

# Risks

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**Risks** is the TUC's weekly online bulletin for safety reps and others, read each week by over 10,000 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](#)

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## ACTION

### **What should the safety watchdog do?**

The Health and Safety Commission has kicked off the latest stage in its development of an "interventions strategy" – establishing the main techniques it will use as a regulator. The move comes amid fevered debate over the UK's future health and safety strategy, particularly the balance between enforcement and voluntary approaches ([Risks 175](#)). HSC says the new consultation is important because "we believe that decisions affecting our future direction and priorities are best made when based on a combination of reliable research evidence and the considered opinion of people with an interest, great or small, in workplace health and safety." It adds that for the approach adopted "to have real validity we need your views on our proposals." TUC head of safety Hugh Robertson has welcomed the debate on enforcement: "We think it is important that the HSC strengthens its existing inspection and enforcement regime and that other initiatives, where they can be shown to be effective, are used to complement it," he says. He cautions, however that the TUC will "resist any move of resources from those methods we know work, inspection and prosecution, to 'softer' approaches, just because of pressure from employers. The sole criteria must be what will best prevent injury and ill-health."

- **Have your say! Regulation and recognition – towards good performance in health and safety, [consultation document and online feedback forms](#). The consultation will run until 24 December 2004.**

## UNION NEWS

### **Union hits out as another postie is attacked**

Postal workers' union CWU has condemned Royal Mail's "chronic inactivity" on union proposals to protect delivery workers from attack. The union statement came after an entire London estate had its mail delivery axed last week following vicious attacks on postal workers. The final straw came when 20 thugs on the Gascoigne estate in Barking battered one new postie so brutally he ended up in hospital and on sick leave. They took keys to pillar boxes, his wallet and his phone. CWU health and safety officer Dave Joyce said: "No worker -

and perhaps especially a public servant - should have to go to work afraid for his safety. This needs to be the first priority for managers, regardless of cost." He added that after an assault last April on a postal worker in Poplar, East London, he put a seven point plan to senior Royal Mail management. Joyce accuses the company of failing to respond. "How many more of our members need to be hospitalised before we get action?" he said. The plan included a "zero tolerance" policy, making it clear to postal workers and the public that anyone who attacks Royal Mail staff will be prosecuted and punished. The union also called on Royal Mail to undertake risk assessments with CWU safety reps to determine the risk of violence, identify high risk areas and estates and then put in place special control measures. Police have confirmed they are investigating the attack and will hold talks with Royal Mail bosses and union reps.

- [CWU news release. Daily Mirror.](#)

### **Hatfield train driver receives stress payout**

A train driver who suffered post traumatic stress as a result of the October 2000 Hatfield derailment has been awarded personal injury compensation. The ASLEF member received the payout for loss of earnings, expenses and pension losses arising from delayed qualification. ASLEF lawyers Thompsons represented the driver who developed an acute stress reaction following the incident. Four people died on 17 October 2000 when the Great North Eastern Railways express derailed on a broken rail half a mile south of Hatfield in Hertfordshire ([Risks 115](#)). In June this year, Railtrack paid out £1 million to the widow of Hatfield victim Stephen Arthur, after admitting liability for the crash ([Risks 162](#)). Last month, charges of manslaughter against the now defunct company and one of its senior managers over the disaster were dropped. Lesser charges against two other executives, including Gerald Corbett, the company's chief executive and now chair of Woolworths, were also quashed. The engineering contractor Balfour Beatty and several of its senior executives at the time of the derailment still face charges of manslaughter and health and safety offences ([Risks 172](#)).

- [ASLEF news release.](#)

### **Union protest over 1,100 "mini-Everest" speed ridges**

A group of bus drivers in Berkshire is threatening industrial action after

getting the hump over speed bumps. The TGWU members claim the worst route takes them over more than 1,100 "mini-Everests" every day causing back, knee and neck injuries. The union says nine of the original 10 drivers on this route have quit. Branch chair Danny Downs said: "It's like someone behind you kicking your chair more than 1,000 times a day. There's a hump every 150 to 200 metres and they are lethal. They are much higher than most sleeping policemen - they're mini-Everests." The drivers have given Reading district council a demand that it splits the route, or it could face industrial action. A TGWU spokesperson said the council promised the humps would be reduced in size back in March but had failed to do so. Chief of transport in Reading, John Howarth, told the *Daily Mirror*: "Yes, there were assurances given and not carried out by council staff. I'm not very happy with the situation." Similar complaints about the traffic calming peril have been raised by bus drivers in Sheffield and other cities.

