

# Risks

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**Risks** is the TUC's weekly online bulletin for safety reps and others, read each week by over 11,000 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](#) [Disclaimer and Privacy statement](#).

## UNION NEWS

**TUC demolishes 'compensation culture' myths**

The UK is not in the grips of a US-style compensation culture, nine out of every 10 workers injured or made ill by their jobs never receive a penny, and the best way for employers to ensure they stay out of court and keep costs down is to make their workplaces safer, according to a new TUC report. 'The compensation myth' reveals that the number of civil compensation cases involving claims against employers has fallen every year for the last five years. TUC general secretary Brendan Barber commented: "All the time we hear that the UK is in the grip of a runaway compensation culture and that we are moving ever closer to a US-style 'sue-first-ask-questions later' system. The harsh reality for thousands of ill and injured workers is very different with most getting little if anything when things go wrong at work as a result of their employers' negligence." The report dispenses with the idea that employers' liability insurance is just another burden on UK businesses by pointing out that the average cost is just 0.25 per cent of firms' total payroll costs and is the lowest in Europe. "If insurance premiums more closely reflected an employer's health and safety record, with those happy to put their employees at risk paying more and those with safer workplaces paying less, we might start to see an improvement in the UK's poor accident and illness statistics," said Brendan Barber. "Cutting our compensation bill is easy, but first UK bosses have to get serious about improving health and safety."

[TUC news release](#). TUC guides: [Claiming benefits after an accident or disease under the Industrial Injuries Scheme](#) and [WorkSmart guide to common law compensation claims](#). [Sky News](#).

[Hazards compensation webpages](#).

### **Road accident victim gets £390,000 payout**

A UNISON member who was seriously injured on his journey home from work has received a £390,000 payout. Nursing assistant Douglas Phillips, 61, from Brecon, Powys has obtained damages of £390,000 for multiple injuries sustained in a car smash when travelling home after a night shift at Llandrindod Wells Hospital in December 1999. He suffered crushed lungs, internal and head injuries and a serious foot injury requiring surgery and intensive care. He also suffered psychological injury from the trauma of the accident and injuries. He has been unable to return to work because of his injury and continues to suffer disability. The case was brought by his union UNISON. After legal proceedings were issued, an out-of-court settlement covered

injury, future medical care, domestic care, loss of wages and pension, was agreed. Paul O'Shea, regional secretary of UNISON, said: "I am glad that UNISON has been able to help our member obtain compensation for his suffering and that he will now be able to start enjoying life again. It was an accident that should never have happened. Nevertheless I am glad that his union was there for him when he needed us."

[Thompsons news release.](#)

### **GMB condemns 'callous' DHL sickness role**

The union GMB has called on management at parcels firm DHL to apologise publicly to the family of one of its employees who it says was "callously sacked for suspected malingering or unauthorised absence" when he was suffering from a disorder that caused him to become confused and which led to his death. Bernard Doherty, who was aged 60, was employed by DHL at the Nine Elms depot in London. He was off sick and advised the company by phone of his illness. He was on his way to post a doctor's certificate to the company when he went missing. He turned up subsequently at his brother's house but did not know where he had been or how he had got to the house. He was admitted to hospital and died on 18 July 2005. GMB says it appears DHL assumed Mr Doherty was either malingering or taking unauthorised absence when in fact he was terminally ill. DHL dismissed him when they did not receive the sick note - which the company says was never received - or replies to correspondence they had sent to his home while he was missing. Mick Rix, GMB national officer for DHL, said the company should have made enquiries about Mr Doherty's health. He added: "I call on DHL management to apologise to the family and to give the GMB an assurance the nothing like this will happen again. It is to DHL's shame that they sacked one of their employees when in fact it turns out he was terminally ill."

[GMB news release.](#)

### **Fire inspections have dropped, union says**

A Fire Brigades Union (FBU) report claims the number of fire prevention inspections has plummeted by 71 per cent in three of Scotland's brigades since 2001. Inspections are carried out on everything from businesses to care homes and football stadiums. They

examine the most likely causes of fires and how they can be prevented. FBU Scotland said the report's "shocking" findings, based on figures from the Institute of Public Finance, showed public safety was being put at risk. The report identifies large drops in the number of inspections in Grampian, Lothian and Borders and Strathclyde. The FBU said that the number of inspections in Strathclyde had fallen from 17,937 in 2001 to 6,068 last year. It said the figure for Lothian and Borders fell from 11,340 in 2002 to 3,315 in 2004, while there was an 82 per cent drop in Grampian, from 7,673 in 2001 to 1,315 in 2004. The union said there was a question mark over whether fire authorities were fulfilling their statutory duties. FBU's Scottish secretary, Kenny Ross, said: "The drop in the number of all types of fire prevention inspections is shocking and deeply worrying." He added: "Firefighters, who see the day-to-day realities of fires, demand an explanation from the Scottish Executive."

