

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

Child farm safety survey continues

Farmworkers' union TGWU is appealing for help with research on child safety in agriculture. Mike Walters, a Health and safety Executive (HSE) inspector seconded to the union, is renewing his call to people in the farming community to help improve child safety by taking part in two surveys. Mike Walters said: "In August this year I launched two surveys aimed at members of the farming community looking at child safety on the farm and also the provision of rural childcare. The uptake has been quite slow and now that harvest is over I once again appeal to farmers to complete the surveys to assist with my very important research. The more responses I get back the more informed my research will be. The surveys only take a few minutes to complete and they are totally anonymous and confidential."

- **[TGWU news release](#). Members of the farming community can complete the surveys online on the [HSE website](#) or print off and complete the forms and return them to [Mike Walters](#), c/o HSE, International House, Dover Place, Ashford, Kent TN23 1HU.**

UNION NEWS

Disability access law takes effect

The TUC is warning the many businesses may not have done enough to make their buildings fully accessible and could end up facing court action and hefty fines. TUC general secretary Brendan Barber, commenting on the new building access requirements of the Disability Discrimination Act taking effect, said they "will make a real difference to disabled people's work and home lives. Previously the limited scope of disability legislation meant that small firms were able to get away with treating disabled people unfairly. Now, discriminating employers will no longer be able to hide behind the law." He warned, however, that "many firms have been burying their heads in the sand, hoping that today would never happen. Now all public buildings must be fully accessible, many companies could find themselves up in court." TUC last year warned that companies were using spurious health and safety arguments to discriminate against workers with disabilities. In

September 2003 it announced a year long plan to train 35,000 trade union reps to ensure that employers do not use health and safety as an excuse to discriminate against disabled workers ([Risks 125](#)).

- [TUC news release](#). [DWP news release](#). [Inland Revenue news release](#) on tax allowances to make businesses accessible. [Government guidance on DDA](#).
- [TUC WorkSMART guide on disability discrimination](#).

Risk assessment failing causes back injury

A senior nurse who suffered a severe back injury lifting a hospital theatre table has been awarded £29,739 compensation because no risk assessment was carried out on the task. Theatre sister Shelley Quantrill, a member of health service union UNISON, damaged her lower back lifting part of a theatre table at South Tyneside District Hospital four years ago. The mother-of-three, who was 41 at the time, was off work for six months and although she resumed her job, still suffers from the effects of the accident, the County Court in Newcastle heard. Her employer, South Tyneside Health Care NHS Trust, had earlier accepted liability. UNISON regional secretary Gill Hale welcomed the settlement, but said: "We would like to see a greater emphasis on health and safety which would prevent accidents like this in the first place." A spokesperson for the Trust said: "The South Tyneside Health Care Trust regrets the circumstances leading to the injury sustained by Mrs Quantrill," added it was "pleased that this matter has now been settled and hopes that the payment will go some way to compensating Mrs Quantrill for her injury."

- [Newcastle Journal](#).

Cool response on maximum work temperature

The government will not set a maximum workplace temperature, retail union Usdaw has been told. Usdaw says that each year it receives thousands of complaints from members who are struggling to cope in the heat of their workplace ([Risks 168](#)). Delegates to its 2004 conference called for a maximum temperature of 27°C. Usdaw says health and safety minister Jane Kennedy has now told the union that the Health and Safety Commission considers it impractical to set a maximum temperature. She said, however, that in spring 2005, experts will "explore what more can be done and what further

guidance can be given.” John Hannett, Usdaw general secretary, welcomed the government commitment to look again at the issue and added: “The absence of maximum reasonable temperatures in current regulations makes it difficult to persuade employers to take action when temperatures are too high. Too many employers use this as an excuse for inaction. All the while, workers’ health and safety is put at risk.”

- [Usdaw news release](#).