- [Daily Mirror. Personnel Today.](#)

### **FBU calls for urgent talks as fire deaths leap**

The Fire Brigades Union is calling for an urgent meeting with ministers following a sharp rise in the number of fires, up 19 per cent on the previous year. There is also a sharp increase in the number of deaths in fires, up 54 on the previous year. Andy Gilchrist, FBU general secretary said: "The figures are alarming. The number of fires has broken through the 600,000 figure for the first time. The number of calls to fire and false alarms has broken through the 1.1 million figure for the first time." The union leader added: "The numbers killed in accidental fires is on the increase. For the third quarter in a row the number of deaths in non-accidental fires is also up." He said the increase in flooding and other factors linked to global warming was also causing workload to increase. "The fire service is under growing pressure to deal with these issues. It is important that we sit down with government and look at how we reverse these clear trends. The fire service is being stretched to breaking point. We owe it to the public to have a constructive discussion with government about how this is addressed." Two firefighters who died after saving two people in a rooftop rescue were honoured this week at a Westminster Cathedral memorial service. Bill Faust, 36, and Adam Meere, 27, died tackling the fire in east London on 20 July ([Risks 166](#)).

- [FBU news release. Office of the Deputy Prime](#)

[Minister news release.](#) [BBC News Online.](#)

### **Working time fudge could leave workers stuffed**

The European Commission's proposals on revision of working time rules continue to attract criticism. TUC warned last week that the EC plan "will satisfy no-one" ([Risks 175](#)). And the union Amicus has added its concerns, saying it is "dismayed at the confusing mess of proposals that the Commission has made in respect of modifications to the Working Time Directive." It says the proposal to increase the reference period for the calculation of maximum hours from 17 weeks to a year could leave some workers stuffed. "This effectively means that workers will be made to work exhausting hours at periods of peak demand which will be offset by down time when work is slack. Turkey pluckers could be falling asleep on their feet in the months before Christmas, and their employer would still be within the law, if this proposal is allowed to stand." Amicus adds that other proposals could give employers a "carte blanche to introduce split shifts and other weird and wonderful arrangements to maximise the availability of workers to work, and minimise the obligation of the employer to pay." The Green Party, whose report last month had echoed the TUC call for an end to the UK opt-out from the 48 hour working week ceiling ([Risks 175](#)), said the EC proposals were "fudged" and could have "potentially disastrous consequences for health and safety."

- [Amicus news release.](#) [Green Party news release.](#)  
[The Independent.](#)

## **OTHER NEWS**

### **NHS to recoup treatment costs from negligent employers**

The government wants to recover the cost to the NHS of treating people injured at work. The TUC has welcomed a new consultation on draft regulations for an expanded NHS Injury Costs Recovery (ICR) scheme. It would allow the NHS to recover costs from insurance companies for treating patients in all cases where personal injury compensation is paid, for example occupational accident or disease cases. Hospitals are already able to recover from insurers the costs of treating people injured in road traffic accidents where they have successfully claimed compensation for their injuries, recouping about £105 million per year for the NHS. It is expected that the expanded ICR scheme will recover an additional £150 million per year. TUC

general secretary, Brendan Barber, welcomed the consultation, adding: "It is important that negligent employers pay the full cost of their actions rather than expecting the taxpayers to subsidise their failures to protect workers. However it is important that this is not just seen as another cost to be added to insurance premiums and instead is used by the insurance industry as an incentive to improve the measures that employers take to prevent injuries at work." When the plan was first raised in 2002, TUC stressed the cash recovered should be used on preventive health and safety and rehabilitation schemes ([Risks 81](#)).

- [TUC news release](#). [Department of Health news release](#). [ABI news release](#). [BBC News Online](#).
- **Consultation document: [The recovery of NHS costs in all cases involving personal injury compensation: A consultation on the draft regulations](#). The consultation runs until **17 December 2004**.**

### **Government warned against "wildly illogical" smoke law exclusions**

The government has been warned not to exempt pubs and clubs from any new law ending smoking in workplaces. The warning from anti-smoking charity ASH came after press reports that the government has decided on new legislation on smoking, but intends to exclude pubs and clubs from the scope of the new law. ASH says it would be unreasonable and impractical for the White Paper on public health, due to be published in late November, to concede that secondhand smoke is bad for employees' and consumers' health - and then propose to exempt some of Britain's smokiest workplaces from the new law. ASH has warned that employers who expose their workforce to other people's cigarette smoke will be breaching health and safety laws and would face compensation cases. It has been working with lawyers, including personal injury and trade union law firm Thompsons, to identify cases and bring them to court. ASH director Deborah Arnott comments: "It would be wildly illogical for the White Paper to accept the truth that secondhand smoke is bad for employees and customers, and then to exempt pubs and clubs from any new law. It would also be unsustainable - an invitation to employees who are made ill in these workplaces to bring court cases for compensation." This week, the British Medical Association (BMA) and BMA Scotland also urged the government to extend any ban to pubs and restaurants. BMA says bar workers' exposures are six times higher than office workers.

