

Risks

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**HAZARDS
MAGAZINE**



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CONTENTS

- [Union news: Manslaughter probe follows 19 migrant deaths](#) * [Cockle deaths force government about face](#) * [TUC supports bill on penalties](#) * [Landmark ruling on workplace bullying](#) * [Overworked lecturer wins payout](#) * [HSE staff driven to industrial action](#)
- [Other news: Asbestos widow faces cancer death](#) * [Spate of work manslaughter cases](#) * [The missing cases of beryllium disease](#) * [HSC puts the business case](#) * [European Parliament challenges UK on long hours](#) * [Working parents want family friendly hours](#)
- [International news: Iraq: IFJ mourns loss of nine journalists in bombing](#) * [South Africa: Outrage after farmer "fed worker to lions"](#) * [USA: Chemical safety board slams safety watchdog](#) * [Fired if you pee, fired if you don't](#) * [Birth defect suit against IBM](#)
- [Resources: TUC report on working time abuse](#) * [Remind that overworked someone to get a life](#) * [Special deal for Working Families](#)
- [Events and courses: Corporate killing conference, London, 29 April 2004](#) * [TUC courses for safety reps](#)

Risks is the TUC's weekly online bulletin for safety reps and others, read each week by over 8,500 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](#) [Disclaimer and Privacy statement](#).

UNION NEWS

Manslaughter probe follows 19 migrant deaths

Police investigating the deaths of 19 people who drown picking cockles on Morecambe Bay have arrested a number of people on suspicion of manslaughter. The cocklers, thought to be Chinese migrants, were working at night on 5 February when they were caught in rising tides. The deaths have sparked calls for more protection of migrant workers. TUC general secretary Brendan Barber said: "This is not just a terrible tragedy but a crime. Whatever the legal status of these workers, they should not have been working in such dangerous, unsupervised conditions." He added: "The full force of the law must be brought against those responsible for their deaths. This incident provides a rare glimpse into the dangerous and exploitative conditions faced by many migrant workers on a daily basis." TGWU general secretary Tony Woodley said: "'Drowning' will be the word on their death certificate, but it is cowboy capitalism that has caused this dreadful human tragedy." The deaths follow earlier incidents where authorities had had to assist Chinese cockle pickers in difficulty in the bay. This is bound to lead to questions as to why HSE had not intervened to stop what was evidently a highly dangerous practice.

- [The Guardian](#). [The Observer](#). [BBC News Online on the cocklers' story, the arrests and gang fears](#). [The Independent on the arrests, gangmasters and slave wages](#). [TUC comment](#). [Centre for Corporate Accountability](#). [HSE statement](#). [Confined Space](#).

Cockle deaths force government about face



Tough new laws to drive unscrupulous "gangmasters" out of business were promised by the government this week in the wake of the Morecambe Bay cockling tragedy. The move represents a total about face by the government, which has consistently resisted union pressure, spearheaded by rural workers' union TGWU, for a licensing and regulation system. Home secretary David Blunkett said he hoped a registration scheme for those who control the lucrative trade in casual seasonal labour could

be put in place "very quickly." He indicated the government was now willing to back Jim Sheridan's gangmasters bill, drafted with assistance from TGWU ([Risks 139](#)). Mr Blunkett said: "We will want to back Jim Sheridan's Bill in relation to gangmasters and I hope we can move forward on that very quickly." The Bill has its second reading on 27 February.