Seafarers push for global safety and security



A global union campaign has called for fair deal for seafarers who are been denied shore leave and have faced heavy-handed treatment under security measures put in place after the 11 September 2001 attacks on the World Trade Center and the Pentagon. Restriction of shore leave has become a worldwide problem, but has been particularly acute in the United States, where armed guards have even been deployed to prevent foreign seafarers leaving their ships. Top officials of UK seafarers’ union RMT delivered a letter to the US embassy in London on 30 September – the worldwide maritime day of action coordinated by global transport union federation ITF - urging the US government to respect the right of seafarers to take shore leave. “Shore leave is vital to the health and well-being of the world’s 1.25 million seafarers, and we hope that all governments will ratify and implement the provisions of ILO Convention 185 as soon as possible,” said RMT general secretary Bob Crow. Under the new convention, crew members will be expected to carry identity documents which include a bar-coded fingerprint. Seafarers holding the new ID should be able to take shore leave without first applying for a visa.

- [RMT news release](#). [ITF news release](#). [ITF campaign webpage](#).

New union face on top safety body

Amicus assistant general secretary Danny Carrigan has been appointed a member of the nine-person Health and Safety Commission (HSC), Britain’s top safety body. He replaces UCATT’s George Brumwell, who has retired. Danny Carrigan said: “I am delighted to join the Commission. The work it has done over the years has been highly

regarded and I look forward to making a contribution.” He joins UNISON’s Liz Snape and TUC head of safety Hugh Robertson as trade union Commissioners on HSC. Secretary of state for work Alan Johnson announced the appointment, which took effect on 1 October 2004 and will run for three years.

- [DWP news release. About HSC.](#)

OTHER NEWS

Charity blasts “speak up or pay up” law

Ordinary employees are now first in line to be sued after disasters and accidents, warns a new report. Whistleblowers’ charity Public Concern at Work says “botched” legislation passed last October means employees now face paying unlimited damages if they don’t speak up about health or safety risks at work – even if there is no negligence on their part. By contrast, disaster victims still have to prove corporations are at fault to obtain compensation, it says. The group is calling on ministers and the Health and Safety Commission (HSC) to set out how this new liability affects employers and employees. “It’s unacceptable that such a far-reaching and radical new law can be introduced with no publicity and without even a word of advice or guidance to those it affects,” says the charity’s director, Guy Dehn. The effects of the law are set out in the report *Speak up or pay up*. Public Concern at Work concludes the changes, amendments to the Management of Health and Safety at Work Regulations and the Fire Precautions Regulations ([Risks 126](#)), have been so badly thought through that they should be withdrawn. “We think this law is such a mess the government would do better to scrap it and go back to the drawing board,” says Guy Dehn. The safety reps’ regulations protect trade union safety reps from victimisation resulting from their acts or omissions. The TUC have stated that they raised concerns over the ambiguity of the wording in the regulations over 2 years ago, and will be asking for urgent action to change the regulations and make it clear that responsibility lies with the employer. However they are advising unions not to take any action until the situation is clarified.

- [PCAW news release. Speak up or pay up, PCAW, 7 October 2004. Public Concern at Work.](#)
- [Hazards workplace whistleblower webpage.](#)

Workers struck by lung diseases

About 70 workers at a car engine factory in Birmingham have been struck down with serious lung illness. The Health and Safety Executive (HSE) said it is investigating cases of extrinsic allergic alveolitis (EAA) and occupational asthma at Powertrain in Longbridge, and expects more cases to be diagnosed. It said 73 people had “definitely or probably” got one of the two illnesses. More than 1,000 workers at Powertrain, which is the sister company of MG Rover, are now to be screened. Marcia Davies, the HSE's Midlands director, said it was “a very unfortunate and worrying outbreak of occupational lung disease. We have required Powertrain to make serious improvements to the cleaning and monitoring regimes for the metalworking machines and fluids. The microbes in the metalworking fluids, which may have caused the diseases, are now being adequately controlled and most people affected are still able to work.” TGWU regional industrial organiser John Walsh said “we are keeping in close touch with the company and seeking an urgent meeting with the Health and Safety Executive.” He said that compensation claims were being prepared on behalf of some affected workers, adding: “These are difficult and, indeed, worrying times but we need to be calm and measured to make sure the causes of the cases are identified, isolated and eradicated.” Similar outbreaks of “hypersensitivity pneumonitis” – another name for chronic EAA - have been reported in car plants in the US and Canada.