- [ASH new release](#). [The Guardian](#). [The Times](#). [BMA news release](#). [BBC News Online](#).

### **Make sure you talk to your physio**

Good quality advice from a physio might be all you need to sort out your bad back, a new study suggests. Responding to a study published online in the 25 September edition of the *British Medical Journal*, physios' union CSP said: "The findings of the study make no suggestion that physiotherapy doesn't work. The researchers have looked at two broad approaches to treating back pain and have found that one-off good quality physiotherapy advice is as effective for people with moderate levels of back pain as 'routine physiotherapy', a year after the interventions. However the patients receiving routine physiotherapy showed consistently bigger improvement in disability and general health and at 12 months had significantly less 'bodily pain' than those receiving only advice." CSP adds: "What the study does suggest is that the CSP is right to be calling for the rapid roll out of patient self-referral schemes, which enable people to gain access to physiotherapy without having to see their GP first" ([Risks 174](#)).

- [CSP news release](#). [The Independent](#). [Reuters](#). [BBC News Online](#).
- **Helen Frost and others**. [Randomised controlled trial of physiotherapy compared with advice for low back pain](#), *BMJ*, doi:10.1136/bmj.38216.868808.7C, 25 September 2004.

### **Too little sleep is not working**

Overworked Britons have a yawning gap in their lives: sleep. A new report says adults now get an average of 90 minutes less than they used to. Lack of sleep is leading to problems ranging from irritable behaviour and inefficiency at work, to ill-health, road accidents and even divorce, according to the report, provisionally entitled *Dream On*, to be published next month by the Demos thinktank. "Britain is running on a sleep deficit, and it is taking a growing toll, both economically and socially," says the report's author, Charlie Leadbeater. The average night's sleep in Britain has fallen noticeably over recent generations, in both quality and quantity. A century ago, Britons slept an average of nine hours a night, but that figure is now seven-and-a-half hours. Adults between the ages of 25 and 55, particularly those with children, sleep even less. TUC says Britain is the

overwork capital of Europe, to the detriment of both health and productivity ([Risks 175](#)).

- **[The Independent](#). Related information: [TUC It's about time](#), [TUC Changing Times](#) and [Hazards get-a-life](#) webpages.**

### **Rail workers killed after being hit by repair truck**

Two rail workers were killed this week when they were hit by a repair truck at a project involving three firms under contract to Network Rail. The accident happened days after latest Health and Safety Executive figures revealed a 50 per cent upturn in track deaths ([Risks 175](#)). David Pennington, 46, and Martin Oates, 38, were struck as they got off an engineering train at about 4.30am in Cannock, Staffordshire. The two men were working on track renewal for the line from Stafford to Birmingham for the rail engineering company VGC. Four other workers were taken to hospital in Stafford suffering from shock after the incident. Bob Crow, general secretary of the rail union RMT, commented: "We need to find out exactly how this awful tragedy happened, but there have already been far too many incidents involving road-rail vehicles" ([Risks 172](#)). He added: "After the tragedy at Tebay we called for an inquiry into safety in the fragmented privatised railway regime, but the chaos has continued. We now renew that call and once more we demand that all track renewals be brought back in house in one single, sensible structure." The union has warned repeatedly that the "contractorisation" on the railways is bad for safety.

- **[RMT news release](#). [The Guardian](#). [BBC News Online](#).**

### **Mersey fire chiefs sue government over asbestos**

The government is being sued by a fire service for not warning firefighters about the dangers of asbestos. Merseyside Fire Service has confirmed that it has started legal proceedings against the government. One of its firefighters, William Melling, died in July 2002 from an asbestos-related illness. Merseyside Fire Service admitted liability for his death, but now says the government is equally to blame for not issuing guidelines early enough. The fire service is believed to have paid Mr Melling's family about £100,000 in damages after his death, and it wants the government to reimburse it £50,000. The service's legal advisers say that the government did not issue safety

guidelines about asbestos early enough to warn firefighters about the dangers to health. Industry experts claim that more cases of firefighters suffering asbestos-related diseases could now come to light.

