAFETY REPRESENTATIVE'S ROLE

Employers and people who are self-employed are legally required to assess workplace risks under health and safety laws. Although as a safety representative you do not have a legal duty to carry out risk assessments, you can play a key role as part of a risk assessment team.

The following section is a guide to help you understand risk assessment and how you can contribute to the process.

The law and risk assessment

A number of regulations cover risk assessments and certain risks are covered by more than one of the regulations. The regulations that apply to the concept of risk assessments are:

- Management of Health and Safety at Work 1999
- Manual Handling Operations 1992
- Personal Protective Equipment at Work 1992
- Health and Safety (Display Screen Equipment) 1992
- Control of Substances Hazardous to Health 1999.

The purpose of risk assessments

The aim of risk assessments is to make sure that no one gets hurt or becomes ill in your workplace. They are a careful examination of what could cause harm and what precautions can be taken to prevent the harm. The emphasis is on making the workplace safer – not on filling in forms which just remain in filing cabinets. The pragmatic approach is the most appropriate.

Employers need to decide whether a hazard is significant, and whether it is covered by satisfactory precautions so that the risk is small. Evidence suggests that all accidents are the result of the failure of control systems. This means that employers need to know what the risks are before they can develop the appropriate control systems.

The HSE's strategy (2009) promotes a sensible approach to risk assessment and health and safety following criticism and media reports of some organisations that have taken a disproportionate approach to some hazards.

The HSE definition of 'reasonably practicable' is: The degree of risk in a particular activity or environment can be balanced against the time, trouble, cost and physical difficulty of taking measures to avoid risk. If these are so disproportionate to the risk that it would be unreasonable for the persons concerned to have to incur them to prevent it, they are not obliged to do so. The greater the risk, the more likely it is that it is reasonable to go to very substantial expense, trouble and invention to reduce it. But if the consequences and the extent of a risk are small, insistence on great expense would not be considered reasonable (HSE, 2010). It is important to remember that the judgement is an objective one and the size or financial position of the employer is immaterial.

Risk assessment is not a one-off activity, and must be reviewed and revised as changes occur. For example, when new equipment, revised work systems or different approaches to patient care are introduced, or following an accident or a concern raised by a safety representative during an inspection.

What do you need to know?

There are a number of factors that should be taken into account before the start of a risk assessment:

- it needs dedicated time to carry out the assessment
- management needs to initiate the assessment process (this could be at the request of a safety representative or the safety committee)
- a risk assessment system must be flexible and able to cope with local variations
- assessors must have knowledge of the work environment

- staff who may be exposed to risk, or their representatives, must be involved and co-operate with the assessment
- staff must have confidence in the objectives of risk assessment
- there must be commitment from management to allocate resources to
- reduce identified risks.

There is no single correct way of doing a risk assessment, however the Management regulations require a risk assessment to be 'suitable and sufficient'. This means it should:

- correctly and accurately identify hazards
- determine the likelihood of injury or harm arising
- identify any specific legal duty relating to the hazards
- remain valid for a period of time
- enable decisions to be made about appropriate control measures.

Safety representatives and risk assessments

The approved code of practice to the Management of health and safety at work regulations makes it clear that the risk assessment process needs to be practical and take into account the views of employees and their representatives who have the practical knowledge to contribute to the risk assessment process.

Employers should involve employees and their representatives when deciding on appropriate preventive and protective measures, and in implementing them.

A five-step process to assessing risks in your workplace

Step 1: look for the hazards.

Step 2: decide who might be harmed and how.

Step 3: evaluate the risks and decide whether existing precautions are adequate, or whether more should be done.

Step 4: record your findings.

Step 5: review your assessment and revise it if necessary.



What's the difference between a hazard and a risk?

Before carrying out a risk assessment you should understand the difference between hazard and risk:

- a hazard is anything that can cause harm, for example, infected blood
- a risk is the likelihood or chance, high or low, that somebody will be harmed by the hazard.

Example of how a hazard becomes a risk

The installation of water coolers:

Step 1: Hazard – lifting new bottles onto a water cooler. Changing the bottles is a hazardous manoeuvre because the load is very heavy, slippery, awkward, bulky, and is often stored at the bottom of a cupboard.

Step 2: Who is at risk of being harmed? – staff responsible for changing the bottles are all at risk. Often the number of people who might change a water bottle includes most of the personnel in a particular workplace, so almost all staff are at risk.

Step 3: Evaluating the risks – if there are no control measures in place to deal with the situation there is a high risk of injury during the changing procedure because of the process, nature and condition of the load. The risk would be eliminated if a direct water mains filling device was installed. During the period before the mains system is installed, the water supplier could provide the bottles on a trolley that would make the transfer of the bottle onto the cooler a little easier.

Step 4: Recording findings – this should be done on an internal risk assessment form. Staff should be informed about the new system of work and training offered in the transfer procedure by the risk assessor.

Step 5: Reviewing and revising – the manager should examine the feasibility of installing a new water mains-fed cooler. The new method of lifting the bottles should be reviewed after a month. The water supplier should be approached to find out if they have a mechanical way of changing the bottles.

Using the five-step approach to risk assessment

Refer to the risk assessment form in Appendix 3 – this is part of the HSE's (2011) Five steps to risk assessment.

Step 1:

- Walk around the workplace and look at what could reasonably be expected to cause harm, concentrating on the significant hazards. Talk to colleagues and ask them what they think – they may notice things that are not immediately obvious. Remember also that different groups of staff may face different hazards, and that risks may vary according to the time of day.
- Once you have identified all the hazards for each work activity and workplace, record them in the first column. This should reflect what currently happens, not what should happen. Example: if a sharps box is not fixed to the wall in the correct manner and is also over-full, then it is possible for a nurse to sustain a sharps injury as they attempt to dispose of used sharps. This could lead to a possible blood infection which might require post-exposure prophylaxis or other follow up treatment.

Step 2:

- Decide who might be harmed and how, and for each hazard tick the appropriate columns.

Step 3:

- Evaluate the risks and decide whether existing precautions are adequate or whether more should be done. You can do this by asking yourself whether UK statutory legislation has been followed. This includes assessing whether the employer has done everything that is reasonably practicable to keep the workplace safe.
- Cost is not the major factor to consider, but whether the risk is great or small.
- Prioritise each hazard and consider what would be the worst case outcome and tick the appropriate column.
- Other employers and any self-employed people should be told about any risks that might affect them and what precautions are being taken.

Step 4:

- Decide what the likelihood of the risks coming true is, and refer to existing records and to what has happened in the past.
- Record your findings by ticking the appropriate column on the form.
- Use the final column to show whether the risk is acceptable or not by reviewing the responses on the form. If the worst case outcome is fatal, and this is a likely occurrence, then the risk is not acceptable. If the worst case outcome is minor injury and the occurrence remote, then the risk could be acceptable.

Step 5:

- Systematically review the assessment and revise if necessary using the review form.
- Take each hazard in turn and identify what control measures, information and training currently exists.
- Refer to HSE and other guidance to complete the best practice column.
- Prioritise risk control as shown below (1 is most effective and 10 is least effective). This is often referred to as the 'hierarchy of controls':
 1. complete elimination of hazard
 2. substitution by something less hazardous and risky
 3. enclosure
 4. guarding or segregation of people
 5. safe work system that reduces risk to an acceptable level
 6. written procedures known to the workers affected
 7. adequate supervision provided
 8. training needs identified
 9. information and instruction (signs) provided
 10. personal protective equipment provided.Note that item 10 needs the most management and supervisory effort to maintain the controls.

Vulnerable workers

Two groups of workers are recognised as being more at risk from certain hazards. These are new or expectant mothers and young workers.

When employers receive written notification from an employee that she is pregnant, has given birth within the previous six months or is breastfeeding, they must conduct a specific risk assessment to identify if she is exposed to any process, working condition or physical, chemical or biological agent which can damage her health or the health of the baby. The HSE has specific guidelines on risk assessments for new and expectant mothers. For nursing staff, particular issues may be exposure to ionising radiation, for example X-rays, cytotoxic chemicals and night shift work.

Young workers (those under the age of 18), due to their lack of experience or maturity, may also be at greater risk from workplace hazards. The ACoP says that employers must carry out the risk assessment before the young worker starts work.



Action checklist

Find out:

- How is assessment carried out in your workplace?
- Who is involved?
- Who is responsible for implementing the results of a risk assessment?
- Get a copy of all the paperwork used.

References

HSE (2009) *The Health and Safety of Great Britain: be part of the solution*, Sudbury: HSE Books.

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Further information

For useful information on risk assessment go to: www.hse.gov.uk/risk



18. NEGOTIATING FOR HEALTH AND SAFETY

Using communication and negotiation skills successfully

As a safety representative you may be called on to negotiate with management on behalf of RCN members and other workplace colleagues on a range of health, safety and welfare issues. Your role consists of more than identifying and reporting problems and hoping that something will be done. In many cases, management will rectify such problems. But what happens when managers do not agree that there is a problem, or where they feel that financial constraints make it difficult to deal with the problem? These are the cases when you may have to negotiate with management to try to ensure that action is taken.

There is no magic formula that will turn you into an effective negotiator overnight. Practice is the key. You should adopt the types of tactics and strategies outlined below, reflect on how successful they have been, and concentrate on developing their strengths and minimising their weaknesses.

Successful negotiation

There are a number of steps that you should take to ensure that your negotiations are successful:

1. Identifying the problem
2. Gathering information
3. Identifying what legislation to use
4. Preparing the case
5. Presenting the case
6. Developing negotiating strategies.

1. Identifying the problem

It is important to identify the problem and describe it as accurately as possible, so the right remedial action can be taken. Do not confuse the problem with the symptoms – for example, people in an outpatient department may complain of headaches or drowsiness that began

on their arrival in the department. These are the symptoms of a problem. The problem might be the result of:

- poor ventilation
- excessive heat
- gas leaks
- fumes.

Another example could be an increase in the number of nurses involved in accidents with sharps. This is a symptom of the real problem, which may be a lack of sharps bins within the area or inadequate training.

2. Gathering information

You should prepare your case by collecting clear and substantial information. You should find the answers to questions such as:

- what exactly is the problem?
- who is affected?
- how many employees are affected?
- how many pieces of equipment are involved?
- what work procedures are involved?
- how are employees affected?
- where is the problem?
- when and how does the problem occur?
- what might happen if the problem is not dealt with?

The main sources are legislation, guidance (see below) and local information. The RCN and local libraries can be a useful source of information.

Local information

Local information should give exact details of the workplace problem or hazard. You should use whatever information or guidance is available from local experts or specialists, for example, occupational health staff. Safety committees may consider keeping their own stock of relevant publications and information.

Libraries: The RCN library

The RCN e-library puts information at your fingertips by providing you with specialised databases to search, including OSH Update, a tool for finding information such as legislation on health and safety. To view more than 700 full text e-journals and over 400 ebooks go to: www.rcn.org.uk/elibrary

Labour Research Department Publications Online

Available from the Resources section of the RCN Activists' area at www.rcn.org.uk/rebs You can gain free online access to publications such as the labour research department booklets relating to health and safety, but you will need to input your membership number and password to access the information.

There are four RCN libraries: Belfast, Cardiff, Edinburgh and London. Edinburgh also houses the UK's only archive of nursing history. You can visit in person, or use many of the services by telephone, email, post or fax.

Visit: www.rcn.org.uk/library

3. Legislation

Check which legislation applies to the problem you have identified. Health and safety acts, statutory instruments and regulations provide the legal framework and standards for workplaces and work practices to be measured against.