- [BBC News Online](#). [Birmingham Evening Mail](#). [The Scotsman](#).
- [Haz-map guide to hypersensitivity pneumonitis](#). [US OSHA guide on metalworking fluid hazards](#).
- **Earlier cases: Kreiss K, Cox-Ganser J. Metalworking fluid-associated hypersensitivity pneumonitis: a workshop summary. American Journal of Industrial Medicine, volume 32, number 4, pages 423-32, 1997 [[abstract](#)].**

Six figure fines on rail death firms

Two companies have been fined on charges relating to a workplace death that was ruled to be “unlawful killing” at an earlier inquest ([Risks 55](#)). The six figure fines imposed on the companies responsible for a 22-year-old rail worker's death have once again raised questions about the adequacy of UK law to match the punishment to the crime. Michael Mungovan, a student from County Clare, had been hired as casual labour for rail maintenance company Balfour Beatty, through

the McGinley Recruitment Services agency. He was struck and killed by a train during midnight work on a busy south-west London track in October 2000. A subsequent investigation by the Health and Safety Executive revealed a catalogue of what Judge Stephen Kramer, sitting at the Old Bailey, described as sloppy safety practices by both firms. After pleading guilty to safety offences earlier this year ([Risks 162](#)), this week McGinley was fined £175,000 with £24,000 costs, and Balfour Beatty was fined £150,000 with £18,144 costs. HSE inspector Chris Collett described the fines as "clearly reflecting the seriousness of the offences committed." However, outside court Mungovan's father, Danny Mungovan, said: "I don't suppose any verdict would make me happy, but it didn't sound as severe as I expected. If you take Balfour Beatty, they made, in the first six months of this year, £62m profit, so it doesn't sound very much."

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

Government "nobbled" on death penalties

The death of 21-year-old Michael Mungovan has highlighted the inadequacy of UK law to reflect the seriousness of workplace safety crimes. *Guardian* columnist George Monbiot notes that although the coroner's inquest reached a verdict of "unlawful killing," the company was prosecuted not for corporate manslaughter, but for the lesser offence of exposing its workers to risk. "In last Friday's case, the fact that someone was killed did not change the nature of the offence. Mungovan's death was legally irrelevant." He adds: "The government's Health and Safety Executive (HSE) knew that there was no point in prosecuting the firm for killing Mungovan. To make that charge stick, you must prove that one of the directors of the company was personally responsible for the death. The bigger the company, the harder this is." He said this was what led to the collapse of the Hatfield case collapsed last month ([Risks 172](#)). "The government has been nobbled," writes Monbiot. "The minutes of a meeting of the Health and Safety Commission (which oversees the HSE) in 2003 reveal that it decided to drop its demand for a new law after 'a note from the CBI [the Confederation of British Industry] ... was circulated'." He adds: "Now the HSE has adopted the corporate line: that the best way of dealing with the problem is to rely on voluntary compliance. There is no evidence that this works, and plenty that it doesn't" ([Risks 174](#)).