- [BBC News Online](#). [The Chronicle](#).

### **Workplace bullying “widespread and rising”**

Workplace bullying is widespread, with 87 per cent of personnel professionals witnessing or being aware of bullying in their organisation, and a third (33 per cent) reporting a rise in incidents in the past two years, according to a survey. Anti-bullying charity the Andrea Adams Trust, which carried out the survey with magazine *Personnel Today*, receives up to 70 calls a day. It says most come from people working in target-driven organisations such as the NHS, education services and call centres. The high numbers of reported bullying incidents came despite 70 per cent of respondents saying their employer had formal policies in place to tackle workplace bullying. UNISON national health and safety officer Hope Daley commented: “The public sector is one of the worst sectors for bullying, especially in the last few years due to the large amount of change – which translates to pressure from above to do more with less.” She added: “But with more change on the way we can expect even more pressure on managers to do more with less, which means if steps aren’t taken cultures that condone bullying and harassment could take hold.” The survey found bullying is bad news for employers too, with 31 per cent of victims opting to leave the organisation.

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

## **INTERNATIONAL**

### **Australia: u r brkng t soft law**



A new breed of cyberbully is using texting, email and mobile phones to harass colleagues – and is leaving employers open to prosecution under workplace safety laws. An Australian law firm issued the warning after Unions NSW declared bullying and harassment to be breaches of the safety laws that require employers to deal with psychological hazards in the workplace. Law firm Sparke Helmore says high-tech harassment is emerging as a threat to

employers because it provides stalkers with an immediate and relatively anonymous form of abusive communication. Unions NSW recently launched a dignity and respect in the workplace charter, which offers a five point plan to tackle bullying and harassment in the workplace.

- [Workers Online](#). [Unions NSW bullying campaign on the Unionsafe website](#).

### **Global: Asbestos scandal claims top bosses' scalps**

Asbestos kills.  
James Hardie knew.



The growing international scandal engulfing Australian multinational James Hardie Industries has claimed its first boardroom scalps. The company's chief executive and chief financial officer have stood aside after an official inquiry into the troubled building products company. The inquiry report was highly critical of its under-funding of a compensation foundation for victims of asbestos-related illnesses ([Risks 175](#)). "Effective immediately, Mr Peter Macdonald is standing aside as chief executive officer and Mr Peter Shafron is standing aside as chief financial officer," James Hardie said in a statement. The company, which before the scandal was one of the most respected in Australia, had moved its corporate HQ to the Netherlands in 2001 in a bid to limit its asbestos compensation liabilities ([Risks 174](#)). It may now face formal investigations by financial watchdogs in both Australia and the USA for misleading shareholders in its efforts to justify the under-funded compensation arrangements, creating the possibility that James Hardie could become the "asbestos Enron." The company's behaviour was only exposed after a campaign by unions and asbestos disease victims' organisations, which has attracted international support and has included demonstrations in Australia, the Netherlands and the USA, backed by global union federations.

- [Yahoo News](#). [CFMEU news release](#). [The Australian](#). [ABC News](#). [Financial Times](#). [Dateline](#).

### **UAE: Collapse at Dubai airport kills eight**

Eight workers have been killed and many injured when a huge steel mesh wall at Dubai airport collapsed, burying labourers under the

rubble. The new wall was being built as part of a multibillion-dollar extension to the busy airport when the reinforcement cage gave way. Dubai, one of seven emirates that make up the oil-rich United Arab Emirates (UAE), is a main transit route for Asia and the West. Most of the victims were thought to be immigrants from India and Pakistan, working for a UAE-British consortium, Al-Naboodah Laing, which won the construction contract last year. The accident will come as an embarrassment for design consultants Aeroports de Paris (ADP), who were involved not only in the plans for Dubai airport but also for Charles de Gaulle airport in Paris. A terminal at Charles de Gaulle partially collapsed in May, killing four people. The latest tragedy will renew questions about the conditions in which migrant workers toil in the UAE. Prestigious projects like the airport expansion rely mainly on workers from India, Pakistan, Sri Lanka and Bangladesh. Dissent is not encouraged in the Gulf and expatriate unions are not allowed. Safety on construction sites and more broadly within the workplace is currently a subject of debate in the UAE.

- [The Independent](#). [The Guardian](#). [BBC News Online](#).