[Glasgow Evening Times](#). [Edinburgh Evening News](#). [BBC News Online](#).

### **Amicus wins offshore working time ruling**

Amicus has won a test case ruling, establishing the Working Time Regulations cover UK oil employees working offshore. An employment tribunal brought by the union this week ruled in favour of offshore workers, saying that the Working Time Directive's provisions apply beyond the territorial waters (12 miles) and include offshore workers. Employers had argued that the Directive, which was introduced across the European Union as a health and safety measure, only applied to the UK and waters within a 12 mile radius of the coastline. Speaking after the ruling, Graham Tran, the union's offshore officer, said: "This is a wonderful victory and all the sweeter that it has come on the day that BP has announced £6 billion profit for just the first six months of this year. We hope that the rich oil companies will now recognise their responsibility to give their employees four weeks paid annual leave a year and will not appeal the employment tribunal decision given today." The judgment stated that the offshore employment pattern of one week on and one week off cannot be considered as part of paid annual leave entitlement, and that offshore workers should be entitled to a full four weeks annual leave.

[Amicus news release](#) and the full judgment [[pdf](#)]. [The Scotsman](#).

## **Managers ordered to take disability rights training**

Three senior managers at Virgin Cross Country Trains have been ordered by an employment tribunal to attend training in disability rights law. The company had already been found to be in breach of the Disability Discrimination Act (DDA) for failing to make reasonable adjustments to enable train driver Martyn Hazelhurst to return to light duties after an operation on his knee, which was injured in a train crash ([Risks 212](#)). The tribunal awarded the ASLEF member £41,000. The Exeter tribunal instructed that employee relations director Hugh Dunglinson, head of occupational health Diane Hempsall, and driver team manager at Virgin's Plymouth depot Adrian Bartlett must be trained in the provisions of the DDA and in particular the duty to make reasonable adjustments. Keith Norman, general secretary of ASLEF, which supported Mr Hazelhurst throughout his case, said: "It is a measure of the lack of respect employers have for the law that they need to have their attention drawn to it by a court. If working people ignore the law, they find themselves in difficulties. If managers ignore it, they find themselves in the boardroom. I am pleased at the outcome of the case - but the underlying problem remains. Big business has no respect for the law of the land."

[Thompsons news release.](#)

## **Pregnant woman fired after work injury**

A firm of solicitors is facing an employment tribunal over the sacking of a pregnant worker, fired after returning to her job after being injured at work. Legal secretary Derrinda Bilgin, who gave birth to her daughter Melissa on 16 January, was fired from Epping law firm Foskett, Marr, Gadsby & Head Solicitors in September last year. Following the workplace accident on 29 July 2004, Derrinda took sick leave. She subsequently found out she was pregnant and was advised by GMB to tell the firm that she was pregnant as they had a duty to ensure she was working in a safe environment and they needed to know in order to protect her and her unborn child. She informed the firm of her pregnancy on 10 August and was fired on 16 September, having been told a post she was to move to had been filled. GMB organiser Stephanie Attwood said the case was "cut and dried". She added: "It is deplorable that firms such as this are still operating mediaeval practices in the 21st century. Anyone thinking of going to them for legal advice should think long and hard before doing so about

their attitude to pregnant women." Derrinda Bilgin is now employed in another law firm.

[GMB news release.](#)

### **ASLEF says delayed is better than dead**

Train drivers' union ASLEF says that after this month's terrorist attacks in London the safety of drivers, railway workers and passengers is its overwhelming priority. The union's general secretary Keith Norman said: "It is better to be a delayed passenger than a dead passenger." The union says this would be the "touchstone for any collective or individual decision for ASLEF members." The union leader said: "Some elements of management and the media had the gall to criticise London Underground drivers for being reluctant to take out trains when the extent of the attacks remained unknown. On the contrary, I applaud them for it." He added: "ASLEF members are the underground's undisputed safety professionals. If any ASLEF driver says it is not safe for a train to run, we will back that member in his decision up to the hilt." ASLEF district organiser Steven Grant, who has been negotiating with London Underground, said he would "not concede an inch on safety."