- [The Guardian](#). [TUC/Hazards deadly business](#)

[campaign webpages](#). **Commission Impossible:
Latest updates on the dangerous trend towards
voluntary safety compliance.**

“Ongoing failures” led to Chunnel death

“Basic and simple precautions” could have saved the life of a construction worker, a court has heard. Instead, three construction companies have been prosecuted and fined a total of £100,000 at Maidstone Crown Court after pleading guilty to breaches of health and safety legislation. The prosecution followed an investigation by the HSE into a fatality at the northern approach to the Channel Tunnel Rail Link (CTRL) Thames Tunnels. A scaffolder, Paul Ross, was killed on 1 May 2003 after falling approximately 7 metres whilst working with colleagues to construct a reinforced concrete roof. Another worker was also injured in the incident when he was hit by a falling steel beam. The companies fined were Deverson Direct Limited, J Murphy and Sons Limited and Hochtief Akteingesellschaft. HSE inspector Peter Collingwood commented: “This accident resulted from an ongoing failure by the companies involved to ensure that there was a safe system of work in place. The installation of guard rails along the open edge of the scaffold would have prevented this needless loss of life.” He added: “Ensuring that scaffolding has adequate guard rails is a basic and simple precaution that everyone in the construction industry should be aware of.”

- [HSE news release](#).

Worker dies at fined firm

A worker has died at a Midlands company that was fined in June for two other “bitterly regretted” safety offences. A 48-year-old man who fell down a car pit after installing industrial equipment died this week after three weeks in hospital. The self-employed man, who has not been named, was sub-contracted to fit a waste conveyor at the premises of automotive component manufacturer UYT Ltd, at Coventry Business Park in the west Midlands on 3 September. In June, UYT had to pay out over £25,000 in fines and costs after two employees were injured in workshop accidents. One man lost part of his finger when it was crushed and in a separate incident another worker had his arm broken in machinery. The firm, which designs and manufactures steel components for the automotive industry, admitted two charges of failing to ensure the safety of its employees. At the court case Andrew

Litchfield, representing UYT, said bosses “bitterly regretted” both incidents, adding that UYT had won safety awards from the British Safety Council and from RoSPA. He said the company had taken a number of proactive steps to ensure minimal risk of other such accidents on the site.

- [Contract Journal](#). [Coventry Evening Telegraph](#).

Compensation payout to stressed machinist

A stressed machinist has been awarded compensation after successfully claiming his employer had illegally reduced his sick pay. Nigel Flint from Kenilworth in the Midlands became ill with stress due to work pressures at Kigass Aero Components. But the Warwick company tried to use a “badly worded” clause in his contract to reduce his wages. Mr Flint, who had worked for the firm for nearly nine years, fell ill in July last year and had his pay reduced in January. David Burton, the chair of a Birmingham employment tribunal, agreed that the claim was well founded because of the clause's inadequate wording and awarded Mr Flint £1,640. Afterwards, Mr Flint said he planned to return to work shortly, following treatment for stress.

- [Kenilworth Weekly News](#).

Government “muddled and naïve” on working time

The government is denying “substantial evidence” of the health effects of long hours and is giving a “muddled and naïve” message on working time, says a top thinktank. The Work Foundation says the DTI’s consultation on changes to the UK’s Working Time Regulations ([Risks 175](#)) suggests that people could work for up to 78 hours a week and possibly longer if they “take rest at another time”. This is an astonishing statement from a government that claims to be committed to the elimination of excessive hours, the group says, adding: “It is difficult to see how this model might lead to ‘a reduced risk of workers suffering from fatigue’ as the consultation document suggests – quite the contrary in fact.” David Coats of the Foundation commented: “The government needs to get their act together on working time. Aiding and abetting long hours on the one hand and promoting work life balance on the other displays confused thinking. The real challenge is to get rid of inefficient overtime systems, boost earnings in core hours and improve UK productivity.” The Work Foundation says its Work and Well Being Survey 2004 shows the most frequently given reasons for

long hours are a desire for promotion, job insecurity and volume of work.