### **USA: California weeds out back-breaking farm jobs**

California's workplace safety agency has ordered farmers to stop hand-weeding of commercial crops, becoming the first US state to limit the back-wrenching work. The new rule, announced by California's Occupational Safety and Health Division CalOSHA, has been welcomed by the farmworkers' union. "We think it's a modest step to ban a practice that should never have existed in the first place," said Giev Kashkooli, political director of the United Farm Workers (UFW). In 1975, California barred farmworkers from using a 12-inch hoe known as "el cortito" to weed fields because it forced workers to stoop and led to debilitating back injuries. The short-handled hoe became a symbol for California's farmworkers during the creation of UFW in an acrimonious battle with the farm employers. But the ban proved a hollow victory for field workers as farmers responded by having them adopt the equally injurious practice of weeding by hand. The new rule will allow hand-weeding if long-handled tools cannot be used effectively and for organic crops, regulators said. "There are certain exceptions," said Len Welsh, a spokesperson for CalOSHA. "What this is all about is reducing circumstances under which workers must assume stooped or squatting positions."

- [Sacramento Bee](#). [Reuters](#). [The new CalOSHA](#)

## [weeding regulation.](#)

### **USA: Modern slavery thriving in the US**

A new report on forced labour in the United States reveals in disturbing detail how thousands are forced through threats or violence to work in deplorable conditions for little or no pay. The report, *Hidden slaves: Forced labour in the United States*, is the work of researchers from the University of California, Berkeley's Human Rights Center and the Washington DC-based, anti-slavery group Free the Slaves. They found that at any given time 10,000 or more people are forced to toil in sweatshops, or are cleaning homes, labouring on farms, or working as prostitutes or strippers. "The most shocking aspect of this report is that modern-day slavery still exists," said Laurel Fletcher, a researcher at the Human Rights Center and professor at UC Berkeley's law school. "Slavery is a problem the public thinks we solved long ago, but, in fact, it's alive and well. It has simply taken on a new form." Human Rights Center director Eric Stover, said the exploitation typically occurred in the least regulated sections of the economy. He added: "Victims may be verbally abused, beaten or sexually assaulted by their captors. These repeated attacks, especially against children and teenagers, can result in serious physical and psychological trauma."

- [UC Berkeley news release](#) and [Hidden Slaves \[pdf\]](#).  
[Chicago Sun-Times](#).
- [Human Rights Center](#) and [Free the Slaves](#).

## RESOURCES

### **TUC construction information sheets for Euro Week**

As part of its commitment to European Health and Safety Week, 18-24 October, the TUC has produced six new information sheets on construction issues. It says construction is one of the most important sectors in Britain, but it also has the worst safety record of any major industry. Workers in construction represent around 6 per cent of the workforce, but account for more than 30 per cent of fatalities, say TUC. They are five times more likely to be killed and twice as likely to be suffering from ill-health than the average worker. Every year 600 current or former construction workers die from asbestos related diseases. The new resources cover construction work and asbestos, electrical safety, falls from heights, vehicle safety, vibration white finger and welfare provision.

- [TUC Euroweek 2004 factsheets. European Agency Euro Week webpage.](#)

### **Integrating health and safety into education**

Integrating occupational safety and health into school and university education is the key to reducing the high incidence of work-related accidents and illnesses in many EU industries, especially among young staff, say a new report. The European Agency for Safety and Health at Work report says workers aged 18-24 are 50 per cent more likely to have an accident than the average staff member. One of the main problems, the report says, is that most adolescents enter the labour market with little knowledge of the risks, let alone education in preventive measures. "One of the lessons of the study is that health and safety education has to be a life-long process, from pre-school onwards, to succeed," says Hans-Horst Konkolewsky, the Agency's director.

- [European Agency news release. Mainstreaming occupational safety and health into education - Good practice in school and vocational education. Related factsheets.](#)

## **EVENTS AND COURSES**

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

#### **COURSES FOR SEPTEMBER TO DECEMBER 2004**

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

### **CCA corporate safety crimes conference, 14 October, Glasgow**

CCA's second conference in Scotland - which will bring together ministers, HSE, Crown office, lawyers, trade unions and safety activists - is to examine how effective are the HSE and local authorities in ensuring that companies in Scotland comply with health and safety law. The STUC-backed event will also consider recent developments in the law of homicide, proposed new procedures for the investigation of work-related deaths and the adequacy of fatal accident inquiries.

- [CCA conference, 14 October 2004, Moir Hall, Mitchell Theatre Complex, Glasgow. £30 standard fee. £60 for lawyers, businesses and public bodies.](#)

**£10 unwaged. Registration form [[pdf](#)]. For further details, [email](#) or phone CCA on 020 7490 4494.**

## 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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