You may also find it useful to determine whether there is case law to support the action you want to take to deal with your particular problem or hazard – that is, the decisions of courts, industrial and employment tribunals.

Codes of practice and guidance

Government-issued approved codes of practice and guidance do not have legal status, but they do carry considerable weight. They set out good working practices and standards. Professional bodies, unions and employers' bodies also issue good practice guidelines. They have less weight than approved codes, but are valuable because they set out good working practices, and carry the credibility of the sponsoring body's reputation.

Health and Safety Executive (HSE)

A wide range of HSE publications is used by HSE inspectors during inspections to measure standards and practices. These publications provide an important benchmark for all workplace health and safety standards and practices. The majority of HSE guidance documents and approved codes of practice are now available free to download on the internet.

NHS Staff Council Guidance and Agreements

In addition to the Agenda for Change agreement (which has a section on working time), the NHS staff council's Health, Safety and Wellbeing Partnership Group (HSWPG) has developed standards and guidelines for the sector on a variety of issues.

Partnership Information Notes have been developed for the NHS workforce in Scotland on a wide range of issues including health and safety.

The devolved health bodies in the four countries have also developed standards on issues such as moving and handling, and infection prevention and control.

4. Preparing the case

You will have to define what action needs to be taken in order to deal with the problem by preparing your case. To do this, set a realistic approach that is likely to be successful. For example, if the ideal solution is costly and could be challenged by management, have a fallback solution that you can negotiate towards.

Prioritise your action list. This means that you can agree with management how to phase-in the changes and ensure that management has the money needed when it is needed. It is also important to think about the possible objections others might put forward. This means that you will be ready to put forward counter arguments. This will help pre-empt objections, or at least have prepared counter arguments if needed.

It may be useful to find allies, such as occupational health advisers or fire officers, who support your case, particularly if you are presenting the case at a safety committee meeting.

5. Presenting the case

Negotiation usually takes one of two forms:

- individual – direct with management
- collective – through the safety committee.

Individual

You may negotiate directly with the appropriate manager. Negotiating on this level may be relatively informal, but you will still need to prepare and present a well thought-out case. An advantage of this type of negotiation is that the manager may be more aware of the workplace problems, and more likely to sympathise with your case for change – although the opposite may also be true.

Collective

Collective negotiation usually takes place through the safety committee. You may first have to make the case to staff colleagues to win their support. The safety committee's staff side will probably have a number of issues to raise with management, so you will need to convince them to put your problem at the top of the agenda. When your issue is being discussed with management, staff side may ask you to present the case – so remember to prepare in advance and ensure the full support of staff colleagues.

6. Developing negotiating strategies

It is useful to learn as much as possible about the people you will be negotiating with, particularly the final decision-maker. This may help you to concentrate on using the strategies that are likely to succeed. Here are some examples of negotiating strategies:

Redesign systems of work

Some problems can be solved cheaply by improving work procedures or redesigning systems of work. This sort of solution appeals to managers when funding is scarce. Initiatives like the 'Productive ward' can present opportunities for improving health and safety.

Ethics (or the moral case)

It has been said of the health care sector, 'if we can't look after our own then who can we look after?' and there is an expectation that a health care organisation should be an exemplar. Appealing to people's better natures and compassionate sides can be successful, particularly among managers who take pleasure in providing good working conditions for their staff. If you take this approach, it is often useful to use unfavourable comparisons of workplace conditions.

Finance

You could emphasise financial benefits by arguing that it is actually cheaper to spend money now than to leave a problem untreated. For example, repairing a floor in poor condition now would be cheaper than having to resurface the whole floor at a later time. Further, leaving the floor in an unsafe condition could result in a member of staff off on long-term sick and/or, expensive legal action if an accident occurred. Some health care insurance or risk pooling schemes provide incentives such as reduced premiums for organisations that have good safety standards.

Legislation

If a problem occurs because your employer is acting outside the law, codes of practice or guidance, you have a very strong case and should put it forcefully. This may be the only way to persuade management to act.

Quality of patient care

There is a growing body of evidence to show that health care organisations that look after the health, safety and wellbeing of staff also have good patient outcomes. Investment in health and safety and improving working conditions is a visible sign that employers value their staff. Staff who feel valued are also more likely to be committed to the organisations they work for and their role within these organisations.



Action checklist

Identify a problem in the workplace on which you believe management should be taking action, and plan your negotiating strategy:

- identify the problem
- relevant legislation
- reference to employer's policy
- your proposal
- arguments for
- arguments against.

19. HEALTH AND WELLBEING IN THE WORKPLACE

What does a healthy workplace look like?

In 2008 a comprehensive review into the health and wellbeing of the working age population was commissioned by the Government. The review made several recommendations to improve the health and wellbeing of people of working age with a view to securing the workforce of the future. The report, written by Dame Carol Black, stated that the new strategy was underpinned by easy, free access to high quality occupational health, and health and safety services, as well as the provision of healthy workplaces for employees to work in (Black, 2008).

A further report into the health and wellbeing of NHS workers in England highlighted the importance of health and wellbeing of staff and its positive impact on the quality and safety of patient care. The report called on the NHS to be an exemplary employer. It made a number of recommendations around improving occupational health services, fast tracking NHS staff for treatment when injured or off sick, and promoting healthy workplaces (Department of Health, 2009).

In 2016, in response to poor working conditions, including high levels of work-related stress and reports of bullying, the RCN developed a *Healthy Workplace* initiative. The toolkit to support this initiative is divided into five domains, work-life balance, dignity at work, health and safety at work, job design and learning and development in the workplace. Indicators under each of the five domains can be used to carry out an organisational health check and identify areas for improvement. The toolkit includes links to support when making improvement (RCN 2016).

Occupational health services (OH)

Many health care employers in the NHS and independent sector provide an occupational health service for staff who face a range of health risks in the workplace.

OH services can form part of an employer's duty to provide competent advice under the management regulations. OH services can be provided internally or contracted out.

OH services are expert advisory services for management and employees. These services are independent and professional. The overall aim of the OH service is to prevent ill health and promote health among the workforce.

Occupational health functions

- Risk assessment –involvement in the management team carrying out risk assessment and the provision of specialist input.
- Preventive programmes and health education.
- Development of health surveillance programmes where identified by risk assessment or legislation, for example, staff exposed to latex, or health assessments for night shift workers.
- Monitoring sickness absence, analysing accidents and incidents, and advising on accident prevention and ill health.
- Implementing policies on vaccination and immunisation.
- Advising and supporting programmes of vocational rehabilitation.

Health surveillance

Health surveillance is an important method of picking up early warning signs that workplace hazards are affecting employees' health. It can also provide an employer with information that the systems they have in place to protect health are effective.

Health surveillance can take many forms, such as skin checks to look for signs of dermatitis in workers exposed to latex or other skin irritants, lung function tests, blood tests and/or questionnaires.

Regulation 6 of the Management Regulations requires employers to monitor the health of employees if the risk assessment has shown this to be necessary.

The approved code of practice for the Regulations outlines that health surveillance should be carried out where:

- there is an identifiable condition related to the work
- the condition is detectable
- it is likely that the condition could occur
- surveillance is likely to provide health protection to employees.

Regulation 11 of COSHH also requires health surveillance to be carried out, where appropriate, on employees who are exposed to substances hazardous to health.

Working with occupational health

As a safety representative you should form a good relationship with the occupational health service in your workplace. The service is a source of sound professional information, and will share ideas and discuss problems with you.

Your relationship with the OH nurse should be co-operative and collaborative.

OH nurses act impartially and maintain strict confidentiality. They always act in the best interests of the individual, and do not favour one side in a dispute. There are a number of areas where you will collaborate with OH nurses:

Safety committees

Safety committees are the public forum where issues concerning health and safety are discussed, and it is vital that the occupational health nurse is represented. As an ex-officio member of the committee, the OH nurse should input reports, analyse work related ill health trends and make recommendations concerning health and safety and occupational health in the workplace.

Workplace inspections

Both you and the occupational health service have an interest in maintaining a safe and healthy working environment. But because you have a statutory right to undertake regular workplace inspections, you are in a good position to react to potential ill health or injury risks in the workplace. As a result, you can alert managers and occupational health services to potential problems.

Staff health

As a safety representative you may be aware of staff who have personal problems or who find it difficult, due to physical or mental inability or ill health, to cope with their work, or who may be a threat to the safety of themselves or colleagues. For example, some members of staff may be more vulnerable than others to their working conditions such as:

- manual handling of loads
- exposure to toxic drugs, radiation or gases, particularly during pregnancy.

Whatever the difficulty, you should be aware of this and refer workers to occupational health staff for advice, or alert the OH nurse to the problem. OH can provide confidential advice and support, and can use their influence to recommend improvements in systems of work or the working environment.

Local policies

An important aspect of occupational health is the development of local policies to safeguard the health, safety and welfare of staff. These should be developed collaboratively by you, your employer, and OH staff. Your employer has a statutory duty to implement safe working policies and practices under many UK regulations including the Management of Health & Safety at Work Regulations (1999).

Once a local policy is in place it should be reviewed regularly to make sure it is effective, and be modified if it is not. Ensure that you and the OH nurse investigate and deal with problems as soon as they arise, making certain that safety precautions are being strictly observed.

Sickness absence and rehabilitation

Fit notes

Fit notes (Statement of Fitness for Work) replaced 'sick notes' or medical certificates in April 2010. This followed Dame Carol Black's report into health and well being in 2008. She concluded that being in good employment is beneficial to health and that its therapeutic value and role in aiding recovery needed to be strengthened by changing the medical approach to sickness absence recording. Doctors now issue fit notes to individuals to provide evidence of the advice the doctor has given about the individual's fitness for work.

The fit note allows doctors to advise that individuals 'may be fit for work,' taking into account the doctor's advice on changes that may be necessary to allow the individual back to work. These may cover one or more of the following:

- a phased return to work: a gradual increase in work duties or hours
- altered hours: changing their work times or total hours
- amended duties: changing their work duties
- workplace adaptations: changing aspects of the workplace

If the doctor does not feel that any such changes are appropriate they can still declare the individual to be 'not fit for work'.

Employers are not bound by the advice on a fit note but will need to obtain alternate credible medical advice if they wish to dispute it. This could include advice from an occupational health service.

Role of the safety representative in sickness absence and rehabilitation

As a safety representative you may need to work alongside RCN stewards, occupational health services and employers in supporting members who have been off sick back to work, in particular ensuring that risks are managed.

The Management of Health and Safety at Work Regulations 1999 require the employer to review risk assessments to ensure that any new risks arising from a change in duties or adaptations to the work are identified and addressed.

Where work was the cause or contributory factor leading to the absence, as an RCN safety representative you should check to see that risk assessments have been reviewed and measures put in place to manage the risks and prevent a recurrence.

Promoting healthy lifestyles

Public health concerns such as obesity, sedentary lifestyles, binge drinking and smoking are high on the health agenda and the workplace is increasingly being seen as an environment to promote public health initiatives. Many health care organisations already provide staff access to schemes such as 'stop smoking' initiatives and some provide subsidised gym membership.

The RCN agrees that the workplace provides an excellent opportunity to publicise public health messages and promote healthy lifestyles, however, initiatives to promote healthy lifestyles must not be at the cost of initiatives to address workplace health hazards. For example, providing healthy eating options in the canteen is a good initiative but if nursing staff are so overworked that they cannot even take a rest break then this is counterproductive.