- [The Work Foundation news release.](#)

HSE drives largest ever transport blitz

The country's largest ever blitz on transport safety has started in Kent. Bill Callaghan, chair of the Health and Safety Commission (HSC), announced the link up between the Health and Safety Executive (HSE) and local authorities in Kent. The campaign will target transport safety throughout the food supply chain in Kent, from producer and importer through to consumer. Workplace transport incidents are the biggest cause of deaths in agriculture and food industries. Between 1992 and 2002, 44 farmers and 30 employees were killed in transport related incidents across the country. Around 70 HSE inspectors and local authority officers will carry out spot check inspections to hundreds of sites throughout Kent over the next two weeks, hitting businesses including farms, packaging companies, warehouses and retail sites. Transport accidents cause 21 per cent of fatal injuries to employees, says HSE. Over the past two years there have been 98 fatalities. In 2002/3 there were 1,600 major injuries to employees and the self-employed, plus over 3,300 injuries serious enough to keep people off work for more than three days. These accidents cost the country over £540 million.

- [HSE news release.](#) **A dedicated HSE telephone line for enquiries relating to this safe transport initiative will operate until 15 October 2004, on 01233 653930.**

INTERNATIONAL

China: Toxic trade in computer recycling

Britain produces a million tonnes of electronic waste each year - an average of 14kg per person - and some of that is reaching Guiyu in Guangdong province, southern China. A Sky News investigation claims Chinese workers are putting their lives at risk processing parts to recover material from PCs sent from Europe, America and Japan. Sky News' China correspondent Dominic Waghorn said: "Poor and grateful for a job, the people seem unaware of the risks." The average computer contains toxins including lead, mercury, cadmium, and

plastics treated with potentially carcinogenic chemicals. The news report says employees spend their days working with these hazardous materials and powerful acids with little or no protection. For many, it is a cottage-style industry which also exposes their children to the noxious substances. Sky News says it is estimated that recycling could be carried out more safely in the UK if British consumers paid an extra £20 for their PCs.

- [Sky News. Ananova.](#)
- **Related information:** [International Campaign for Responsible Technology \(ICRT\) and Hazards magazine "Dirty secrets of the cleanroom" feature.](#)

Finland: New law restricts workplace drug tests

Unions in Finland have welcomed new regulations on workplace drug tests that on 1 October placed strict limitations on the use of drug tests at work. The unions say the first role of the new law is the protection of worker privacy. "This involves significant restrictions on the freedom of employers," says *Trade Union News from Finland*. "No tests may be performed at the workplace, and it is for the employee to provide the test results to the employer. These tests must be performed by a competent health care professional." New recruits can only be asked to undertake a drug test after they have been given the job, and a test is only allowed for jobs that require precision, reliability, independent judgment and advanced reflexes and where the job would also "involve a risk to life or health or of more than minor material damage if performed under the influence of narcotics," says the union report. The same rules apply to a firm's existing employees. Under the new law, employers have a duty to co-operate with their employees to formulate an anti-drug programme. Unions are still wary, however. Timo Koskinen, a lawyer for the union federation SAK, said he suspected some firms have drug testing programmes that exceed the limits permitted by the new legislation.

- [Trade Union News from Finland. Ministry of Labour news release.](#)
- **Union resources on** [workplace privacy and testing](#) **and latest news and resources on** [unions and workplace drugs and alcohol.](#)

Thailand: Many deaths in illegal fireworks factory blast

An explosion at a fireworks factory in central Thailand has killed at least 14 people and injured several others. It completely destroyed the factory in the city of Ayutthaya, about 70km (44 miles) north of Bangkok, and damaged nearby houses. Police and local government officials said the factory had lost its licence 10 years ago following an earlier explosion, and was operating illegally. The dead are said to include a four-year-old boy. Four teenagers with severe skin burns are being treated at a nearby hospital, reports say. It is believed all the victims were inside the factory at the time. Police Lt Col Sawek Pasakdi said he witnessed the explosion. "There was a big noise and the ground was shaking. I saw a blazing fire and a cloud rising like a mushroom," he told Reuters news agency.

- [Straits Times](#). [BBC News Online](#).