- [TGWU gangmasters registration campaign](#). [TGWU news release](#). [Hazards magazine](#). [BBC News Online](#). [The Independent](#). [The Guardian](#).
- **Check to see if your MP is signed up to Jim Sheridan MP's [Gangmasters Early Day Motion, EDM 423](#) – if not, ask why not. [Find your MP](#) - you only need to know your postcode.**

TUC supports bill on penalties

The TUC is backing a Bill by Andy Love MP which would see companies that commit health and safety crimes paying much higher fines for injuring or killing their employees. The ten minute rule bill from the Labour MP for Edmonton received its first reading on 10 February and if successful would see magistrates courts fine employers guilty of health and safety offences up to £20,000, compared to a £5,000 maximum now. Mr Love said the current limit amounts to a "smack on the wrist." The ex-labourer added: "In the post industrial age most of us expect working life to be relatively comfortable and at the very least safe. We certainly don't expect to be maimed, laid off for life or at worst work ourselves into an early grave." His Health and Safety at Work (Offences) Bill would also increase penalties for employers found to be without the legally required employers' liability insurance. TUC general secretary Brendan Barber said: "Higher fines would help focus employer minds on the need for greater safety at work. Bosses who employ workers in dangerous situations should have to pay the price for their carelessness."

- [TUC news release](#). [Personnel Today](#).

Landmark ruling on workplace bullying

A Court of Appeal ruling could mean much bigger payouts for victims of workplace bullying. In a case backed by public sector union UNISON, the Court of Appeal overturned an interpretation of the law which limited compensation to financial loss and ignored any mental

effects. Two out of three of the appeal judges agreed the 30-year-old Industrial Relations Act could be interpreted to mean compensation could be awarded for any type of loss. The case related to the unfair dismissal of harassed Hull City Council worker Christopher Dunnachie, who had originally won a £10,000 employment tribunal award after his 2001 resignation. The ruling means that employers found to have allowed bullying to take place could be liable for compensation claims for more than sheer economic loss of income - such as stress, or loss of reputation. In most tribunal cases the compensation for financial loss is well under £10,000. The new ruling means that if a claimant has suffered additional stress or humiliation, they will be entitled to compensation for that personal damage. "This is a momentous victory which will have widespread implications for other cases of unfair dismissal. It is also a significant legal move which will make the law on unfair dismissal much fairer," said UNISON general secretary Dave Prentis. "It is a real step forward and it should make employers think very carefully about tackling workplace bullying or paying the price."

- [UNISON news release](#). [BBC News Online](#).

Overworked lecturer wins payout

A lecturer who said she often worked 70-hour weeks will receive more than £40,000 in an out-of-court stress settlement. The NATFHE member left her post at Henley College, Coventry, in 1998 after suffering a nervous breakdown. The union said the woman was asked to take on extra duties on top of her teaching responsibilities. The college sent her on a stress management course when she complained, but failed to cut her workload. The college agreed to pay its former worker £43,000 and to pay £37,000 to the Department for Work and Pensions to cover the benefits the woman has received over the past five years. Barry Lovejoy, head of NATFHE's colleges department, said: "This result is particularly welcome. It can be notoriously difficult to take successful legal action in these cases. Unfortunately, overwork has become endemic in FE colleges. Lecturers are often pressurised into taking on unacceptable workloads out of commitment to their students." He added: "There is now a national agreement with FE employers intended to tackle stress in the workplace. NATFHE expects every college to comply."

- [NATFHE news release](#). [BBC News Online](#). **Related information:** [TUC It's about time! webpages](#) and [Hazards worked to death webpage](#).

HSE staff driven to industrial action

The Health and Safety Executive (HSE) is facing industrial action over pay. Prospect, the union representing inspectors in the safety enforcement agency, complains HSE can find the money for “idiotic



projects” but not for its own staff. It says HSE risks haemorrhaging key safety staff as a result. The union will be balloting members on a range of industrial action measures, including selective stoppages, working to rule, non-compliance with much of HSE's internal bureaucracy, and mass “going to work days”

in offices where there is insufficient space for the staff based there. Prospect negotiator Richard Hardy said: “We hope this will illustrate that there is money available in HSE for idiotic projects and bureaucracy but not for a living wage increase.” He added: “This is not just about levels of pay but about HSE's ability to maintain an experienced and committed workforce in order to deliver safe workplaces for all. HSE has already identified that its staff are leaving because they cannot reach the top of their pay scales.” Last year Prospect warned HSE was losing staff as a result of a funding freeze ([Risks 124](#)).

