

# Risks

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**Risks** is the TUC's weekly online bulletin for safety reps and others, read each week by over 11,500 subscribers and 1,500 on the TUC website. To receive this bulletin every week, click [here](#). Past issues are [available](#). This edition contains [Useful links](#) [TUC courses for safety reps](#)

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## UNION NEWS

### **Pub workers urged to push for smoking ban**

Pub and club workers in England are being urged by the TUC to tell Health Secretary Patricia Hewitt exactly what they think of her plans to exempt drinking establishments that don't serve food from the government's proposed ban on smoking in the workplace. Last week the government announced the beginning of two-month consultation period covering how a smoking ban might work in England ([Risks 212](#)), and the TUC wants pub and club workers to make sure that their smoky work experiences are not discounted. So that workers can email the consultation with their tales of what it is like to work a shift in a bar thick with smoke, the TUC has set up a special website that will allow individuals either to send a standard letter calling for a total ban or submit their own comments. The TUC website reminds pub and club workers that one of them dies every week as a result of inhaling other people's smoke at work. Many thousands more are made ill and others are forced to leave their jobs for good because of asthma or other passive smoking related breathing difficulties. TUC general secretary Brendan Barber said: "The pub and club workers of establishments that don't serve food deserve as much protection from cancer-causing smoke as everyone else. Stopping smokers from puffing away at the bar will not stop bar workers suffering the ill-effects of passive smoking, and nor will improved ventilation help much. A total ban on smoking is the only solution and I urge all pub and club staff to email in and help us change the Secretary of State's mind." Patricia Hewitt told the British Medical Association's conference this week that "it is probably only a matter of time" before there is a smoking ban covering all workplaces.

[TUC news release](#). [British Medical Journal, 25 June 2005](#). [BBC News Online](#).

Have your say! It's quick and easy to [send a letter to the minister](#).

### **Train drivers don't have to stand the heat**

Train drivers' union ASLEF is urging its members not to tolerate

dangerously high cab temperatures. Guidance has been issued to members and safety representatives to help identify symptoms of heat stress and to outline remedial measures which should be taken. ASLEF notes: "Members should be advised that some of the symptoms of heat related illness, which include poor work performance, fatigue, giddiness, confusion, loss of concentration and mental confusion, may leave members unsuitable to drive trains." It adds: "Members are advised that ASLEF believes that circumstances may arise in which our members and the public are in 'serious and imminent danger', due to the possible physical symptoms arising from heat related illnesses while driving trains in hot weather." It says the law protects workers from victimisation if they take action to protect themselves from "serious and imminent danger". It adds: "Members should inform supervisors of their specific concerns and should state clearly what appropriate steps they reasonably intend to take to protect themselves and the general public to avoid or reduce the danger."

[ASLEF news release and guide.](#)

[Hazards guide to the right to refuse dangerous work.](#)

### **Time to settle rail safety dispute, says RMT**

Rail union RMT has again called on Midland Mainline to negotiate a settlement to the long-running dispute over the safe working of multi-unit trains ([Risks 210](#)). The union this week said 150 Midland Mainline guards were scheduled to take their fifth day of strike action on Saturday 2 July following the company's continuing failure to agree a formula to end the dispute. "Midland Mainline have had six months to settle this dispute, which is about the safety of our members and the travelling public," RMT general secretary Bob Crow said on 30 June. "The union has made several attempts to break the deadlock, and the company now accepts that there are safety and security issues arising from staff working alone in the rear portion of a multi-unit train and not being able to contact the driver, the guard or the emergency services." He added: "It should not now be hard for Midland Mainline to sit down with us and find a solution to those problems... Our members have serious safety concerns every day they go to work and the company has known that for six months."