Many NHS organisations are developing health and wellbeing strategies that address both the lifestyle and work-related causes of ill health.

The RCN also believes that staff side, including safety representatives, should be involved in the development of such health and wellbeing strategies and be given opportunities to promote and support the initiative.



Action checklist

- Find out whether you have an OH service.
- What mechanisms are there in place for OH to communicate and work with safety representatives?
- Is OH represented on the health and safety committee?
- Find out what health and wellbeing initiatives are in place in your workplace and what role you can play to promote and support such initiatives.

References

Dame Carol Black (2008) *Working for a Healthier Tomorrow: Dame Carol Black's Review of the Health of Britain's Working Age Population*, London: The Stationery Office.

Department of Health (2009) *NHS Health and Wellbeing*, London: COI.

RCN (2016) *Healthy Workplace Toolkit*. Available at www.rcn.org.uk/healthy-workplace

Further information

For further information on fit notes, go to: www.gov.uk/government/collections/fit-note

For HSE sickness absence pages go to: www.hse.gov.uk/sicknessabsence

20. BENEFITS AND COMPENSATION

If a nurse or health care assistant suffers financial loss as a result of an accident at work there is a range of benefits that they may be able to claim. These may include:

- payments from the employer
- damages and compensation
- welfare benefits
- insurance claims.

Payments from the employer

Agenda for Change contracts

Injury Allowance tops up sick pay to 85% of usual pay and can be paid for a maximum period of 12 months.

NHS Staff on Agenda for Change (AfC) contracts are covered by Section 22 Injury Allowance payments if they are off sick on reduced pay due to a work-related injury or illness that occurred on or after 31/3/13.

Injury Allowance can also be paid during a phased return to work where pay is reduced.

Further details can be found at: <https://www.nhsemployers.org/your-workforce/pay-and-reward/agenda-for-change/nhs-terms-and-conditions-of-service-handbook/nhs-injury-allowance> (accessed 6.12.18).

Non-AfC contracts

NHS staff not on AfC contracts (for example, senior managers) should be covered by a similar payment to Injury Allowance but will need to check the terms of their contracts for further information.

Employees outside the NHS

Staff outside the NHS may be covered by a permanent health insurance scheme provided by their employer that pays additional sick pay during extended periods of sickness absence.

Many such schemes do not differentiate between work-related and non-workrelated absences. Members should check their contracts of employment for details of any payments they may be entitled to.

Staff who left NHS employment under a TUPE transfer on or after 31/3/13 should have a provision similar to Section 22 Injury Allowance in their contracts, as this is a transferable contractual term.

Damages and compensation

Criminal injuries compensation

If an employee is injured by a patient, relative, visitor, trespasser or other staff member at their place of work, they may be entitled to make a claim for compensation to the Criminal Injuries Compensation Authority (CICA). All applications to CICA for compensation are considered under the 2012 Criminal Injuries Compensation Scheme.

The injury must have taken place in England, Wales or Scotland and be serious enough to qualify for at least the minimum award (currently £1,000). An offender does not necessarily have to have been convicted of, or even charged with, that crime but the claim must be made within two years of the violent crime taking place. You must record the incident in your employer's accident book/accident form and it is essential that a full report is made to the police. A spouse, close relative or other dependant of a person who has died as a result of these criminal injuries can also claim compensation. This compensation includes funeral expenses and a bereavement award. RCN Direct can arrange for forms to be sent to the RCN member.

Personal injury litigation

It is possible to take civil action in the courts in order to claim damages from an employer in the event of an accident or injury or occupational disease. This is discussed in Chapter 21.

Welfare benefits from the Department of Work and Pensions (DWP)

Industrial Injuries Disablement Benefit (IIDB) is available from the DWP for all employees who suffer sufficient loss of faculty or disablement as a result of a work-related injury or prescribed industrial disease.

IIDB is a non-contributory, no fault benefit that is not subject to means testing for disablement because of an accident at work, or because a worker has caught a prescribed disease. IIDB is not payable to self-employed people.

The amount of benefit received depends on the extent of disability. Claimants are medically examined to assess the extent of their loss of faculty which is expressed as a percentage. Only those assessed with a disablement of 14% or more receive benefit.

People who were injured at work or contracted a prescribed industrial disease prior to 1 October 1990 could also receive an income-related benefit as part of their IIDB claim. This is known as Reduced Earning Allowance (REA). REA changes to a Retirement Allowance at state pension age.

Other benefits that have previously formed part of IIDB scheme but that are no longer claimable include:

- constant attendance allowance
- exceptionally severe disablement allowance
- industrial death benefit
- unemployability supplement.

Further information, including how to apply, can be found at: <https://www.gov.uk/industrial-injuries-disablement-benefit>

Previously employees who sustained an injury at work were advised to apply for a Declaration of Industrial Injury from DWP in advance of claiming IIDB. This is no longer possible.

Insurance claims

Members may have household insurance policies which cover them in the event of injury or ill health. Of course, all policies are different and have different eligibility criteria but members should be reminded to check their policy documents for any claims that may be possible. Note, however, that some payments may be clawed back from other payments so do check the small print of any policy document.

Sources of help

RCN advice

You may feel that you are able to provide initial benefits advice to a member, but the subject is often complicated and you may need to refer the case up to your RCN regional/board office and/or signpost the member to the RCN's Member Support Services (MSS) (see below). RCN officers and solicitors may be able to provide advice for members who are injured at work.

RCN Member Support Services (MSS)

RCN MSS provides personal support for members experiencing emotional, financial and other difficulties either at work or at home. Members can access the service, which includes the Welfare Rights and Guidance Service, Careers Service, Counselling, Immigration Advice and the Peer Support Service, by calling **0345 408 4391**.

For more information, including online guidance, please visit the MSS web area: www.rcn.org.uk/support/services or email: mss@rcn.org.uk

RCN Welfare Rights and Guidance

WRG offers expert advice and information on:

- benefits and tax credits
- ill health and disability
- money and debt advice
- housing problems

RCN Careers Advice Service

The Service can assist with:

- career planning and career crossroads
- interview techniques
- CV and application form completion.

RCN Peer Support Service

The Peer Support Service brings together RCN members with ill health and disability issues, helping them form connections to give and receive peer support. Membership is open to all members at any stage of their career from

student to retirement with any impairment or illness- work related or otherwise. Members with a professional interest in ill health and disability issues, such as reps, can also join.

Members of the group receive correspondence and a quarterly newsletter, are provided with a discussion zone area, and where there is enough local interest, regional group meetings can be arranged. Members may also produce a personal statement through which they are matched to others in the group with similar experiences, so they can give and receive support by phone and email.

RCN Counselling Service

Through this, the RCN provides short-term emotional support to members on work and non-work matters.

RCN Immigration Advice Service

This service provides advice and support on further immigration applications to RCN members who are present in the UK.

DWP employment services for injured, ill or disabled people

DWP offers specialist employment support services to disabled people through its Disability Employment Advice service in Jobcentre Plus offices. The help available includes:

- assessment and counselling for the person in identifying their skills and suitable types of occupation
- arranging trial periods in new jobs (grant aid can be given to employers)
- advice on suitable training and/or rehabilitation schemes.

The service can also help deal with some of the more practical barriers to employment and can signpost to Access to Work for financial assistance in making adaptations to overcome those barriers. For more information visit:

www.gov.uk/looking-for-work-if-disabled



21. LEGAL SUPPORT FOR MEMBERS FOLLOWING WORK-RELATED INJURY OR ILL HEALTH

The RCN provides a wide range of support for RCN members. A key area that will impact on you as a safety representative is providing links to legal support and advice following a member's injury at work or a case of work-related illness.

The RCN provides legal services provides representation to members for their work-related legal problems, as long as they are in RCN membership at the time of the incident or dispute – whether they are full members, students, health care assistants, nurse cadets or associate members.

Via you, as a safety representative, members who think that they might need legal advice or representation can contact RCN Direct for advice on the best course of action.

Personal injury claims

The RCN will support personal injury claims which it believes to have a greater than a 50% chance of success. The RCN can now also offer support to members in England and Wales who are claiming personal injury compensation for an injury which was not sustained in (or travelling to or from) work.

A personal injury can be:

- a physical injury, disease or illness, or
- a psychological injury or illness.

Examples of work-related personal injuries are:

- an injury at work
- a work-related disease such as asbestosis or occupational asthma
- a psychological illness caused by stress at work.

There are strict time limits for personal injury claims. Legal proceedings must be commenced no later than three years from the date of the injury or accident, or from the date the member first knew that they were suffering from a work-related illness.

Case study: Violence at work

Whilst at work, a member was punched by a patient in the back of the head, causing him to fall to the floor unconscious. The patient then used a sharp object to cut the member's chin.

The member sustained loss of consciousness immediately following incident and scarring to his jaw requiring six stitches, causing severe discomfort and affecting daily activities such as shaving/eating. Given the nature of the attack, he also suffered psychological injury, experiencing anxiety and stress for approximately four months after the incident.

In order to establish that his employer had breached their duty of care to our member, RCN Law relied on the following:

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999
- Common Law Negligence.

The employer responded to the claim with an admission of liability. RCN Law valued the claim at between £10,000 - £15,000 with additional out of pocket expenses (medical expenses and lost wages) valued at £2,439.02.

RCN Law therefore made an opening offer of £17,459.02 to settle the claim. This was rejected by the employer who came back with a counter offer of £10,000. This was refused and the employer made a further offer of £12,500 which was acceptable to the member who wanted to conclude matters as soon as possible.

The member kept 100% of his compensation.

Breach of statutory duty and negligence

Before October 2013, it was possible to take a case where an employer had breached their statutory duty under health and safety law. In these cases the burden of proof was on the employer to prove that they had not breached their statutory duty. However, as a result of a Government-commissioned review on health and safety law and the so-called compensation culture (Löfstedt, 2011), the Government removed this strict liability.

Section 69 of the Enterprise and Regulatory Reform Act came into force on 1 October 2013 and effectively removed strict liability from employer's liability cases. The act, which replaces Section 47 of the Health and Safety at Work Act 1974, will place the burden of proof onto the claimant and requires them to prove their employer was negligent.

It is therefore more important than ever that you advise members to report a work-related injury that results in harm or ill health promptly to the RCN, and that safety reps take the following actions and keeps records (in the bullet point below).

Supporting members

As a safety representative you can make members with a work-related injury or ill health aware of RCN support, and signpost them to RCN Direct which will advise on the best course of action. It is important that you keep all records if you have been involved in:

- investigating the incident that led to their injury or ill health
- inspecting the workplace of the injured member
- raised the issues which led to the injury at a health and safety meeting

Keeping these records is important because they could be used to support the member's case. Records should be kept for three and a half years following an accident.



References

Löfstedt R (2011) *Reclaiming Health and Safety for All – An Independent Review of Health and Safety Legislation*, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf

APPENDIX 1: USEFUL CONTACTS

RCN Direct

www.rcn.org.uk/direct

0345 772 6100

Overseas 00 44 20 7647 3456

rcndirect@rcn.org.uk

8.30am-8.30pm – seven days per week, 365 days per year

RCN Online

www.rcn.org.uk

Our website is the one-stop shop when it comes to all the services you are entitled to as a member of the RCN. In a nutshell, if it's in the RCN, then it's on our website.

Update your personal details:

www.rcn.org.uk/myrcn

The quickest way to ensure we always have your correct details.