- [Prospect news release](#).

OTHER NEWS

Asbestos widow faces cancer death

The dangers of asbestos exposure have been highlighted by a tragic case where the disease has blighted an entire family. A woman whose husband and daughter died from cancer caused by exposure to asbestos has been told she faces the same fate. Barbara Fitt's husband John and daughter Evelyn were both killed by mesothelioma, an asbestos related lung cancer. Now Mrs Fitt, 71, of Camberley, Surrey, has contracted the same condition after allegedly breathing in fibres brought home on her husband's work overalls. The mother-of-two is to sue the factory where Mr Fitt worked. Mr Fitt used to cut fireproof asbestos boards by hand while a foreman at Cape building products in Uxbridge in the 1960s. Her surviving daughter Yvonne Power, 49, worked as a quality controller at the same firm and has been told she too may contract the condition. The Fitt family was given compensation for the deaths of Mr Fitt in 1993 and of Evelyn, aged 45,

in 1996. The family's solicitor Adrian Budgen, who worked on both cases, said: "They are a very loving, close-knit family who have been devastated by this disease."

- [The Scotsman](#). [BBC News Online](#). **Related information:** [International Ban Asbestos Secretariat](#).

Spate of work manslaughter cases

In the week police made arrests on suspicion of manslaughter relating to the drowning deaths of 19 Chinese migrant cockle pickers, three other cases have resulted in bosses facing manslaughter charges. Virendra Kotak was boss of the Leicester building site where two-year-old Declan Elliott was crushed by concrete slabs while playing. A 41-year-old man, who has not been named, has also been charged with manslaughter. Gillian Beckingham, design services manager with Barrow Borough Council, has been charged with manslaughter over an outbreak of Legionnaires' Disease which claimed seven lives and which was traced to the air conditioning unit at a council-run arts complex in 2002. And Richard Gidney is facing trial on manslaughter charges relating to the deaths of seven crew of the Solway Harvester trawler. The Jack Robinson Trawlers boss owned the vessel which sank 11 miles off the Isle of Man in 2000. The company is also charged with manslaughter.

- **Construction site death:** [Leicester Mercury](#).
- **Legionnaires' deaths:** [BBC News Online](#), [Ananova](#), [News & Star](#).
- **Trawler deaths:** [BBC News Online](#).
- **Related information:** [TUC/Hazards deadly business campaign](#).

The missing cases of beryllium disease

Increasing industrial use of beryllium "is resulting in an unrecognised epidemic of chronic beryllium disease," according to a new report. Researchers writing in *The Lancet* say a study last year found 6 per cent of patients labelled as having sarcoidosis actually had chronic beryllium disease. They say occupational exposure to beryllium occurs in aerospace, nuclear, military, automotive, electronics, and telecommunications industries, in operations in metal machine shops, and in alloy applications, such as tubing for oil and gas drilling, tools and dies, jewellery, bicycle frames, and dental appliances. Exposure

can result in acute lung inflammation and can also lead to sensitisation and other problems, including cancer. The researchers say cases of chronic beryllium disease have been reported recently in the USA, Britain, Canada, France, Germany, Sweden, Israel, Japan, and Russia. The authors warn: "Managers, many of whom still adhere to the antiquated and erroneous concept that the manufacturing and machining of beryllium-copper and other beryllium alloys is not toxic, must also be educated and encouraged to substitute safer materials." Beryllium disease is a government- recognised prescribed industrial disease in the UK.