[RMT news release.](#) [The Scotsman.](#)

## OTHER NEWS

### **ConocoPhillips hit with £1m payout for refinery blast**

A global oil company has been ordered to pay more than £1 million for breaching health and safety regulations after an explosion at its Humber refinery. ConocoPhillips, the world's fifth largest oil refiner, was fined £895,000 and told to pay full costs of £218,854 at a hearing at Grimsby Crown Court. The company had already pleaded guilty to seven breaches of health and safety legislation. More than 100 firefighters were called to the Killingholme refinery in 2001 when 170 tonnes of liquid petroleum gas (LPG) was released and caught fire. An investigation by the Health and Safety Executive (HSE) found the leak was caused by the failure of an elbow pipe due to erosion and corrosion. After the hearing Kevin Allers, head of HSE's chemical industries division, said the severity of the explosion at the Humber refinery had been reflected in the penalties imposed. "The incident at the Humber refinery was possibly the most serious chemical incident in Britain since the Flixborough disaster in 1974 and it is fortunate that there were no deaths or very serious injuries," he said. "This was mainly because the incident occurred on a Bank Holiday and during a shift change when the limited staff on site were away from the plant. The potential for loss of life was great." The blast at the Conoco plant happened before its 2002 merger with Phillips Petroleum, a company which has had its own safety problems. In 1989, 23 workers died in a blast at a Phillips Petroleum plant in Texas, one of a number of deadly blasts affecting the company in the US.

[HSE news release](#). [BBC News Online](#). [Grimsby Telegraph](#).

### **Mowlem pays £20,000 after worker's death**

Construction giant Mowlem has been ordered to pay £20,000 in fines and costs after the death of a Bristol worker at the Bath Spa building project. Experienced carpenter John Cox, aged 54, suffered serious head injuries while working on one of the spa buildings in May 2003 and died in hospital two weeks later. An investigation by the Health and Safety Executive found his employer, Mowlem, had failed to ensure the health, safety and welfare of its staff by having no safety system. At Bath Magistrates' Court the firm, which had a group

turnover of £2.1bn in 2004, was fined £8,000 and ordered to pay £12,107.76 costs after admitting breaching the Health and Safety at Work Act. Chair of the bench, Robin Acton, said the fine had to be large enough to send out the message that safety in the workplace was paramount. Mike Shepherd, for Mowlem, told magistrates the firm had won awards for its safety record. After the hearing, a statement from the firm said it accepted the sentence but said: "We would underline, however, that the HSE has accepted that the breach was in no way either the cause of or a contributory factor in the unfortunate death of John Cox." The company did not draw attention to its history of safety prosecutions. HSE records show Mowlem plc has been prosecuted at least four times in the last eight years for safety offences, including a £100,000 fine in a case relating to the death of a worker in 1997 and a £7,000 fine in 2004 after an incident when a member of the public was decapitated. Its railway maintenance offshoot was recently fined £75,000 for offences relating to the death of a worker ([Risks 204](#)).

[Bristol Evening Post](#). [HSE news release on the 2004 penalty](#).

### **Union dismay at no action over crane deaths**

No legal action is to be taken over the collapse of a crane which killed three workmen in London's Docklands. The Health and Safety Executive (HSE) said despite a "technical and very complex" investigation there was no conclusive explanation. It added there was insufficient evidence to bring a prosecution. Peter Clark, Michael Whittard and Martin Burgess died in the incident five years ago ([Risks 2](#)). The HSE said it appreciated the decision may disappoint the families of those who died. Rosi Edwards, acting chief inspector of construction, said: "While we have been unable to prove how or why this tragic incident occurred, the comprehensive investigation has identified a number of actions that industry need to take to avoid the risk of further incidents." She added: "I urge crane companies to consider the issues discussed in this report and ensure such operations are effectively managed. Meanwhile, my thoughts are with the families of Mr Whittard, Mr Burgess and Mr Clark." Alan Ritchie, general secretary of the construction union UCATT, said: "It is with great disappointment that the HSE can find no conclusive explanation for this tragic incident. This is small comfort for the families of the dead." HSE said the collapse of the tower crane in east London was only the second ever incident of its kind following a similar accident in San

Francisco in 1989.

[HSE news release](#), report summary [[pdf](#)] and [full report](#). [BBC News Online](#).

### **Explosion death boss released from jail**

One of only a handful of bosses to be jailed after the death of a worker has been released. Glen Hawkins, the boss of the Anchor Garage in Peacehaven, where teenage trainee mechanic Lewis Murphy died in an explosion, has had his manslaughter conviction quashed at an Appeal Court hearing. Hawkins was found guilty of manslaughter earlier this year and jailed for nine months ([Risks 200](#)). His release came after an Appeal Court judge ruled in June that evidence used at the trial should not have been allowed. The judge said a statement made by Mr Hawkins should not have been admitted as evidence because it was prejudicial to the defendant. The Crown was also refused a retrial due to the time Mr Hawkins had already spent in prison. Lewis' father, Michael, said the family was left "completely stunned" by the decision. "We feel gutted and completely robbed, we are just in limbo now because there is nothing the police or the CPS can do. We won't stop fighting for justice for Lewis and we will take time to consider the possibility of civil action." Sussex Police said they would be studying the Appeal Court's decision once the full judgment had been received. Only five company directors have ever been jailed for manslaughter.