RCN Library and Heritage Centre

www.rcn.org.uk/library

20 Cavendish Square, London W1G 0RN

0345 337 3368 or 020 7647 3610

020 7647 3420

rcn.library@rcn.org.uk

RCN Library & Information Zone, Northern Ireland

www.rcn.org.uk/library

17 Windsor Avenue, Belfast BT9 6EE

0345 456 7839

(028 9038 4612/4613)

028 9038 2188

library.belfast@rcn.org.uk

RCN Scotland Learning Hub

www.rcn.org.uk/scotland/learninghub

42 South Oswald Road, Edinburgh EH9 2HH

0345 456 7851 or 0131 662

6163/6164

0131 662 1032

scotland.library@rcn.org.uk

RCN Wales Library and Information Service

www.rcn.org.uk/wales/library

Ty Maeth, King George V Drive East, Cardiff CF14 4XZ

0345 456 7875 or 029 2075 1373

029 2068 0755

wales.library@rcn.org.uk



Other useful contacts

Health and Safety Executive (HSE)

www.hse.gov.uk/contact

HSE Head Office, Health and Safety Executive,
Redgrave Court, Merton Road, Bootle,
Merseyside L20 7HS

Health and Safety Executive for Northern Ireland

83 Ladas Drive, Belfast BT6 9FR

Telephone: 028 9024 3249

Fax: 028 9023 5383

hseni@detini.gov.uk

Nursing and Midwifery Council

www.nmc-uk.org/

23 Portland Place, London W1B 1PZ

Telephone: 020 7333 9333

communications@nmc-uk.org

APPENDIX 2: CONSULTING WORKERS ON HEALTH AND SAFETY

The following pages detail the full content of the HSE's Safety Representatives and Safety Committee Regulations 1977, including the Approved Code of Practice and guidance (formerly known as the 'brown book').

Part 1 safety representatives and safety committees regulations 1977 (as amended)

Contents

Regulation 1	Citation and commencement Consulting employees if you recognise a trade union
Regulation 2	Interpretation
Regulation 3	Appointment of safety representatives Who appoints health and safety representatives? Deciding who to appoint as a health and safety representative Who do health and safety representatives represent? How many health and safety representatives should be appointed?
Regulation 4	Functions of safety representatives
Regulation 4A	Employer's duty to consult and provide facilities and assistance
Schedule 2	Pay for time off allowed to safety representatives Code of Practice approved under regulation 4(2)(b) of the Regulations on Safety Representatives and Safety Committees (SI 1977/500) What must you consult health and safety representatives about? Requirements to consult health and safety representatives on risk assessments Guidance from L21 Management of Health and Safety at Work Regulations 1999 When must you consult health and safety representatives? Your duty to permit paid time for health and safety representatives' training Functions of health and safety representatives
Regulation 5	Inspections of the workplace Frequency and organisation of inspections Following an inspection
Regulation 6	Inspections following notifiable accidents, occurrences and diseases Purpose of inspections following a notifiable incident The functions of health and safety representatives in formal inspections following a notifiable incident
Regulation 7	Inspection of documents and provision of information Your duty to provide information
Regulation 8	Cases where safety representatives need not be employees

Regulation 9	Safety committees Setting up a health and safety committee Objectives and functions of health and safety committees Membership of health and safety committees The conduct of health and safety committees
Regulation 10	Power of Health and Safety Commission to grant exemptions
Regulation 11	Provisions as to [employment tribunals]

Safety representatives and safety committees regulations 1977 (as amended) (A)

Citation and commencement

Regulation 1 *These Regulations may be cited as the Safety Representatives and Safety Committees Regulations 1977 and shall come into operation on 1 October 1978.*

Code of Practice 10. The Safety Representatives and Safety Committees Regulations 1977 concern safety representatives appointed in accordance with section 2(4) of the 1974 act (the act)⁶ and cover:

(a) prescribed cases in which recognised trade unions may appoint safety representatives from among the employees;

(b) prescribed functions of safety representatives.

11. Section 2(6) of the act requires employers to consult with safety representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures. Under section 2(4) safety representatives are required to represent the employees in those consultations.

12. This Code of Practice has been approved by the Health and Safety Commission with the consent of the Secretary of State for Employment. It relates to the requirements placed on safety representatives by section 2(4) of the act and on employers by the Regulations and takes effect on the date the Regulations come into operation.

13. The employer, the recognised trade unions concerned and safety representatives should make full and proper use of the existing agreed industrial relations machinery to reach the degree of agreement necessary to achieve the purpose of the Regulations and in order to resolve any differences.

(a) Safety Representatives and Safety Committees Regulations 1977 (SI 1977/500) as amended by 1998 c.8, SI 1992/2051, 1996/1513, 1997/1840, 1999/860, 1999/2024, 1999/3242 and 2006/594.

Consulting employees

Guidance

14. The Safety Representatives and Safety Committees Regulations 1977 (as amended) prescribe the cases in which recognised trade unions may:

- (a) appoint health and safety representatives;
- (b) specify the functions of such health and safety representatives; and
- (c) set out the obligations of employers towards them.

15. When appointing health and safety representatives, the trade union will inform the employer of the group or groups of employees represented. For example, they may say a health and safety representative will represent:

- (a) only their own members;
- (b) all the employees in a particular category; or
- (c) employees who are not members of a trade union recognised by the employer, but are part of a group of employees for which a union is recognised.

16. If union health and safety representatives cover only their own members, or employees are not members of a group that unions have agreed to cover, then the employer needs to make arrangements to consult these employees either directly or through representatives elected by them for this purpose under the Health and Safety (Consultation with Employees) Regulations 1996. For more information see Part 2 of this book.

17. Disagreements between employers and employees about the interpretation of these Regulations – with the exception of matters covered by regulation 11 – should be addressed through the normal machinery for resolving employment relations disputes. In certain circumstances, it may be helpful to involve Acas. Health and safety inspectors (from HSE and local authorities) can enforce for failure to comply with legal duties on procedural matters (eg failure to set up a health and safety committee where there is evidence that a request has been made in the correct fashion). They will apply HSE's Enforcement policy statement⁴ in deciding what action to take (www.hse.gov.uk/enforce).

Interpretation

Regulation 2

(1) In these Regulations, unless the context otherwise requires – “the 1974 Act” means the Health and Safety at Work etc Act 1974;

“the 1975 Act” means the Employment Protection Act 1975;

“employee” has the meaning assigned by section 53(1) of the 1974 Act and “employer” shall be construed accordingly;

“recognised trade union” [. . .](a) means an independent trade union as defined in section 30(1) of the Trade Union and Labour Relations Act 1974(b) which the employer concerned recognises for the purpose of negotiations relating to or connected with one or more of the matters specified in section 29(1) of that Act in relation to persons employed by him or as to which the Advisory, Conciliation and Arbitration Service has made a recommendation for recognition under the Employment Protection Act(c) which is operative within the meaning of section 15 of that Act;

“safety representative” means a person appointed under Regulation 3(1) of these Regulations to be a safety representative;

“welfare at work” means those aspects of welfare at work which are the subject of health and safety regulations or of any of the existing statutory provisions within the meaning of section 53(1) of the 1974 Act;

(a) Inserted by the Police (Health and Safety) Regulations 1999 and revoked by the Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006.

(b) 1974 c.52. The relevant law is now found in the Trade Union and Labour Relations (Consolidation) Act 1992. Section 178(3) defines recognition as ‘recognition of the union by an employer, or two or more associated employers, to any extent, for the purpose of collective bargaining.’ Collective bargaining is defined by reference to the matters listed in section 178(1). These include, for example, negotiations on terms and conditions of employment, allocation of work and duties of employment between workers or groups of workers, and disciplinary matters.

(c) This refers to former procedure and is now irrelevant. See section 70A and Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992.

“workplace” in relation to a safety representative means any place or places where the group or groups of employees he is appointed to represent are likely to work or which they are likely to frequent in the course of their employment or incidentally to it.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) These Regulations shall not be construed as giving any person a right to inspect any place, article, substance or document which is the subject of restrictions on the grounds of national security unless he satisfies any test or requirement imposed on those grounds by or on behalf of the Crown.

(a) 1889 c.63. The Interpretation Act 1978 (1978 c.30) is now in force.

[Regulation 2A Bodies to be treated as recognised trade unions](b)

(b) Regulation 2A inserted by the Police (Health and Safety) Regulations 1999 and revoked by the Serious Organised Crime and Police Act 2005 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006.

Code of practice 18. (a) In this Code “the 1974 act” means the Health and Safety at Practice Work etc Act and “the Regulations” means the Safety Representatives and Safety Committees Regulations 1977 (SI 1977 No 500);*

(b) words and expressions which are defined in the act or in the Regulations have the same meaning in this Code unless the context requires otherwise.

* As amended by 1998 c.8, SIs 1992/2051, 1996/1513, 1997/1840, 1999/860, 1999/2024, 1999/3242 and 2006/594.

Appointment of safety representatives

Regulation 3 *(1) For the purposes of section 2(4) of the 1974 Act, a recognised trade union may appoint safety representatives from amongst the employees in all cases where one or more employees are employed by an employer by whom it is recognised.*

(2) Where the employer has been notified in writing by or on behalf of a trade union of the names of the persons appointed as safety representatives under this Regulation and the group or groups of employees they represent, each such safety representative shall have the functions set out in Regulation 4 below.

(3) A person shall cease to be a safety representative for the purposes of these Regulations when:

(a) the trade union which appointed him notifies the employer in writing that his appointment has been terminated; or

(b) he ceases to be employed at the workplace but if he was appointed to represent employees at more than one workplace he shall not cease by virtue of this sub-paragraph to be a safety representative so long as he continues to be employed at any one of them; or

(c) he resigns.

(4) A person appointed under paragraph (1) above as a safety representative shall so far as is reasonably practicable either have been employed by his employer throughout the preceding two years or have had at least two years experience in similar employment.

Guidance 19. When the Safety Representatives and Safety Committees Regulations were introduced, employees in a mine were specifically excluded from the provision of section 3(1). This was amended by regulation 13 of the Health and Safety (Consultation with Employees) Regulations 1996, so that recognised trade unions can now appoint safety representatives to represent employees working at coal mines. This change does not affect the provision in the Mines and Quarries Act 1954 for the appointment of workers’ inspectors.

20. Although there is some overlap between that provision and regulation 5 of the Safety Representatives and Safety Committees Regulations 1977, the Health and Safety Executive believes that, in practice, employers and trade unions will be able to reach agreement on arrangements which will meet the requirements of both the Mines and Quarries Act 1954 and the Safety Representatives and Safety Committees Regulations 1977.

Who appoints health and safety representatives?

Guidance

21. The Regulations mean that recognised trade unions may appoint health and safety representatives to represent the employees. Any disputes between employers and trade unions about recognition should be dealt with through the normal employment relations machinery. Acas can offer advice and guidance relating to trade union recognition issues, and may provide conciliation where there is a dispute.

Deciding who to appoint as a health and safety representative

22. The Regulations require appointed health and safety representatives to normally have either worked for their present employer throughout the preceding two years or have had at least two years' experience in similar employment. This is to ensure they have the necessary experience and knowledge of their particular type of work to enable them to make a responsible and practical contribution to health and safety in their workplace. However, circumstances may arise where it will not be reasonably practicable for the appointed health and safety representative to possess such experience (eg where the employer or workplace location is newly established, or where work is of short duration, or where there is a high labour turnover). In such cases, trade unions will appoint the most appropriate representatives, having regard to their experience and skills.