[ASLEF news release.](#)

### **RMT warns of action over Tube security fears**

London Underground (LU) union RMT has warned it may ballot for industrial action if its demands on Tube security are not met. The union, which has 11,000 members on the Tube, is calling for more rail guards on trains and better emergency training and equipment, including breathing apparatus for rail staff. RMT's general secretary Bob Crow said: "We were concerned to hear suggestions that funding for improved security would have to depend solely on passenger revenue, especially as we were told that revenue was 'heading south' after the recent bombing attacks. I am sure that the travelling public would join with our members in insisting measures to improve security on the capital's transport network should not have to rely on passenger revenue." He said the union "raised many serious safety concerns and proposals" with the company on 27 July, and is awaiting LU's response. Earlier, he had called for an assurance "that no further

attempt will be made to scrap or weaken fire safety regulations brought in after the Kings Cross fire." LU said more police patrols are the best way to increase security.

[RMT news release](#) and [earlier release](#). [BBC News Online](#). [London Evening Standard](#).

## OTHER NEWS

### **Mixed picture on workplace deaths**

Latest Health and Safety Executive (HSE) fatality figures reveal a mixed picture and have prompted a new call for employers to improve control of workplace risks. The overall fatality level for 2004/05 is down by 15 to a record low 220, from 235 in 2003/04. However, the difference can be explained largely by a drop in service sector deaths, down by 18 from 81 to 63. The number of deaths in the construction and manufacturing sectors were both up, to 72 (from 71) and 41 (from 30) respectively. The number of deaths in agriculture fell only slightly, from 44 to 42, despite the 2003/04 figures including the 21 cockler deaths in Morecambe Bay ([Risks 163](#)). The death rate for construction fell slightly, down by 3 per cent to 3.5 deaths per 100,000 workers. The death rate for manufacturing rose dramatically, however, from 0.9 to 1.2 per 100,000. The latest manufacturing figures included the nine workers who died in the Stockline explosion ([Risks 157](#)). Overall the workplace death rate was down from 0.81 deaths per 100,000 workers in 2003/04, to 0.75 per 100,000 in 2004/05. Health and Safety Commission chair, Bill Callaghan, said: "Conkers bonkers stories, about conkers being banned in school playgrounds, make me angry and this trivialises what HSE is about. 220 people killed by workplace activities are the reality of failure to manage risk." TUC head of safety Hugh Robertson commented: "The TUC welcomes the fall in fatalities. However any death is a tragedy and almost all of these would have been preventable if proper safety precautions are in place." He added: "Although the overall figures have fallen, there have been increases in manufacturing and construction which must be of particular concern. However even if the rate is falling, the figures for some industries such as construction and agriculture are still very high and we hope that there will be strong enforcement action in these sectors to bring the rate down further."

[HSE news release](#) and [statistics summary](#). Statistics of Fatal Injuries 2004/05 [[pdf](#)].

### **Deaths highlight deadly farming dangers**

The Health and Safety Executive (HSE) is warning all farmers to take care when using their combine harvesters this summer in a bid to avoid a repeat of two fatal accidents last year. On successive days last August, two farmers at opposite ends of the country lost their lives when the combine harvesters they were working on unexpectedly moved. Both combines, in Oxfordshire and the North East, were temporarily parked on sloping ground using the hand-operated parking brake with the drivers not in the cab. HSE Inspector Roger Upfold, said: "The unexpected and unintended movement of any vehicle can create a serious risk of fatal injury which needs to be properly managed by effective inspection, maintenance and the adoption of safe procedures." Fatality figures released this week show agriculture has by far the highest fatality rate of any sector. Recent cases have highlighted the risks. An inquest last week heard Gerallt Owain Edwards, 21, died in October last year after being trapped beneath his tractor cab when it overturned. Azad Hussani, 26, died last week after being hit by a tractor while picking peas at a farm in Hampton Lucy, near Stratford-upon-Avon. John Watson Heavyside, 78, died last week after getting trapped when the tractor he was driving overturned at Bushey Flatt Farm, near Stanhope, County Durham.

[HSE news release](#). [Daily Post](#). BBC News Online on the [Azad Hussani](#) and [John Heavyside](#) deaths.

### **HSE warns companies to check risk assessments**

The Health and Safety Executive (HSE) has warned that companies must complete regular reviews of their risk assessments to take account of changes in the use of machinery. The warning came after Fenner Dunlop Ltd of Hessle in East Yorkshire was fined the maximum permitted fine of £20,000 at Leyland Magistrates Court and ordered to pay £4,772 costs after pleading guilty to safety offences. The case followed an incident when Paul McCarthy suffered serious injuries to his right leg after being trapped when a machine restarted as he was clearing a blockage. HSE inspector Dorothy Shaw said: "The machine restarted whilst Mr McCarthy was clearing a blockage because the company did not have a safe system of work for clearing blockages. Had it completed a review of its risk assessment and implemented the

control measures identified, the accident could have been prevented.” She said the company had not revisited its risk assessment on the machine since 2003, since when changes had been made in the way the machine was used.