- **Peter Infante and Lee Newman. Beryllium exposure and chronic beryllium disease *The Lancet*, volume 363, Number 9407, pages 415-416, 7 February 2004 [[full text](#)].**

HSC puts the business case

Good safety practice is "vital" for a successful business, according to the Health and Safety Commission (HSC). New case histories from HSC give concrete examples of safe practices making sound business sense. Cases include one company that estimated the cash benefits of a new rehabilitation scheme that reduced average absence after injury from 26 days to 4 days outweighed costs by 12:1. The studies were launched at an HSC conference for investors and others promoting corporate social responsibility (CSR). HSC chair Bill Callaghan said: "The studies highlight the vital contribution that good communications, sound training and development and meaningful worker involvement all make." He added: "While there is sound evidence of increasing corporate responsibility and accountability for health and safety across the public, private and voluntary sectors we have much more to do. We want health and safety on the board agenda of all organisations."

- **[HSE news release](#). HSE sponsored [Corporate Health and Safety Performance Index \(CHaSPI\)](#).**

European Parliament challenges UK on long hours



The TUC has welcomed a European Parliament decision to call on the European Commission to end the UK's individual opt-out from the 48-hour average limit on the working week. The move follows the

European Commission's decision to review the opt-out. Only the UK government extends the opt-out to everyone at work. TUC general secretary Brendan Barber welcomed the European Parliament action, which it said left the UK "looking isolated." He added: "The opt-out means that the Working Time Directive has had little, if any, impact on working hours in the UK. We still work the longest hours in Europe. One in three who have signed an 'opt-out' say they were given no choice, and nearly two out of three who work more than 48 hours a week have not even been asked to sign an opt-out. It's about time we started running workplaces more efficiently so that very long hours are no longer needed." MEPs voted overwhelmingly in favour of a move to phase out the opt-out.

- [European Parliament news release](#). [TUC news release](#).
- [TUC It's about time" campaign](#).

Working parents want family friendly hours

Threequarters of working parents put family friendly working hours ahead of other benefits. A survey by new campaigning charity Working Families found 44 per cent wanted flexible working hours, 30 per cent wanted a shorter working day, 14 per cent wanted gym membership, 4 per cent maternity and paternity leave, 4 per cent pension or life insurance and 2 per cent health insurance. Asked how they would spend an extra hour in their day, 62 per cent said they would spend more time with their family and 34 per cent wanted time on their own. Brendan Barber, TUC general secretary and the keynote speaker at the launch of the new charity, said: "Three out of ten people feel they spend too much time at work. Among those aged between 35 and 55, it was four in ten. Nearly nine in ten workers want to spend more time with friends and family." He added: "The issue of working time and access to childcare is not just about middle class professionals trying to juggle careers and family. It affects low-income workers and low-income families - and this is something Working Families recognises too. Because the less you earn, the more of an issue working time becomes."

- **Working Families [website](#) and news release [[word format](#)]. [TUC news release](#).**

INTERNATIONAL

Iraq: IFJ mourns loss of nine journalists in bombing

The International Federation of Journalists has called for safety training and improvements in working conditions as a top priority for Iraqi journalists after confirmation that nine journalists in Iraqi Kurdistan were among the victims of the 1 February terrorist bombings in Irbil. "This unspeakable violence claims many innocent lives and, inevitably, journalists and media workers are those in the front line," said Aidan White, IFJ general secretary. He had led an international mission to Irbil only days before bombers struck at the offices of the Kurdistan Democratic Party and the Patriotic Union of Kurdistan (PUK), killing 109 people. The deaths in Irbil bring to 33 the number of journalists and media staff killed in Iraq since the US and UK invasion of the country last March. "Safety must become a top priority for all assistance programmes," said White.

- [IFJ news release](#). **Related information:** [International News Safety Institute](#).