Who do health and safety representatives represent?

23. Normally, recognised trade unions will appoint representatives to represent a group or groups of workers of a class for which the union has negotiating rights. However, limiting representation to a particular group or groups should not be regarded as a hindrance to the representative raising general matters affecting the health and safety of employees as a whole.

24. Equally, these general principles do not preclude the possibility of a health and safety representative representing, by mutual agreement between the appropriate unions, more than one group or groups of employees (eg in a small workplace or within the organisation of a small employer when the number of recognised trade unions is high relative to the total numbers employed).

25. Furthermore, a health and safety representative employed by the same employer can represent employees who do not work at the same site as them. There is nothing in these Regulations to preclude a health and safety representative being appointed to represent a group of employees at more than one site. Therefore, if you have a multi-site business it may be appropriate for a representative to represent a group of employees across a number of sites, provided this is practical. This is to enable the best arrangements for representation to be made, although you should discuss and agree such arrangements with the recognised trade unions.

How many health and safety representatives should be appointed?

Guidance

26. When trade unions are considering the numbers of health and safety representatives to be appointed in a particular case, paragraph 13 of the Code of Practice should be borne in mind so that employers and the recognised trade unions can reach the degree of agreement necessary to achieve the purpose of the Regulations. Appropriate criteria would include:

- (a) the total numbers employed;
- (b) the variety of different occupations;
- (c) the size of the workplace and the variety of workplace locations;
- (d) the operation of shift systems;
- (e) the type of work activity and the degree and character of the inherent dangers.

27. In the case of a large employer with multiple sites, the number of representatives ought to reflect the structure of the business. There should be good communication between the health and safety representatives and the management team responsible for making health and safety decisions so that issues are promptly picked up and addressed.

28. There may be a need for flexibility of approach both to the question of the group or groups of the employees the health and safety representative represents, and to the number of safety representatives that might be appropriate in particular circumstances. Examples of such circumstances might include:

- (a) workplaces with rapidly changing situations and conditions as the work develops and where there might be rapid changes in the numbers of employees, eg building and construction sites, shipbuilding and ship repairing, and docks etc;
- (b) workplaces from which the majority of employees go out to their actual place of work and subsequently report back, eg goods and freight depots, builders' yards, service depots of all kinds;
- (c) workplaces where there is a wide variety of different work activities going on within a particular location;
- (d) workplaces with a specially high process risk, eg construction sites at particular stages – demolition, excavations, steel erection etc and some chemical works and research establishments;
- (e) workplaces where the majority of employees are employed in low risk activities, but where one or two processes or activities or items of plant have special risks connected with them;
- (f) workplaces where work activities may be spread over several different, but linked, locations.

Functions of safety representatives

Regulation 4

(1) In addition to his function under section 2(4) of the 1974 act to represent the employees in consultations with the employer under section 2(6) of the 1974 act (which requires every employer to consult safety representatives with a view to the making and maintenance of arrangements which will enable him and his employees to cooperate effectively in promoting and developing measures to ensure the health and safety at work of the employees and in checking the effectiveness of such measures), each safety representative shall have the following functions:

(a) to investigate potential hazards and dangerous occurrences at the workplace (whether or not they are drawn to his attention by the employees he represents) and to examine the causes of accidents at the workplace;

(b) to investigate complaints by any employee he represents relating to that employee's health, safety or welfare at work;

(c) to make representations to the employer on matters arising out of subparagraphs

(a) and (b) above;

(d) to make representations to the employer on general matters affecting the health, safety or welfare at work of the employees at the workplace;

(e) to carry out inspections in accordance with Regulations 5, 6 and 7 below;

(f) to represent the employees he was appointed to represent in consultations at the workplace with inspectors of the Health and Safety Executive and of any other enforcing authority;

(g) to receive information from inspectors in accordance with section 28(8) of the 1974 act; and

(h) to attend meetings of safety committees where he attends in his capacity as a safety representative in connection with any of the above functions;

but, without prejudice to sections 7 and 8 of the 1974 act, no function given to a safety representative by this paragraph shall be construed as imposing any duty on him.

(2) An employer shall permit a safety representative to take such time off with pay during the employee's working hours as shall be necessary for the purposes of:

(a) performing his functions under section 2(4) of the 1974 Act and paragraph (1) (a) to (h) above;

(b) undergoing such training in aspects of those functions as may be reasonable in all the circumstances having regard to any relevant provisions of a code of practice relating to time off for training approved for the time being by the Health and Safety Commission under section 16 of the 1974 Act.

In this paragraph "with pay" means with pay in accordance with [Schedule 2](a) to these Regulations.

(a) Words in square brackets substituted by SI 1999/860, regulation 3(1),(4).

Employer's duty to consult and provide facilities and assistance (a)

Regulation 4A

(1) Without prejudice to the generality of section 2(6) of the Health and Safety at Work etc Act 1974, every employer shall consult safety representatives in good time with regard to –

(a) the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the safety representatives concerned represent;

(b) his arrangements for appointing or, as the case may be, nominating persons in accordance with regulations 6(1) and 7(1)(b) of the Management of Health and Safety at Work Regulations 1992;(b)

(c) any health and safety information he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions;

(d) the planning and organisation of any health and safety training he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions; and

(e) the health and safety consequences for the employees the safety representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.

(2) Without prejudice to regulations 5 and 6 of these Regulations, every employer shall provide such facilities and assistance as safety representatives may reasonably require for the purpose of carrying out their functions under section 2(4) of the 1974 Act and under these Regulations.

(a) This regulation was added by a schedule to the Management of Health and Safety at Work Regulations 1992, now replaced by the Management of Health and Safety at Work Regulations 1999.

(b) This is now in accordance with regulations 7(1) and 8(1)(b) of the Management of Health and Safety at Work Regulations 1999, or article 13(3)(b) of the Regulatory Reform (Fire Safety) Order 2005.

Schedule 2

Pay for time off allowed to safety representatives**Regulation 4(2)**

(1) Subject to paragraph 3 below, where a safety representative is permitted to take time off in accordance with Regulation 4(2) of these Regulations, his employer shall pay him:

(a) where the safety representative's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, as if he had worked at that work for the whole of that time;

(b) where the safety representative's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work (ascertained in accordance with paragraph 2 below).

(2) The average hourly earnings referred to in paragraph 1(b) above are the average hourly earnings of the safety representative concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.

(3) Any payment to a safety representative by an employer in respect of a period of time off –

(a) if it is a payment which discharges any liability which the employer may have under section 57 of the Employment Protection Act 1975(a) in respect of that period, shall also discharge his liability in respect of the same period under Regulation 4(2) of these Regulations;

(b) if it is a payment under any contractual obligation, shall go towards discharging the employer's liability in respect of the same period under Regulation 4(2) of these Regulations;

(c) if it is a payment under Regulation 4(2) of these Regulations shall go towards discharging any liability of the employer to pay contractual remuneration in respect of the same period.

1975 c.71.

- Code of practice** 29. In order to fulfil their functions under section 2(4) of the act safety representatives should:
- (a) take all reasonably practicable steps to keep themselves informed of:
 - (i) the legal requirements relating to the health and safety of persons at work, particularly the group or groups of persons they directly represent;
 - (ii) the particular hazards of the workplace and the measures deemed necessary to eliminate or minimise the risk deriving from these hazards; and
 - (iii) the health and safety policy of their employer and the organisation and arrangements for fulfilling that policy;
 - (b) encourage co-operation between their employer and his employees in promoting and developing essential measures to ensure the health and safety of employees and in checking the effectiveness of these measures;
 - (c) bring to the employer's notice normally in writing any unsafe or unhealthy conditions or working practices or unsatisfactory arrangements for welfare at work which come to their attention whether on an inspection or day to day observation. The report does not imply that all other conditions and working practices are safe and healthy or that the welfare arrangements are satisfactory in all other respects.
30. Making a written report does not preclude the bringing of such matters to the attention of the employer or his representative by a direct oral approach in the first instance, particularly in situations where speedy remedial action is necessary. It will also be appropriate for minor matters to be the subject of direct oral discussion without the need for a formal written approach.

Code of Practice approved under regulation 4(2)(b) of the Regulations of Safety Representatives and Safety Committees (SI 1977/500)

- Code of Practice** 31. The function of safety representatives appointed by recognised trade unions as set out in section 2(4) of the Health and Safety at Work etc Act 1974, is to represent employees in consultations with employers about health and safety matters. Regulation 4(1) of the Safety Representatives and Safety Committees Regulations (SI 1977 No 500)* prescribes other functions of safety representatives appointed under those Regulations.
32. Under regulation 4(2)(b) of those Regulations the employer has a duty to permit those safety representatives such time off with pay during the employee's working hours as shall be necessary for the purpose of 'undergoing such training aspects of those functions as may be reasonable in all the circumstances'.
33. As soon as possible after their appointment safety representatives should be permitted time off with pay to attend basic training facilities approved by the TUC or by the independent union or unions which appointed the safety representatives. Further training, similarly approved, should be undertaken where the safety representative has special responsibilities or where such training is necessary to meet changes in circumstances or relevant legislation.
34. With regard to the length of training required, this cannot be rigidly prescribed, but basic training should take into account the functions of safety representatives placed on them by the Regulations. In particular, basic training should provide an understanding of the role of safety representatives, of safety committees, and of trade unions' policies and practices in relation to:
- (a) the legal requirements relating to the health and safety of persons at work, particularly the group or class of persons they directly represent;
 - (b) the nature and extent of workplace hazards, and the measures necessary to eliminate or minimise them;
 - (c) the health and safety policy of employers, and the organisation and arrangements for fulfilling those policies.
35. Additionally, safety representatives will need to acquire new skills in order to carry out their functions, including safety inspections, and in using basic sources of legal and official information and information provided by or through the employer on health and safety matters.
36. Trade unions are responsible for appointing safety representatives and when the trade union wishes a safety representative to receive training relevant to his function it should inform management of the course it has approved and supply a copy of the syllabus, indicating its contents, if the employer asks for it. It should normally give at least a few weeks' notice of the safety representatives it has nominated for attendance. The number of safety representatives attending training courses at any one time should be that which is reasonable in the circumstances, bearing in mind such factors as the availability of relevant courses and the operational requirements of the employer. Unions and management should endeavour to reach agreement on the appropriate numbers and arrangements and refer any problems which may arise to the relevant agreed procedures.

What must you consult health and safety representatives about?

Guidance

37. Regulation 4A specifically requires employers to consult health and safety representatives on:

(a) the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the health and safety representatives concerned represent;

(b) arrangements for getting a competent person or persons to help them comply with health and safety requirements. The Management of Health and Safety at Work Regulations 1999 ('the Management Regulations')⁸ require employers to make such an appointment unless they are self-employed and not in partnership with any other person, and have sufficient training experience, knowledge or other qualities to deal with these matters themselves. The Management Regulations also require the nomination of competent people to implement procedures for dealing with serious and imminent danger, namely the evacuation from premises of persons at work. There are also provisions in the Regulatory Reform (Fire Safety) Order 2005⁹ which require employers to take measures regarding fire fighting and nominating employees to implement those measures; regulation 4A requires employers to consult health and safety representatives on how they plan to go about this;

(c) the information they must give their employees on risks to health and safety, and preventive measures. This will include the information they are already required by other regulations to give their employees. Appendix 1 sets out some of the relevant details for illustrative purposes only and is not intended to be exhaustive. For example, under the Management Regulations, one of the things employers have to tell their employees about is the risks identified by the risk assessment they must carry out, and their preventive and protective measures. Employers must also tell their employees about the emergency procedures, and who will carry out procedures for evacuation. Regulation 4A requires employers to consult health and safety representatives about these matters before telling them what has been decided and before they make changes;

(d) the planning and organising of any health and safety training they must provide to employees under health and safety law. For example, the Management Regulations have a requirement to instruct and train employees when they are first recruited, and when they are to be exposed to new or increased risks. Appendix 2 sets out some of the other relevant regulations that apply for illustrative purposes only and it is not intended to be exhaustive;

(e) the health and safety consequences for employees of new technology that they plan to bring into the workplace. This will cover the introduction of any new technology if there could be implications for employees' health and safety, and for the risks and hazards to which they are exposed (eg moving from paper-based systems to new display screen equipment, or introducing new lifting aids instead of manually lifting parts).