[HSE news release](#).

### **Staff suffering stress in silence**

One in four workers know a colleague whose mental wellbeing has suffered as a result of workplace stress, according to a new survey. Half of workers believe that stress in the workplace is a “serious problem”. Over 40 per cent believe their careers would suffer if they admitted to being affected by stress, according to the survey published by mental health charity Together. “These findings demonstrate that not only is stress in the workplace a serious problem, but there is still a powerful stigma attached to admitting to being stressed at work,” said Together’s chief executive, Gil Hitchon. “Far too many workers are suffering in silence and feel they have nowhere to go for support.” The survey also revealed that more than 50 per cent of workers believe their employers are unaware of the extent of workplace stress. Hitchon said employees felt they were not getting the support they needed to cope with stress, with the result that stress-related problems too frequently developed into more serious mental health conditions. “Maintaining a genuine work-life balance is increasingly difficult,” he added.

[Together news release](#). [UNISON news release](#). [Personnel Today](#).

### **Bags of problems for supermarket delivery staff**

You don’t have to work down a mine or up a scaffold to do back-breaking work, a Health and Safety Executive (HSE) study has found. HSE comparing the daily routines of six professions - a nurse, mother, builder, farmer, teacher, office worker, baggage handler and supermarket home delivery person - to highlight the average weight lifted by workers. It found that supermarket home delivery people top of the league of heavy lifters, picking up an average load of 4,000kg a day. The study, part of the HSE's ‘better backs’ campaign, compared the weights lifted on a normal working day and found that the average weight lifted was 2,303kg. Over a year, baggage handlers could be lifting up to 960,000kg - the equivalent to 369 black cabs, while teachers, who officially lifted the smallest weights still carry up to 48,000kg a year - the equivalent to twenty black cabs. HSE says there

are simple preventive measures employees can take to reduce the danger of back pain: Don't be afraid to raise health and safety matters with your employer; make proper use of equipment provided for your safety at work; watch out for any hazards and report them as soon as possible; watch out for the health of co-workers; and take care to ensure that you don't put others at risk.

[HSE news release](#). [HSE Backs! campaign](#).

### **New disability rights from December**

New disability rights will come into force from December this year and will protect millions of people in Britain from discrimination, the government has said. Minister for disabled people, Anne McGuire, said: "Disabled people can at last rely on strong enforceable rights and confidently challenge acts of unfair discrimination - which until now they've had to tolerate. The government has fulfilled its promise to improve rights for disabled people. Now we will make sure these rights become a reality." The new provisions will also extend the Disability Discrimination Act's (DDA) protection to people with HIV, multiple sclerosis and all types of cancers, effectively from the point of diagnosis. The government initially stalled on including "easily treatable" cancers ([Risks 202](#)), but has now decided they should fall within the scope of DDA. Anne McGuire continued: "We have consulted and listened, and have concluded that covering all cancers makes business sense and will provide clear protection for individuals." Alan Dicks won an unfair dismissal case in April after being sacked for his sickness record, despite suffering from diabetes and prostate cancer ([Risks 203](#)). And cancer sufferer Jocelyn Herath was awarded £17,000 compensation in June after being fired for her sick leave record, while receiving cancer treatment ([Risks 210](#)).

[DWP news release](#).

### **Safety reps can help sick workers**

The TUC has welcomed a new Health and Safety Executive guide on long-term sickness absence and return to work issues ([Risks 216](#)). Commenting on the new guide, which is aimed specifically at safety and other union reps, TUC head of safety Hugh Robertson said: "Safety representatives will very much welcome this practical advice

from the HSE.” He added: “This clear, concise and sensible guide will be a very important weapon in the armoury of safety representatives. It will help union safety representatives show employers that taking a positive approach to managing sickness absence and supporting workers in getting back to work is in everyone's interest.” The Health and Safety Commission says its new strategy recognises the need to strengthen the role of health and safety in getting people back to work. Each week one million workers take time off work because of sickness. Most return to work within days, however around 17 000 people are off work for longer. Almost one in five people who are off longer than 6 weeks leave work permanently.

[HSE news release](#). Working together to prevent sickness absence becoming job loss: Practical advice for safety and other trade union representatives [[pdf](#)].