South Africa: Outrage after farmer "fed worker to lions"

South African farmer Mark Crossley and three of his employees have been charged with murder, accused of feeding an ex-worker to lions. The four were arrested after police found a human skull and pieces of a leg in a lion enclosure. Witnesses told police that Nelson Shisane, 38, was assaulted, tied up and driven to a lion breeding project, where he was thrown over the fence. This account is contested by the accused. Mr Shisane, who had been sacked last year, had apparently returned to the farm to collect his belongings. Labour minister Membathisi Mdladlana was "shocked and angry" at the reports, a departmental spokesperson said. "Why should employers feed troublesome farmworkers to the lions?" he said. Union federation COSATU said it was "shocked and appalled," adding "many farmers still treat their workers as badly as under apartheid." It called for "a massive campaign, involving the government, trade unions and civil society" to ensure decent and safety working conditions for farmworkers.

- [COSATU news release](#). [BBC News Online](#). [The Independent](#).

USA: Chemical safety board slams safety watchdog

The US Chemical Safety and Hazard Investigation Board (CSB) has criticised the behaviour of OSHA, the work safety enforcement agency, as “unacceptable.” It says OSHA has failed to take action on reactive chemical hazards despite hundreds of incidents, some catastrophic, that have killed more than 100 workers over the past decade. CSB recommended in September 2002 that OSHA revise its Process Safety Standard (PSM) to include reactive chemicals. The move came after strong pressure from US unions ([Risks 56](#)). In November 2003, OSHA responded that it had not yet decided whether to revise the PSM standard. In a letter to OSHA boss John Henshaw, CSB Chair Carolyn Merritt said the Board voted unanimously on 2 February 2004, to designate OSHA's response as “Open - Unacceptable Response.” John Sweeney, president of national union federation AFL-CIO, said the report was “a serious indictment of the Bush Administration's dismal worker safety and health record. It shows that even in the case of deadly hazards the Bush administration sides with giant corporations and refuses to act to protect workers.”

- [CSB news release](#). [Newsday](#). [Confined Space](#). [AFL-CIO news release](#).

USA: Fired if you pee, fired if you don't

Tom Smith suffers from a little-known phobia known as paruresis or shy bladder syndrome – and the intensely personal malady got him fired. US employers conduct about 45 million drug tests each year, the vast majority by collecting a urine sample. Smith says he was dismissed from his job at a Caterpillar Inc. last fall because his failure to provide a urine specimen was labelled a refusal to take the test. It's a more common problem than people think, warns Steven Soifer, president of the International Paruresis Association. “I get an email a week or a call a week” from people unable to urinate for a drug test, said Soifer, an associate professor of social work at the University of Maryland in Baltimore. “It's in every situation you can imagine - schools, prison probation, pre-employment testing and employment testing,” he said. Bathroom breaks at work are becoming an increasingly contentious issue, both sides of the water. At the same time UK employers are showing an increased appetite for urine tests ([Risks 134](#)), they are also clamping down on workers when they do want to go to the loo ([Risks 94](#)).

- [Yahoo News](#). **Related information: Hazards webpages on [toilet breaks](#) and [drug and alcohol](#)**

testing at work.

USA: Birth defect suit against IBM

Computer giant IBM is to face court charges alleging working conditions in one of its microchip plants caused birth defects in a worker's baby. Heather Curtis was a pregnant 22-year-old when she took the job in 1980 and was assigned to dip silicon wafers into acids and solvents. Despite complaints that fumes from the job gave her headaches and a sore throat, IBM assured Curtis her workplace was safe, according to her lawyer. Months later, Curtis gave birth to a daughter so severely deformed that she lacked knees and had a skull too small to accommodate her brain. Next month, lawyers for the daughter, Candace Curtis, will face off in a New York courtroom against IBM, alleging that chemicals in her mother's workplace caused her deformities. The \$100 million (£53.5m) suit is one of 250 chemical-related claims facing IBM, including about 50 birth defect cases. Lawyers representing IBM has said there is no evidence showing that exposure to chemicals caused the birth defects. In January 2001, IBM settled a \$40 million (£21.4m) lawsuit brought by the parents of a boy who was born blind and with deformities that prevent him from breathing through his nose or mouth. Terms of the settlement were not disclosed.