Requirements to consult health and safety representatives on risk assessments

38. Under the Management Regulations you have a duty to assess the risks to the health and safety of your employees which they are exposed to while they are at work. In carrying out a risk assessment, the Approved Code of Practice for the Management of Health and Safety at Work Regulations 1998 makes clear that the risk assessment process needs to be practical and take account of the views of employees and their health and safety representatives who will have practical knowledge to contribute. Appendix 3 provides further information on requirements for employers to consult health and safety representatives and/or employees for illustrative purposes only and is not intended to be exhaustive.

Guidance

Guidance from L218 Management of Health and Safety at Work Regulations 1999

39. 'Consulting employees or their representatives about matters to do with their health and safety is good management practice, as well as being a requirement under health and safety law. Employees are a valuable source of information and can provide feedback about the effectiveness of health and safety management arrangements and control measures. Where safety representatives exist, they can act as an effective channel for employees' views.'

40. Safety representatives' experience of workplace conditions and their commitment to health and safety means they often identify potential problems, allowing the employer to take prompt action. They can also have an important part to play in explaining safety measures to the workforce and gaining commitment.'

When must you consult health and safety representatives?

41. Regulation 4A requires that employers consult health and safety representatives 'in good time'. Good time is not defined. However, it means that before making decisions involving work equipment, processes or organisation which could have health and safety consequences for employees, you should allow time:

- (a) to provide health and safety representatives with information about what you propose to do;
- (b) to give the health and safety representatives an opportunity to express their views about the matter in the light of that information; and then
- (c) to take account of any response.

Your duty to permit paid time for health and safety representatives' training

42. Regulation 4(2) requires that employers allow health and safety representatives paid time as is necessary, during working hours, to perform their functions. In practice, this means they should carry out their functions such as workplace inspections or attending health and safety committee meetings as part of their normal job, and employers will need to take account of this in their workload.

Guidance

42. Regulation 4(2) requires that employers allow health and safety representatives paid time as is necessary, during working hours, to perform their functions. In practice, this means they should carry out their functions such as workplace inspections or attending health and safety committee meetings as part of their normal job, and employers will need to take account of this in their workload.

43. Regulation 4(2) also requires that employers allow health and safety representatives paid time as is necessary to undergo training in aspects of their functions that is 'reasonable in all the circumstances'. The important point is that what is reasonable in all the circumstances is not always just what is necessary. Training does not have to be the necessary bare minimum to fulfil the safety representatives' functions but it does have to be reasonable in all the circumstances (what must be necessary is time off with pay). When considering what is reasonable in the circumstances, the guidance given by the Commission in the Code of Practice approved under regulation 4(2)(b) should be borne in mind (see paragraphs 31-36).

You may also wish to refer to general principles of case law in this area. Case law is fact-specific and subject to change so you must satisfy yourself of the current position and ensure your arrangements satisfy the law.

Rama v South West Trains (1997)*

The Claimant had applied to undertake a union-organised health and safety course in his capacity as a health and safety representative. His employers refused to pay him to attend on the basis that the particular course was not necessary for him to carry out his functions as a health and safety representative under regulation 4 of the 1977 Regulations. The Court agreed with the employer and held that attendance was not necessary. The Claimant appealed and the Employment Appeals Tribunal upheld the appeal. It agreed that the Tribunal had equated what was reasonable with what was necessary. Necessity does not always determine all aspects of reasonableness, and there is no suggestion in the Code of Practice that the reasonableness of training under regulation 4 is to be equated with, or limited to, what is necessary to fulfil his functions under the 1977 Regulations.

Whether attendance on the Stage 2 course was reasonable was remitted back to the Tribunal to determine. When determining what is reasonable, each case should be decided upon its own facts.

* EWHC Admin 976 5/11/1997.

Duthie v Bath and North East Somerset Council (2003)*

In determining whether to permit an employee paid time for training, the duty on an employer under regulation 4(2) is to permit such paid time as is 'necessary' for the purposes of undergoing training that is 'reasonable' in all the circumstances. In determining what is reasonable in all the circumstances, the Employment Appeals Tribunal agreed with Counsel for the Claimant that it was necessary to look at a number of features such as: the contents of the course; whether it involved basic training; how it related to the particular functions that the employee was performing; whether the training would have assisted him in performing those particular functions; and considering whether the employer would be able to manage if the employee was permitted time to attend the particular course.

* LTL 1/5/2003.

Davies v Neath Port Talbot County Borough Council (1999)*

A part-time employee, who was a union health and safety representative and who attended a full-time course, was entitled to be paid on the same basis as a full-time employee for time spent on the course. Attendance at such a course was 'work' within the meaning of Article 119 of the EC Treaty, and it followed that part-time workers should be paid on the same basis as their full-time counterparts when attending such courses away from work.

* LTL 26/10/99.

Functions of health and safety representatives

Guidance

44. The Regulations state that no function given to a health and safety representative shall be construed as imposing any duty on them other than duties they may have as an employee under sections 7 and 8 of the HSW Act. For example, a health and safety representative, by accepting, agreeing with or not objecting to a course of action taken by the employer to deal with a health or safety hazard, does not take upon themselves any legal responsibility for that course of action. The Health and Safety Executive shall not institute criminal proceedings against any health and safety representative for any act or omission by them in respect of the performance of functions assigned to them by the Regulations or indicated by the Code of Practice. Similar arrangements have been made with the other enforcing authorities.

Representing

45. Recognised trade unions will have well-established methods of communication within a workplace, or within a particular employer's undertaking. These will be the appropriate channels by which the appointed health and safety representatives can keep the members of the group or groups which they represent informed on all matters of consequence affecting their health, safety and welfare at work. Appointed health and safety representatives will also need to establish close relationships with other appointed health and safety representatives, including those appointed by trade unions other than their own. For example, they could look at hazardous situations, and develop a common approach to carrying out their responsibilities.

46. It is important that health and safety representatives can take matters up with management without delay if they need to. Therefore, they should have ready access to the employer or their representatives; who those should be will be determined in the light of local circumstances. It may not be desirable to specify one individual for all contacts, bearing in mind that hazards could involve differing degrees of urgency and importance.

47. Furthermore, large multi-site businesses will need to have arrangements for communicating messages appropriately between health and safety representatives on sites and management centrally. The need is to ensure that health and safety representatives have a clear idea as to who is authorised to act as the employer's representative for the purpose of these Regulations.

Guidance

48. Section 28(8) of the HSW Act requires inspectors to give certain types of information to employees and employers. Where health and safety representatives have been appointed under the Regulations, they are the appropriate people to receive this information on behalf of the employees.

Inspections

49. Health and safety representatives should record when they have made an inspection. Examples of the kinds of forms which might be adopted by health and safety representatives, both to record that an inspection has been made (F2534) and to draw the employer's attention to an unsafe or unhealthy condition (F2533), are available on [pages 18 and 19](#), and on the HSE website at www.hse.gov.uk/forms/incident/f2534.pdf and www.hse.gov.uk/forms/incident/f2533.pdf. A copy of each completed form should be given to the employer.

A suggested form to be used for recording that an inspection by a safety representative(s) has taken place – F2534

Number:

Safety Representative: Inspection Form

Record that an inspection by a safety representative or representatives has taken place.

Date of inspection:

Time of inspection:

Area of workplace inspected:

Name(s) and signature(s) of safety representative(s) taking part in the inspection:

Name(s) and signature(s) of employer (or his representative(s)) taking part in the inspection (if appropriate):

(This record does not imply that the conditions are safe and healthy or that the arrangements for welfare at work are satisfactory)

Record of receipt of form by the employer (or his representative)

Signature:

Date:

A suggested form to be used for notifying the employer, or their representative, about unsafe and unhealthy conditions and working practices and unsatisfactory arrangements for welfare at work – F2533

Number:

Safety Representative: Report Form

Notification to the employer (or his representative) of conditions and working practices considered to be unsafe or unhealthy and of arrangements for welfare at work considered to be unsatisfactory.

Date and time of inspection or matter observed:

Particulars of matter(s) notified to employer or his representative (include location where appropriate):

Name(s) of safety representative(s) notifying matter(s) to employer (or his representative):

Remedial action taken (with date) or explanation if not taken. This information to be relayed to the safety representative(s):

(This record does not imply that the conditions are safe and healthy or that the arrangements for welfare at work are satisfactory)

Signature(s) of safety representative(s):

Date:

Record of receipt of form by the employer (or his representative)

Signature:

Date:

Regulation 5

Inspection of the workplace

(1) Safety representatives shall be entitled to inspect the workplace or a part of it if they have given the employer or his representative reasonable notice in writing of their intention to do so and have not inspected it, or that part of it, as the case may be, in the previous three months; and may carry out more frequent inspections by agreement with the employer.

(2) Where there has been a substantial change in the conditions of work (whether because of the introduction of new machinery or otherwise) or new information has been published by the Health and Safety Commission or the Health and Safety Executive relevant to the hazards of the workplace since the last inspection under this Regulation, the safety representatives after consultation with the employer shall be entitled to carry out a further inspection of the part of the workplace concerned notwithstanding that three months have not elapsed since the last inspection.

(3) The employer shall provide such facilities and assistance as the safety representatives may reasonably require (including facilities for independent investigation by them and private discussion with the employees) for the purpose of carrying out an inspection under this Regulation, but nothing in this paragraph shall preclude the employer or his representative from being present in the workplace during the inspection.

(4) An inspection carried out under section 123 of the Mines and Quarries Act 1954(a) [or regulation 40 of the Quarries Regulations 1999](b) shall count as an inspection under this Regulation.

(a) 1954 c.70.

(b) Inserted by the Quarries Regulations 1999.

Guidance

Frequency and organisation of inspections

50. The Regulations deal with the frequency of formal inspection by the appointed health and safety representatives. In some circumstances where a highrisk activity or rapidly changing circumstances are confined to a particular area of a workplace or sector of an employee's activities it may be appropriate for more frequent inspections of that area or sector to be agreed.

51. The Regulations require that appointed health and safety representatives give reasonable written notice to the employer of their intention to conduct a formal inspection of the workplace. Where possible, the employer and the health and safety representatives should plan a programme of formal inspections in advance, which will itself fulfil the conditions as to notice. Variations in this planned programme should be subject to agreement.

52. HSE sees advantages in formal inspections being jointly carried out by the employer representatives and health and safety representatives, but this should not prevent health and safety representatives from carrying out independent investigations or private discussion with employees. The health and safety representatives ought to co-ordinate their work to avoid unnecessary duplication. There should also be co-ordination of inspections for large businesses responsible for managing multiple sites.