Hazards [sickness](#), [rehabilitation](#) and [workers' health information](#) webpages.

## INTERNATIONAL NEWS

### **China: Mine explosion kills 26**

A gas explosion last week at a Chinese coal mine killed 26 workers in the northern province of Shaanxi, the state-run news agency Xinhua has reported. Three miners were rescued. The authorities are investigating the cause of the blast. Xinhua says the mine owner has been detained. The latest blast occurred at the privately-owned Jinsuo coal mine in the city of Tongchua. “The ventilation system underground was damaged by the gas blast and three tunnels caved in,” rescue worker Du Shifu was quoted as saying. Reports say increasing demand for energy has put pressure on mines in China to provide coal faster. Last year, more than 6,000 miners in China lost their lives in explosions and other accidents. China’s mines produce 35 per cent of the world’s coal but account for an estimated 80 per cent of the industry’s global fatalities.

[Houston Chronicle](#). [BBC News Online](#). [Independent Online \(SA\)](#).

### **India: At least 10 die in oil field fire**

At least 10 workers have been killed and others are missing after fire destroyed an oil platform off India's west coast. India's oil minister Mani Shankar Aiyar said hundreds of people had been on the platform, situated in the country's most important oil field. It is believed six workers may be trapped on the platform. Some reports say an oil rig, a mobile unit that drills into the sea bed, collided with the static platform. In the ensuing blaze, the reports say many of those on board the platform - possibly up to 400 people - jumped into the Arabian Sea. More than 350 workers have so far been rescued, and efforts are continuing to trace the missing workers in an operation that has been hampered by bad weather. The platform is run by the state-owned Oil and Natural Gas Corporation (ONGC) and produces 100,000 barrels of oil a day. The chair of ONGC, Subir Raha, said: "Tens of thousands of barrels of production loss per day is expected."

[The Age](#). [Indo-Asian News Service](#). [BBC News Online](#).

### **USA: Worker gets \$3 million for "popcorn lung"**

A former popcorn plant worker in the US has been awarded nearly \$3 million (£1.7m) after claiming he suffered severe lung damage from a harmful chemical used to make butter flavouring. Kenneth Moenning is one of 30 current and former workers at the Jasper Popcorn Co. who have sued the factory owners and the suppliers of the chemical ([Risks 148](#)). Moenning worked in the flavouring room at the Jasper plant from 1993 through 1995. Doctors testified he has a rare, progressive lung disease that could eventually require him to get a lung transplant. The case follows a \$15m (£8m) award to another worker earlier this year ([Risks 200](#)). The affected workers say the manufacturers should have known a chemical used to make the popcorn's butter flavouring causes lung damage. Some of the workers are suffering from bronchiolitis obliterans, a rare lung disease which can require a lung transplant. Lawyers for the plaintiffs have said workers were never warned about known hazards of diacetyl, the ingredient linked to the health effects. The condition is the latest "new" work-related lung complaint to come to light, following cases of "flock workers' lung" and "Ardystil syndrome" ([Risks 51](#)).

[The Boston Channel](#).

### **USA: BP cost cutting linked to deadly explosion**

BP's massive programme of cutbacks on staffing and maintenance could have been at the root of the fatal Texas City refinery blast ([Risks 200](#)), according to a report in the Wall St Journal. The 27 July front page article contradicts claims made by UK multinational BP in May that the disaster was the result of "surprising and deeply disturbing" mistakes by plant operatives ([Risks 208](#)), and follows an official June report which found mechanical failures and improperly designed systems were to blame ([Risks 214](#)). According to the Wall St Journal, official investigations are "raising some unsettling questions". After BP finalised the takeover of the Texas City plant in 2000, directly employed staff fell by 213, or about 18 per cent. BP has denied any connection between cost-cutting and plant fatalities. "I think the culture of safety, in terms of policies and procedures, was there," Ross Pillari, president of BP Products North America, told the Journal. "But the implementation of these policies and procedures was clearly not there, because if it was, the accidents wouldn't have happened." BP has five refineries in the US. Two others that, like Texas City, were acquired during a buying spree started in the late-1990s have also had worker deaths recently. BP has the highest number of deaths in the US refinery sector, even discounting the 15 deaths in the March explosion. Five other workers have been killed at BP refineries since January 2002. BP is America's third largest refiner. No.1 ConocoPhillips and No.2 Exxon Mobil Corp. each had one death during that period.

[Confined Space.](#)

[BP Texas City disaster webpage.](#) [Hazards BP webpage.](#)

## EVENTS AND COURSES

**TUC courses for safety reps**

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