[The Argus](#). [BBC News Online](#).

[Hazards deadly business webpages](#). [Centre for Corporate Accountability corporate manslaughter webpages](#).

### **Corporate manslaughter bill "needs complete redraft"**

The government's long-awaited draft bill on corporate manslaughter is under heavy fire from lawyers who claim it is unworkable and should be taken back to the drawing board. The Association of Personal Injury Lawyers (APIL) said that while it welcomed government moves to legislate on corporate manslaughter, the draft bill is confusing and full

of loopholes. "In its current form the bill just won't work," said APIL president Allan Gore QC. "It is confusing, inconsistent and provides opportunities for those responsible for causing deaths and injuries at work to wriggle off the hook." APIL's submission to a government consultation on the draft bill highlights discrepancies such as the confusion surrounding which organisations will be covered – and therefore liable to prosecution – and the organisations which are exempt. For example, the Department of Health is listed as being covered by the bill, yet the NHS is not, said Gore. As a result of the removal from the bill of any possibility of the prosecution of individual directors for corporate manslaughter, APIL wants the Companies Act to be amended ensure top bosses are made liable for safety crimes. "It is imperative that company directors take responsibility for health and safety practices," said Gore. "We want to see individual directors nominated to deal with health and safety – and for this responsibility to be enshrined in law."

APIL news release [[pdf](#)].

### **Rail signal safety scheme abandoned**

In its dying gasp before its June abolition, the Strategic Rail Authority has condemned more railway workers, train drivers and passengers to the possibility of death and injury, said train drivers' leader Keith Norman. Responding to the SRA report that abandoned the early adoption of the European Rail Traffic Management System (ERTMS) – called for in the 2001 Cullen report into the Paddington train crash and the 1997 Uff inquiry into the Southall crash – the ASLEF general secretary said: "Behind the weasel words of SRA chairman David Quarmby and Network Rail boss John Armitt lies a headlong retreat from the commitment to public safety that emerged after the rail disasters of recent years. This is a betrayal of trust, an insult to the memory of the victims and a short sighted response to the deep structural problems of the privatised railway system." He added: "Beyond the safety issues which are closest to the concern of train drivers, railway workers and passengers is retreat from the objective of a more efficient and intensive use of the railway network that ERTMS promises."

[SRA news release](#). [ASLEF news release](#).

### **Nursing ward staff sickness causes concern**

Nursing ward staff take more sick days per year than most other public sector workers, according to new figures. A report from the Healthcare Commission, based on a survey of 135,000 staff on 6,000 hospital wards, found on average staff have 16.8 days sick leave in every 12 months. This compares with 11.3 days a year across seven other public sector groups, including police and teachers. Anna Walker, chief executive of the commission, said: "These high rates of absence among nurses are extremely worrying. Whatever the reasons for them, nurses are far too important for us to ignore this problem." Ms Walker said the causes were unclear, but factors such as stress, job satisfaction, work load and the physical nature of the job all may be part of the picture. She added that the use of temporary staff "remains stubbornly high" and called on Trusts "to focus on recruitment of permanent staff to reduce dependence on temporary staff."

Responding to the report, Gail Adams, UNISON head of nursing, called for better staffing levels and said: "Safe and effective staffing levels, applied in a consistent manner, will have a positive impact on staff's health and well-being and also improve patient care." She added: "It is distressing to see such high levels of sickness in wards across the NHS, although unfortunately not surprising when you see the pressure that staff are under. The number of work related injuries in the NHS is clearly unacceptable, with staff taking time off because of back injuries, violence, needlestick injuries and stress caused by work pressures."

[Healthcare Commission news release](#). [UNISON news release](#). [BBC News Online](#). [The Observer](#). [The Guardian](#).