53. There are various forms which the formal inspection may take and it will be for the appointed health and safety representatives to agree with their employer about this. The following types of inspection, or a combination of any or all of them over a period of time, may be appropriate in the fulfilment of this function:

- (a) safety tours – general inspections of the workplace;
- (b) safety sampling – systematic sampling of particular dangerous activities, processes or areas;
- (c) safety surveys – general inspections of the particular dangerous activities, processes or areas.

54. The numbers of health and safety representatives taking part in any one formal inspection should be a matter for agreement between the appointed health and safety representatives and their employer in the light of their own particular circumstances and the nature of the inspection. It will often be appropriate for the safety officer or specialist advisers to be available to give technical advice on health and safety matters which may arise during the course of the inspection.

55. At large workplaces it may be not be practical to conduct a formal inspection of the entire workplace at a single session, or for the complete inspection to be carried out by the same group of health and safety representatives. In these circumstances, arrangements may be agreed between the employer (or their representative) and the appointed health and safety representatives for the inspection to be carried out by breaking it up into manageable units (eg on a departmental basis). It may also be appropriate, as part of the planned programme, for different groups of health and safety representatives to carry out inspections in different parts of the workplace either simultaneously or at different times but in such a manner as to ensure complete coverage before the next round of formal inspections is due.

56. There may be special circumstances in which appointed health and safety representatives and their employer will wish to agree a different frequency of inspections for different parts of the same workplace (eg where there are areas or activities of especially high risk).

Guidance

Following an inspection

57. Where health and safety representatives have made a written report to the employer in accordance with paragraph 29(c) of the Code of Practice, appropriate remedial action will normally be taken by the employer. Where remedial action:

- (a) is not considered appropriate;
- (b) cannot be taken within a reasonable period of time; or
- (c) the form of remedial action is not acceptable to the health and safety representatives, the employer or their representative should explain the reasons and give them in writing to the health and safety representatives. A suggested method for this is to record it in the Form F2533 available on page 156 and on the HSE website at www.hse.gov.uk/forms

58. Where remedial action has been taken:

- (a) the health and safety representatives who notified the matter(s) ought to be given the opportunity to make any necessary re-inspection to satisfy themselves that the matter(s) have received appropriate attention. They should also be given the opportunity to record their views on this;
- (b) it should be publicised throughout the workplace and to other appropriate parts of the business, if necessary the whole organisation, by the normal channels of communication;
- (c) it may be appropriate to bring it to the specific attention of the health and safety committee, if one exists.

Regulation 6

Inspections following notifiable accidents, occurrences and diseases

(1) Where there has been a notifiable accident or dangerous occurrence in a workplace or a notifiable disease has been contracted there and –

(a) it is safe for an inspection to be carried out; and

(b) the interests of employees in the group or groups which safety representatives are appointed to represent might be involved, those safety representatives may carry out an inspection of the part of the workplace concerned and so far as is necessary for the purpose of determining the cause they may inspect any other part of the workplace; where it is reasonably practicable to do so they shall notify the employer or his representative of their intention to carry out the inspection.

(2) The employer shall provide such facilities and assistance as the safety representatives may reasonably require (including facilities for independent investigation by them and private discussion with the employees) for the purpose of carrying out an inspection under this Regulation; but nothing in this paragraph shall preclude the employer or his representative from being present in the workplace during the inspection.

(3) In this Regulation “notifiable accident or dangerous occurrence” and “notifiable disease” mean any accident, dangerous occurrence or disease, as the case may be, notice of which is required to be given by virtue of any of the relevant statutory provisions within the meaning of section 53(1) of the 1974 act.

Guidance

Purpose of inspections following a notifiable incident

59. The main purpose of an inspection following a reportable accident, dangerous occurrence or notifiable disease should be to determine the causes so that measures to prevent a recurrence can be considered. For this reason it is important that the approach to the problem should be a joint one by the employer and health and safety representatives.

60. Following an accident or dangerous occurrence, it may be necessary for the employer to take urgent steps to safeguard against further hazards. If this is the case, the employer should notify the health and safety representatives of the action taken and confirm this in writing. It may be appropriate to notify such actions to other sites if you are responsible for managing more than one, if the issue is relevant.

The functions of health and safety representatives in formal inspections following a notifiable incident

61. In the event of a reportable accident, dangerous occurrence, or notifiable disease, health and safety representatives may carry out an inspection of the workplace concerned. It will be necessary for them to examine any relevant machinery, plant, equipment or substance in the workplace. Their examinations may include visual inspection, and discussions with those who are likely to have relevant information and knowledge regarding the circumstances of the accident or occurrence. However, the examination must not interfere with any evidence or the testing of any machinery, plant, equipment or substance which could disturb or destroy the factual evidence before any inspector from the appropriate enforcing authority has had the opportunity to investigate the circumstances of the accident or occurrence as thoroughly as is necessary.

62. Health and safety representatives, when performing their functions, particularly formal inspections of the workplace and examinations following notifiable accidents, dangerous occurrences or notifiable diseases, have rights under the Regulations to inspect and take copies of documents relevant to the workplace or to the employees they represent which the employer is required to keep in accordance with the 1974 act and other relevant statutory provisions.

63. In exercising this right, health and safety representatives should give employers reasonable notice and bear in mind any other circumstances the employer may be faced with in producing such documents. There are certain documents which the employer does not have to provide (see regulation 7(2)).

64. Where technical matters are involved, the appointed health and safety representatives may find that the necessary expertise is not available within the undertaking. The employer and the health and safety representatives may wish to seek advice externally, for example from appropriate universities or colleges. Arrangements about the people from such institutions who may be called upon ought to be agreed. If the representatives wish to have advice from their own technical advisers, such advisers may be called in where this has been agreed in advance with the employer. A copy of any report specifically relating to health or safety matters made to the health and safety representatives should also be available to the employer.

Regulation 7

Inspection of documents and provision of information

(1) Safety representatives shall for the performance of their functions under section 2(4) of the 1974 act and under these Regulations, if they have given the employer reasonable notice, be entitled to inspect and take copies of any document relevant to the workplace or to the employees the safety representatives represent which the employer is required to keep by virtue of any relevant statutory provision within the meaning of section 53(1) of the 1974 act except a document consisting of or relating to any health record of an identifiable individual.

(2) An employer shall make available to safety representatives the information, within the employer's knowledge, necessary to enable them to fulfil their functions except –

(a) any information the disclosure of which would be against the interests of national security; or

(b) any information which he could not disclose without contravening a prohibition imposed by or under an enactment; or

(c) any information relating specifically to an individual, unless he has consented to its being disclosed; or

(d) any information the disclosure of which would, for reasons other than its effect on health, safety or welfare at work, cause substantial injury to the employer's undertaking or, where the information was supplied to him by some other person, to the undertaking of that other person; or

(e) any information obtained by the employer for the purpose of bringing, prosecuting or defending any legal proceedings.

(3) Paragraph (2) above does not require an employer to produce or allow inspection of any document or part of a document which is not related to health, safety or welfare.

- Code of Practice** 65. The Regulations require employers to make information within their knowledge available to safety representatives necessary to enable them to fulfil their functions. Such information should include:
- (a) information about the plans and performance of their undertaking and any changes proposed insofar as they affect the health and safety at work of their employees;
 - (b) information of a technical nature about hazards to health and safety and precautions deemed necessary to eliminate or minimise them, in respect of machinery, plant, equipment, processes, systems of work and substances in use at work, including any relevant information provided by consultants or designers or by the manufacturer, importer or supplier of any article or substance used, or proposed to be used, at work by their employees;
 - (c) information which the employer keeps relating to the occurrence of any accident, dangerous occurrence or notifiable industrial disease and any statistical records relating to such accidents, dangerous occurrences or cases of notifiable industrial disease;
 - (d) any other information specifically related to matters affecting the health and safety at work of his employees, including the results of any measurements taken by the employer or persons acting on his behalf in the course of checking the effectiveness of his health and safety arrangements;
 - (e) information on articles or substances which an employer issues to homeworkers.

Guidance

Your duty to provide information

66. You have a duty under section 2(2)(c) of the 1974 act to provide such information, instruction and training, and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of all your employees (see Appendix 1 and Appendix 2 for more information). Appointed health and safety representatives will need to be given appropriate and sufficient information and knowledge to enable them to play an informed part in promoting health and safety at work. The recognised trade unions responsible for appointing health and safety representatives will make their own arrangements for the information and guidance of their appointed health and safety representatives as to how they will carry out their functions.

67. Employers have duties under the Management Regulations to, among other things, provide information on:

- (a) the risks to their employees' health and safety identified by their risk assessment;
- (b) the preventive and protective measures designed to ensure employees' health and safety;
- (c) the procedures to be followed in the event of an emergency in the undertaking;
- (d) the identity of any 'competent person' or persons nominated by the employer to help with the implementation of those procedures; and
- (e) risks notified by another employer with whom a workplace is shared, arising out of, or in connection with, the conduct of the second employer's undertaking.

68. You should already have the relevant information you should provide to your health and safety representatives as part of your health and safety management system. There is no need for you to present this information in a different format and provide it as a separate package, or to get hold of additional information you do not have specifically for your health and safety representatives. In providing this information, it is good practice to reflect the structure of your business, for example if you manage a large multi-site business, you should ensure good communication of information between those who make decisions in your business and your health and safety representatives.

Regulation 8**Cases where safety representatives need not be employees**

(1) In the cases mentioned in paragraph (2) below safety representatives appointed under Regulation 3(1) of these Regulations need not be employees of the employer concerned; and section 2(4) of the 1974 act shall be modified accordingly.

(2) The said cases are those in which the employees in the group or groups the safety representatives are appointed to represent are members of the British Actors' Equity Association or of the Musicians' Union.

(3) Regulations 3(3)(b) and (4) and 4(2) of these Regulations shall not apply to safety representatives appointed by virtue of this Regulation and in the case of safety representatives to be so appointed

Regulation 3(1) shall have effect as if the words "from amongst the employees" were omitted.

Regulation 9**Safety committees**

(1) For the purposes of section 2(7) of the 1974 act (which requires an employer in prescribed cases to establish a safety committee if requested to do so by safety representatives) the prescribed cases shall be any cases in which at least two safety representatives request the employer in writing to establish a safety committee.

(2) Where an employer is requested to establish a safety committee in a case prescribed in paragraph (1) above, he shall establish it in accordance with the following provisions –

(a) he shall consult with the safety representatives who made the request and with the representatives of recognised trade unions whose members work in any workplace in respect of which he proposes that the committee should function;

(b) the employer shall post a notice stating the composition of the committee and the workplace or workplaces to be covered by it in a place where it may be easily read by the employees;

(c) the committee shall be established not later than three months after the request for it.

Guidance

Setting up a health and safety committee

69. The detailed arrangements necessary to fulfil this particular requirement of the act should evolve from discussion and negotiation between employers and the appointed health and safety representatives, who are best able to interpret the needs of the particular workplace or places with which the committee is to concern itself. For good practice guidance on setting up health and safety committees and making them work effectively please see *Involving your workforce in health and safety: Good practice for all workplaces (HSG263)*¹ or refer to the worker involvement web pages on the HSE website: www.hse.gov.uk/involvement. Acas also provide useful guidance on employee communications and consultations.

70. Although the title ‘safety committees’ might suggest functions limited to purely safety matters, the functions of health and safety representatives comprise health, safety and welfare at work (see regulation 4) and so safety committees should therefore be concerned with all relevant aspects of these matters in the working environment.