- [Reuters Health](#). Related information: [Silicon Valley Toxics Coalition](#).

RESOURCES

TUC report on working time abuse

The UK government's opt-out from Europe's 48 hour working week ceiling is damaging for workers, their families and their employers. A detailed TUC dossier says "the sad result of this omission is that the UK still has an entrenched long hours culture with an incidence of long hours working that is twice the EU average, UK full-time workers work the longest hours in the EU, and our workers suffer from a high incidence of all of the ailments that are associated with working excessive hours, such as heart problems, stress and depression." TUC adds: "Health and safety is a matter of supreme importance for the TUC. However, we would argue that failing to tackle excessive working hours is also having a detrimental effect in a number of other important areas; namely: Labour productivity; recruitment, retention

and motivation; the position of women in the labour market; family life and children's upbringing; and the development of a healthy work-life balance."

- [Working Time Directive Review 2003, The use and abuse of the "opt-out" in the UK](#). Related information: TUC [Changing Times](#) work-life balance website. [Hazards worked to death](#) and [get-a-life webpages](#).

Remind that overworked someone to get a life



Is someone close to you working too hard, too often? Tell them to take a break at the end of the month. Get out for lunch. Leave on time. See the kids in daylight. Friday February 27 is the TUC's first ever "Work your proper hours" day. Because we are all a bit pushed for time, TUC has made it that bit easier to spread the word – you can just click and send a TUC postcard. Overwork is bad for you and bad for productivity. Don't put up with it.

- TUC ["what are you doing after work?"](#), [Come out to play on 27 February](#) and [Work around the clock tonight](#) postcards.
- More on [Work your proper hours day](#).

Special deal for Working Families

Want to keep up-to-date on the latest news and resources from Working Families? The new charity, which will be at the head of the campaign for family friendly working hours and an end to the long hours culture in UK workplaces, is offering a special subscription deal to trade union readers of *Risks*. Union members and branches who would like to support the campaign and who sign up now will qualify for special rates - £20 for Individual Supporters (usually £25) and £40 for Associate Members (usually £45). As well as regular newsletters and discounts on events and publications, the Working Families team say "anyone joining via this special launch offer will receive free copies of our *New Rights for Working Parents* booklet for advisers + *Negotiating Change: a guide to flexible work patterns for trade unions*."

- **[Working Families](#). [Subscribe to Working Families online](#) or contact [Jonathan Swan](#) on 020 7253 7243. Remember to mention the special union deal.**

EVENTS AND COURSES

Corporate killing conference, London, 29 April 2004

New proposals on reforming the law of corporate manslaughter are due soon. A Centre for Corporate Accountability conference, to be held at the TUC's London HQ on 29 April, is set to examine these proposals in detail and consider how effective they will be "in promoting worker and public safety and holding companies, public sector organisation and directors/senior managers to account." Speakers include Frances O'Grady, the TUC's deputy general secretary, corporate crime campaigners, TGWU deputy general secretary Jack Dromey, GMB safety officer Kim Sunley, HSE officials, top lawyers and industry representatives. Home Secretary David Blunkett has also been invited.

Corporate killing conference, Thursday 29 April, Congress House, Great Russell Street, London. Standard fee is £30; £60 for lawyers, businesses and government bodies; £10 for are unwaged. Further details, [email](#) or call 0207 490 4494. [Online registration document](#).

TUC courses for safety reps

COURSES FOR January to March 2004

[South West](#), [Wales](#) [Scotland](#) [Southern and Eastern](#) [East and West Midlands](#) [Northern Yorkshire and Humberside](#)

USEFUL LINKS

Visit the TUC 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](#).

Subscribe to [Hazards](#) magazine, supported by the TUC as a key source of information for union safety reps.

What's new in the [HSC/E](#) and the [European Agency](#).

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