### **Nuclear workers' cancer risk confirmed**

Exposure to a low level of radiation is linked to a small increase in a person's cancer risk, a study of nuclear power station workers has found. An international team studied over 407,000 workers in 15 countries including the UK, who were followed up for around 13 years. The *British Medical Journal* study estimates up to 2 per cent of the cancer deaths were due to radiation exposure. Scientists from the International Agency for Research on Cancer (IARC) looked back at the exposure levels over one year of the workers, all of whom had worn radiation dosimeters which registered their exposure. Some worked in nuclear power plants, some in nuclear research or waste management and others in the production of nuclear fuel, isotopes or weapons. Of

the 400,000, there had been 196 deaths from leukaemia (other than chronic lymphocytic leukaemia) and 6,519 deaths from other cancers. The researchers say this suggests 1 to 2 per cent of deaths from cancer among workers in this study may be attributable to radiation. They add that many of the workers in this study worked in the early years of the industry when doses tended to be higher than they are today. Professor John Toy, medical director at Cancer Research UK, commented: "The nuclear industry must remain ever vigilant to ensure these standards are not breached and constantly endeavour to reduce the exposure of its workers to radiation."

[IARC news release](#) and [background notes on the study](#). [The Guardian](#). [BBC News Online](#). [Reuters](#).

E Cardis and others. Risk of cancer after low doses of ionising radiation: retrospective cohort study in 15 countries, BMJ, published online 29 June 2005. doi:10.1136/bmj.38499.599861.E0 [[abstract](#)].

### **Tesco fined after worker loses finger**

Supermarket chain Tesco has been ordered to pay £50,000 after a court heard of a "culture of carelessness" led to a worker losing a finger at its Norwich store. The hearing at Norwich magistrates' court followed an incident in February last year in which employee Ryan Jennings severed his finger in a bread-making machine after trying to remove dough stuck in the mechanism. The court heard a guard preventing this practice had been removed and that there were serious inadequacies in the store's health and safety training. Tesco had earlier pleaded not guilty to a charge of failing to ensure the safety of its employees and one of failing to put in place a sufficient risk assessment. This week, however, it admitted the breaches of health and safety regulations and was fined the maximum £25,000 plus £25,000 in legal costs. The court heard the guard in question was regularly removed despite the fact it should have been in place at all times. One member of staff told a subsequent investigation they did not know there was supposed to be a guard in place and another said they had nearly trapped their fingers just one week earlier. A logbook, which was supposed to be completed following daily safety checks, had regular omissions.

[Eastern Daily Press](#). [BBC News Online](#).

### **Unions call for action in Blair Euro presidency**

Unions from across Europe are calling for action on workplace issues including working time and chemical hazards at work during the UK presidency of the European Union. European Trade Union Confederation (ETUC) general secretary John Monks led a delegation to Downing Street in London this week to present the 'Trade Union Memorandum,' a list of key priorities. "The ETUC hopes that real energy and creativity will be deployed to help Europe face the future with more confidence and in a better atmosphere than has prevailed recently," said John Monks. Among issues dealt with by the memorandum are: calls on the UK presidency to push ahead with revision of the Working Time Directive, to end the individual 'opt-out' provision; to look for a compromise to unblock the draft directive on temporary agency workers; and to move forward on important issues like the REACH chemicals regulation and gender equality in all areas of policy-making.

[ETUC news release](#). [Trade Union Memorandum](#).

### **"Presenteeism" hits the white collar workplace**

The UK's long-hours culture is becoming endemic in the world of the white collar worker. More than half of the UK's white collar employees - equivalent to 8.7 million people - work in a culture where coming in early, staying late and battling on when ill is expected, according to research. A survey of 750 UK staff, by healthcare provider PruHealth, reveals that 44 per cent believe that long hours culture and "presenteeism" is becoming a more common feature of working life in the UK. One in seven workers claim their employer has made it explicit that they are expected to work long hours and to report for work when ill. Almost a third (31 per cent) of employees think a culture of long hours in the workplace adds to their levels of stress and 25 per cent said it had a negative impact on their health and well-being. Shaun Matisonn, chief executive of PruHealth, said: "Presenteeism is becoming endemic."

[Personnel Today](#). [This is money](#).