RESOURCES

Business benefits of health and safety

The Health and Safety Executive has published a new webpage on the "business benefits of health and safety." It says "effective health and safety management clearly helps reduce the unacceptable toll of suffering that accidents and ill-health bring." It adds: "That's not all it does. Our real-life case studies show how businesses have benefited from improving their management of health and safety." Examples include: One company that saved £12 for every £1 it spent; another that saw a 73 per cent reduction in employee insurance claims and 18 per cent fewer days lost to injuries; and another that achieved a 50 per cent reduction in civil claims. All these examples were in unionised firms and the success was in a large part due to the active participation of the union.

- [HSE news release](#). [Business benefits of health and safety webpage](#). **Do you have a good example? Send details to [HSE](#) and copy the case history to the [TUC safety department](#).**

Nanotechnology and workplace safety and health

The US government safety research body NIOSH has produced a short guide to nanotechnology health and safety. It says nanomaterials may interact with the human body in different ways than more conventional materials, due to their extremely small size. For example, studies have

established that the comparatively large surface area of inhaled nanoparticles can increase their toxicity. Such small particles can penetrate deep into the lungs and may move to other parts of the body, including the liver and brain. The guide concludes: "There are still many knowledge gaps to be filled before we fully understand how to work safely with these materials. Until these and other research questions are answered, it is prudent to proceed with caution when working with nanomaterials." TUC this year called for a "precautionary approach" ([Risks 167](#)).

- **Nanotechnology and workplace safety and health** [[pdf](#)]. [Nanotechnology guides from Hazards and TUC](#).

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](#)

"30 years on: The Future of the HSC" conference, 8 November, London

To mark the 30th anniversary of the Health and Safety at Work Act, and the establishment of the Health and Safety Commission (HSC), the TUC is organising a major conference on the main issues facing the HSC. Speakers include the Rt Hon Jane Kennedy MP, Minister of State for Work and Pensions, Bill Callaghan, Chair of the HSC, and Brendan Barber, General Secretary of the TUC. This conference is designed for policy makers, trade unionists, managers, health and safety professionals, academics, and others with an interest in health and safety.

- **"30 years on: The Future of the Health and Safety Commission" conference, Monday 8 November 10.00am to 4.00pm, Congress House, Great Russell Street, London WC1B 3LS. Programme and booking form** [[pdf](#)], email healthandsafety@tuc.org.uk or telephone 0207 467 1250.

Asbestos conference, 23 October, Derby

The Derbyshire Asbestos Support Team, Amicus and personal injury solicitors Rowley Ashworth and Thompsons will be running an asbestos conference on 23 October in Derby. Speakers include: John Edwards, a specialist registrar in thoracic surgery; Peter Ashworth, the Derby coroner; Mick Clapham MP; and representatives of AMICUS and HSE's construction group.

- **Asbestos conference, Saturday 23 October 2004, 9.30am-2.30pm, The Spot, 73 Sacheverel Street, Derby, DE1 2JR. For further details or to book a place, email [Sharon Mellors](mailto:Sharon.Mellors@amicus.org.uk) at Amicus or telephone 01332 346617.**

Accountability for work death and injury, training session, 11 November, London.

The Centre for Corporate Accountability and the Public Law Project are organising a one-day training for lawyers, trade union officers and advice workers on investigation and prosecution issues following work-related death and injury and on how to challenge decisions made by the police, local authorities, the HSE and the Crown Prosecution Service. The morning session is run by the Centre for Corporate Accountability and will focus on investigation and prosecution procedures following work-related deaths and injury, and how companies and individuals can be prosecuted for health and safety or manslaughter offences. The afternoon session is run by the Public Law Project and will look at how decisions by investigation and prosecution bodies can be challenged, including by way of judicial review or by going to the Ombudsman.

- **Accountability following work-related death and injury, training session, Thursday 11 November 2004, London. The whole day costs £200. The morning and afternoon sessions alone cost £125 each. [Further information](#): To find out more or to book a place, call Sugar Munthali on 020 7 490 4494. Online leaflet [[pdf](#)].**

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](#).

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