71. Circumstances will vary greatly between one workplace and another. Health and safety committees will be set up to deal with work situations as varied as that between a construction site and a general hospital. Each situation must be looked at carefully by those involved in it, and systems for safety, including health and safety committees, will need to be developed to take full account of all the relevant circumstances.

72. Although the relationship of the health and safety committee to other works committees is a matter for local organisation, it is necessary to ensure that the work of the health and safety committee has a separate identity, and that health and safety matters are not just added on to the agenda for other meetings, without enough time to consider them.

73. Health and safety committees are most likely to prove effective where their work is related to a single establishment rather than to a collection of geographically distinct places. There may be a place for health and safety committees at group or company level for larger organisations, particularly where relevant decisions are taken at a higher level. In general, it should be unnecessary for an employer to appoint duplicate committees for the same workplace, for example representing different levels of staff. In large workplaces, however, a single committee may either be too large, or if kept small, may become too remote. In these circumstances, it may be necessary to set up several committees with adequate arrangements for co-ordination between them.

Objectives and functions of health and safety committees

Guidance

74. Under section 2(7) of the 1974 act, health and safety committees have the function of keeping under review the measures taken to ensure the health and safety at work of the employees. In carrying out this function health and safety committees should consider drawing up agreed objectives or terms of reference.

75. An objective should be the promotion of co-operation between employers and employees in instigating, developing and carrying out measures to ensure the health and safety at work of the employees.

76. Within the agreed basic objectives, certain specific functions might include:

- (a) the study of accident and notifiable disease statistics and trends, so that reports can be made to management on unsafe and unhealthy conditions and practices, together with recommendations for corrective action;
- (b) consideration of aggregated absence statistics and reasons for such absences on a similar basis;
- (c) examination of management's safety audit reports;
- (d) consideration of reports and factual information provided by inspectors of the enforcing authority appointed under the Health and Safety at Work etc Act 1974;
- (e) consideration of reports which health and safety representatives may wish to submit following inspections;
- (f) assistance in the development of works safety rules and safe systems of work;
- (g) a watch on the effectiveness of the health and safety content of employee training;
- (h) a watch on the adequacy of safety and health communication and publicity in the workplace;
- (i) the provision of a link with the appropriate enforcing authority.

77. The purpose of studying accidents is to stop them happening again; it is not the committee's business to allocate blame. Its job should be:

- (a) to look at the facts in an impartial way;
- (b) to consider what sort of precautions might be taken;
- (c) to make appropriate recommendations.

78. There are advantages in looking at not only legally notifiable cases, but also at selected groups of minor injuries. The records of such injuries can yield valuable information if it is extracted and analysed.

79. The committee may also be able to:

- (a) advise on the appropriateness and adequacy of the rules for safety and health proposed by management; and/or
- (b) draw attention to the need to establish rules for a particular hazardous work activity or class of operations.

80. Adherence to the rules will be secured more easily if employees appreciate the reasons for having them, and know that their representatives have been consulted in the making of them.

81. Where written reports have been made by health and safety representatives following inspections, they may be brought to the attention of the health and safety committee. In such cases the committee may suggest suitable publicity.

82. In certain instances, health and safety committees may consider it useful to carry out an inspection by the committee itself. But, it is management's responsibility to take action, to have adequate arrangements for regular and effective checks of health and safety precautions, and to ensure that the declared health and safety policy is being fulfilled. The work of health and safety committees should supplement these arrangements; it cannot be a substitute for them.

Guidance

Membership of health and safety committees

83. The membership and structure of health and safety committees ought to be settled in consultation between management and the trade union representatives concerned through the use of the normal machinery. The aim should be to keep the committee as compact as possible, and compatible with the adequate representation of the interests of management and of all the employees, including health and safety representatives. The number of management representatives should not exceed the number of employee representatives.

84. Management representatives should not only include those from line management but others such as work engineers and personnel managers. The supervisory level should also be represented. Management representation should be aimed at ensuring:

(a) adequate authority to give proper consideration to views and recommendations;

(b) the necessary knowledge and expertise to provide accurate information to the committee on company policy, production needs, and on technical

85. Where a company doctor, nurse, occupational health professional or safety officer/adviser is employed, they should, as a matter of good practice, be members of the health and safety committee. Other company specialists, such as project engineers, chemists, organisation and methods staff and training officers might be co-opted for particular meetings when subjects they have expertise in are to be discussed.

86. It should be fully understood that a health and safety representative is not appointed by the health and safety committee or vice versa. The relationship between health and safety representatives and the health and safety committee should be a flexible but intimate one. Neither is responsible to, or for, the other. The aim should be to form the most effective organisation appropriate to the particular undertaking, and especially effective co-ordination between the work of the committee and the health and safety representatives.

Guidance

87. Under regulation 4(2), an employer must permit health and safety representatives paid time as is necessary to perform their functions. This includes attending meetings of health and safety committees, where they attend as a health and safety representative in connection with any of the functions in regulation 4(1) (a) to (h), including investigating hazards and dangerous occurrences, investigating complaints about health, safety, or welfare at work and making representations to employers. As a consequence, health and safety representatives should suffer no loss of pay through attendance at meetings of health and safety committees or at other agreed activities such as inspections undertaken by, or on behalf of, such committees, provided the time away from normal duties is necessary to perform their functions.

88. The effectiveness of a joint health and safety committee will depend on the pressure and influence it is able to maintain on all concerned. The following activities could assist in maintaining the impetus of a committee's work:

- (a) regular meetings with effective publicity of the committee's discussions and recommendations;
- (b) speedy decisions by management on the committee's recommendations, where necessary, promptly translated into action and effective publicity;
- (c) participation by members of the health and safety committee in periodical joint inspections;
- (d) development of ways of involving more employees.

The conduct of health and safety committees

89. An essential condition for the effective working of a health and safety committee is good communications between management and the committee, and between the committee and the employees. In addition, there must be a genuine desire on the part of management to tap the knowledge and experience of its employees and an equally genuine desire on the part of the employees to improve the standards of health and safety at the workplace.

90. Health and safety committees should meet as often as necessary. The frequency of meetings will depend on the volume of business, which in turn is likely to depend on local conditions, the size of the workplace, numbers employed, the kind of work carried out and the degree of inherent risk. Sufficient time should be allowed during each meeting to ensure full discussion of all business.

91. Meetings should not be cancelled or postponed except in very exceptional circumstances. Where postponement is absolutely necessary, an agreed date for the next meeting should be made and announced as soon as possible.

Guidance

92. The dates of the meetings should be arranged well in advance as far as possible, even to the extent of planning a programme six months or a year ahead. In these circumstances all members of the committee should be sent a personal copy of the programme giving the dates of the meetings. Notices of the dates of meetings should also be published where all employees can see them. A copy of the agenda and any accompanying papers should be sent to all committee members at least one week before each meeting.

93. Committees may wish to draw up additional rules for the conduct of meetings. These might include procedures by which committees might reach decisions.

94. In certain undertakings it might be useful for the health and safety committee to appoint sub-committees to study particular health and safety problems.

95. Agreed minutes of each meeting should be kept and a personal copy supplied to each member of the committee as soon as possible after the meeting to which they relate, and a copy sent to each health and safety representative appointed for workplaces covered by the committee. A copy of the minutes should be sent to the most senior executive responsible for health and safety; and arrangements should be made to ensure that the Board of Directors is kept informed generally of the work of the committee. An adequate number of copies of the minutes should be displayed, or made available by other means, along with any other information which the employer provides whether required by statute or not.

Regulation 10

Power of Health and Safety Commission to grant exemptions

The Health and Safety Commission may grant exemptions from any requirement imposed by these Regulations and any such exemption may be unconditional or subject to such conditions as the Commission may impose and may be with or without a limit of time.

Regulation 11

Provisions as to [employment tribunals](a)

(1) A safety representative may, in accordance with the jurisdiction conferred on [employment tribunals] by paragraph 16(2) of Schedule 1 to the Trade Union and Labour Relations Act 1974, (b) present a complaint to an [employment tribunal] that:

(a) the employer has failed to permit him to take time off in accordance with Regulation 4(2) of these Regulations; or

(b) the employer has failed to pay him in accordance with Regulation 4(2) of and the Schedule to these Regulations.

(a) Reference to industrial tribunals was replaced by “employment tribunals” by the Employment Rights (Dispute Resolution) Act 1998.

(b) 1974 c.52 Jurisdiction is now conferred on tribunals by the Employment Tribunals Act 1996. Section 2 gives tribunals jurisdiction if that was conferred by any other act. Although the Trade Union and Labour Relations Act 1974 has been repealed, tribunals do retain jurisdiction. (See *Duthie v Bath and North East Somerset Council* [2003] ICR 405 EAT, and *White v Pressed Steel Fisher* [1980] IRLR 176.)

Regulation

(2) An [employment tribunal] shall not consider a complaint under paragraph (1) above unless it is presented within three months of the date when the failure occurred or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

(3) Where an [employment tribunal] finds a complaint under paragraph (1)(a) above well-founded the tribunal shall make a declaration to that effect and may make an award of compensation to be paid by the employer to the employee which shall be of such amount as the tribunal considers just and equitable in all the circumstances having regard to the employer's default in failing to permit time off to be taken by the employee and to any loss sustained by the employee which is attributable to the matters complained of.

(4) Where on a complaint under paragraph (1)(b) above an [employment tribunal] finds that the employer has failed to pay the employee the whole or part of the amount required to be paid under paragraph (1)(b), the tribunal shall order the employer to pay the employee the amount which it finds due to him.

(5) . . . [amends the Trade Union and Labour Relations Act 1974, Schedule 1, paragraph 16 and is not set out here]

*[Schedule 1 Regulation 2A Bodies to be treated as recognised trade unions]
(a)*

(a) Schedule 1 Regulation 2A was inserted by the Police (Health and Safety) Regulations 1999 and revoked by the Serious Organised Crime and Police Act (Consequential and Supplementary Amendments to Secondary Legislation) Order 2006.

APPENDIX 3: HSE'S FIVE STEPS TO RISK ASSESSMENT

Company name:

Step 1: What are the hazards?

Spot hazards by:

- walking around your workplace;
- asking your employees what they think;
- visiting the Your industry areas of the HSE
- website or calling HSE Infoline;
- calling the Workplace Health Connect Adviceline or visiting their website;
- checking manufacturers' instructions; contacting your trade association.

Don't forget long-term health hazards.

Step 2: Who might be harmed and how?

Identify groups of people. Remember:

- some workers have particular needs;
- people who may not be in the workplace all the time;
- members of the public;
- if you share your workplace think about how your work affects others present.

Say how the hazard could cause harm.

Step 5 Review date:

Date of risk assessment:

Step 3: What are you already doing?

List what is already in place to reduce the likelihood of harm or make any harm less serious.

What further action is necessary?

You need to make sure that you have reduced risks 'so far as is reasonably practicable'. An easy way of doing this is to compare what you are already doing with good practice. If there is a difference, list what needs to be done.

Step 4: How will you put the assessment into action?

Remember to prioritise. Deal with those hazards that are high-risk and have serious consequences first.

Action	Action	
by whom	by when	Done

[illegible]

Review your assessment to make sure you are still improving, or at least not sliding back. If there is a significant change in your workplace, remember to check your risk assessment and where necessary, amend it.

This template can be downloaded from the HSE website at: www.hse.gov.uk/risk

[illegible]

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



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