### **Vibration rules shake up takes effect**

New regulations on prevention of vibration risks in the workplace come into force on 6 July, says the Health and Safety Executive (HSE). It says the new rules, which deal with the control of diseases caused by vibration at work from equipment, vehicles and machines, will help both employers and employees to take preventive action. HSE says hand arm vibration (HAV) is a major cause of occupational ill-health and adds an estimated 5 million workers are exposed to HAV in the workplace, with 2 million exposed to levels of vibration where there are clear risks of developing disease. Each year, approximately 3,000 new claims for industrial injury disability benefit are made in relation to vibration white finger and vibration related carpal tunnel syndrome. HSE says there is a transitional period for the new exposure limit values up to 2010, which will allow in certain circumstances the use of older tools and machinery which cannot keep exposures below the new limits. The transitional period has been extended to 2014 in the case of whole-body exposures in the agriculture and forestry sectors, a delay that has been criticised by unions as "disgraceful" ([Risks 42](#)). TUC has accused the Health and Safety Commission of "watering down" the law overall so it is weaker than the European rules on which it is supposed to be based ([Risks 133](#)).

[HSE news release](#). [HSE vibration webpages, including the new law](#). [Vibration exposure calculator](#). [TUC vibration webpages](#).

Related publications: Control the risks from hand-arm vibration INDG175(rev2)[[pdf](#)]; Control back-pain risks from whole-body vibration INDG242(rev1) [[pdf](#)]; Hand-arm vibration INDG296(rev1) [[pdf](#)]. Drive away bad backs INDG404 [[pdf](#)].

## **INTERNATIONAL**

### **Australia: Government fines threat to asbestos protesters**

The Australian government is threatening to fine workers who marched in a rally that led to an Aus\$1.5 billion (£633.5m) settlement for asbestos disease victims. A letter to workers at packaging giant Visy

informs them they face an Aus\$6,600 (£2,790) fine for breaching orders not to join the anti-James Hardie rally last year ([Risks 182](#)). News of the letter – to which bosses of at Visy say they have objected – emerged as tens of thousands of trade unions prepared to rally on 30 June against a planned package of regressive federal government employment law changes. The Australian Manufacturing Workers Union (AMWU) said the government was threatening workers who walked off the job to rally against James Hardie, the building products company at the centre of the asbestos scandal. “They are going to try and penalise individual workers for a community activity that supported workers who are dying from mesothelioma,” state secretary Dave Oliver said. “If this is what is happening prior to the new industrial laws being implemented, what is going to happen in the future?” The Visy letter was sent to about 120 employees by the government’s Department of Employment and Workplace Relations on 6 April. It says the department is investigating action on 15 September 2004, when thousands marched on the Stock Exchange calling for compensation for asbestos victims. The letter states each worker is believed to have breached an official “section 127 order” not to take industrial action. It warns the Act provides for a maximum penalty of \$6,600. A Visy spokesperson said the firm had written to the department objecting to the letter.

[Herald Sun.](#)

### **Europe: Official backing for stricter chemical rules**

Europe’s environment ministers have signalled support for stronger rules for the most dangerous chemicals under the future EU “REACH” regulations, the controversial package of European Union chemical registration and authorisation rules. At the 24 June environment council in Luxembourg, ministers agreed there should be a reference list that would help firms to decide whether they wanted to continue using substances that might eventually require special permission – although some cautioned that this might become a de facto blacklist. Ministers also said they wanted a firmer reference to the principle of substituting hazardous substances. This could create a requirement for firms to consider safer alternatives without actually obliging them to switch. There was broad support for the Commission's proposal on the classes of substance that should be automatically considered for authorisation restrictions without waiting for results of substance testing. Some ministers wanted to add sensitisers and allergens to the

list.

European Council environment press report ([pdf in French](#)).

### **India: Gujarat bans benzene in diamond units**

The Gujarat government has imposed a blanket ban on the use of benzene by diamond polishing units across Gujarat. The move follows reports of four diamond workers from Surat having been diagnosed with aplastic anaemia due to exposure to benzene. Principal secretary for labour and employment Vinod Babbar said the government would take strict action against any companies violating the ban. There are over 10,000 diamond processing units in Surat alone. Officials say benzene is used liberally in the industry to remove black carbon deposits after the diamond roughs are put through cutting lasers. A random check has revealed a high degree of benzene poisoning among workers employed in Surat. The state government has also taken action to improve safety in the use of hazardous substances in diamond units, and in the asbestos, salt manufacturing and chemical industries state-wide. Babbar said the Directorate of Industrial Safety and Health had sent a proposal to the government for approval, under which the NIOH, the official safety agency, would conduct a state-wide survey to determine the adverse health effects of handling hazardous chemicals in these industries.

[Daily Pioneer](#). [Express India](#). [Times of India](#).

### **USA: Call for protection for immigrant workers**

Strong labour laws that protect immigrant workers would benefit employers and all workers, says a coalition of union and campaign groups. The call comes from the Low-Wage Immigrant Worker Coalition (LWIWC), a collaboration of advocates co-convened by the US union federation AFL-CIO, the National Immigration Law Center and the National Council of La Raza. "The fact that millions of immigrant workers in our economy are forced to accept low wages, no benefits and outrageous working conditions is something that affects us all," says AFL-CIO executive vice-president Linda Chavez-Thompson. "For those reasons, we must push for a strong blanket standard of treatment that will not make exceptions and that will benefit the middle class as a whole." Current law provides an incentive

for unscrupulous employers to hire and exploit undocumented immigrant workers, said James Andrews, president of the North Carolina AFL-CIO. He cited the six-year struggle by migrant farm workers in the state who last September finally won a contract with the North Carolina Growers Association. The pact enables as many as 8,000 workers on more than 1,000 farms throughout the state to form a union without employer interference. "These workers laboured in the fields for long hours picking cucumbers off prickly vines which cut their hands. They didn't get bathroom or water breaks despite working in searing heat," he said. "It's criminal that it took six years for them to gain decent wages and working conditions. But what's even worse is that there are millions of workers still out there who do not have a union."

[AFL-CIO news release.](#)

### **USA: Chemical dust explosions a "serious problem"**

Preventable dust explosions in US factories have killed 100 workers and injured 600 others in the last 25 years, an official safety watchdog has said. Carolyn Merritt, chair of the US Chemical Safety and Hazard Investigation Board (CSB) told a hearing into the dangers that chemical dust explosions in the United States are a "serious industrial safety problem". She said CSB's preliminary research found nearly 200 dust fires and explosions have occurred in US industrial facilities over the past 25 years. "Dust explosions are preventable," she said at the hearing, convened by the CSB in response to a recent spate of deadly explosions, including three incidents in 2003 in which 14 people were killed and 81 injured. "Dust explosions often cause serious loss of life and terrible economic consequences," she said. "While some programmes to mitigate dust hazards exist at the state and local levels, there is no comprehensive federal programme that addresses this problem."

[CSB news release.](#)

## RESOURCES

**Canadian cancer risks report**

A new report from the Canadian Cancer Society deals with occupational and environmental cancer risks and has useful sections on asbestos, pesticides, air pollution, metals, endocrine disrupters and other issues. 'Insight on cancer' is highly critical of Canada's promotion of asbestos worldwide. It says: "While asbestos use is strictly controlled in most workplaces, exposures still occur in both workplaces and the community. Asbestos exposures in asbestos mining communities have led to significantly increased incidence of asbestos related cancers. We are in the midst of an epidemic of work related mesothelioma cases, which, due to long latency periods, is yet to peak." The report adds: "Canada's promotion and sale of asbestos worldwide compromises our ability to be taken seriously regarding cancer prevention, and exports environmental exposure and cancers to those countries with the least resources to control them. Transition programmes for asbestos mining communities are needed and the sale and use of this potent carcinogen should be banned."

Insight on Cancer [[large pdf file](#)].

## EVENTS AND COURSES

### **TUC courses for safety reps**

#### **COURSES FOR APRIL TO JULY 2005**

[Midlands](#), [North](#), [North West](#), [Scotland](#), [South East](#), [South West](#), [Wales](#), [Yorkshire and Humberside](#)

#### **COURSES FOR SEPTEMBER TO DECEMBER 2005**

[Midlands](#), [Scotland](#), [South East](#)

## USEFUL LINKS

**Visit** the TUC [http://www.tuc.org.uk/h\\_and\\_s/](http://www.tuc.org.uk/h_and_s/) website pages on health and safety. See what's on offer from [TUC Publications](#) and [What's On in health and safety](#).

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