

# Health and safety Time for change

*Reclaiming health and safety at work*



## Health and Safety Representatives The case for stronger laws

One of the principles that underpin the Health and Safety at Work Act is the belief that the involvement of the workforce is crucial to achieving good standards of health and safety, and that health and safety systems work best when trade unions and employers work together.

In fact the involvement of workers, through their representatives, has been one of the great successes of health and safety. It has been repeatedly shown that worker involvement, with union support behind it, is a major factor in reducing injuries and disease at work. At the core of this are health and safety representatives. There are over 150,000 of these and the difference they make is immense.

### **The benefits of union health and safety representatives**

There is a wealth of evidence that has been produced over the past 20 years. In 1995 a group of researchers analysed the relationship between worker representation and industrial injuries in British Manufacturing. It found that those employers who had trade union health and safety committees had half the injury rate of those employers who managed safety without unions or joint arrangements<sup>1</sup>. Several other analyses of the same figures have all concluded that the arrangements that lead to the highest injury rates are where management deals with Occupational Health and Safety without consultation<sup>2</sup>. In 2004 a further analysis of the data confirmed that "the general conclusion that health and safety should not be left to management should be supported."<sup>3</sup>

In 2007 the same authors once again found lower injury rates in workplaces with trade union representation the effects were deemed to be significant, by contrast the effect of management alone deciding on health and safety was not significant.<sup>4</sup> A study of 1998 figures also confirmed that "unions gravitate towards accident prone workplaces and react by reducing injury rates". This study showed that where there is a union presence the workplace injury rate is 24% lower than where there is no union presence.<sup>5</sup>

More recently a study of manual workers published in 2008 confirmed that workers in unionised workplaces were less likely to have a fatal injury.<sup>6</sup>

But it is not only injuries that trade unions help reduce. It is also ill-health. Another study in 2000 found that "The proportion of employees who are trade union members has a positive and

significant association on both injury and illness rates." It went on to say that "the arrangements associated with trade unions...lower the odds of injury and illness when compared with arrangements that merely inform employees of OHS issues".<sup>7</sup>

In January 2007 the DTI (now BIS) published a report which concluded that health and safety representatives, at 2004, prices save society between £181m and £578m each year as a result of lost time reduction from occupational injuries and work-related illnesses of between 286,000 and 616,000 days.<sup>8</sup>

### **The case for changing the law**

The Health and Safety at Work Act states that employers have a specific duty to consult with trade union safety representatives. This is outlined in more detail in the 1977 Safety Representatives and Safety Committee regulations. Other regulations, approved in 1996 lay down a requirement for employers to consult even where there is no trade union recognised.

Where there is a union presence employers are far more likely to involve health and safety representatives. Because most employers who have trade union health and safety representatives in their workplace recognise the value, 73% of health and safety representatives say that their employer automatically consults with them, at least occasionally. This means however that a considerable minority of employers who recognise a trade union are ignoring the law.<sup>9</sup>

For workplaces without a union the situation is even worse. Although the law says that employers have to consult with their workforce on health and safety issues, they can consult each worker individually where there is no recognised trade union. In practice this does not happen as it is not practical for medium and large employers to consult meaningfully with every single one of their workers.

A survey of 71 organisations by Employment Review in 2008, showed that, the numbers of employers consulting their workforce on health and safety has started to decline. Less than half (44%) now consult on health and safety, compared with 68% in 2006.<sup>10</sup> This is despite it being a legal requirement. These were not small micro-employers with one or two employees they were all organisations with a professional HR function, yet over half of them were failing to consult. The vast majority of these were employers that do not recognise a trade union.

Given the enormous difference that both consultation and trade union health and safety representatives make, the fact that the majority of UK workplaces have absolutely no mechanism for consultation is appalling.

The TUC would like to see a legal requirement on all employers with more than 10 employees to have health and safety representatives. In addition larger workplaces should be required to have a safety committee. Regulations such as these exist in many other countries. In France for instance the law makes it compulsory for joint workplace health and safety committees to be set up in all workplaces with more than 50 employees<sup>11</sup>. Systems would have to be put in place where there is currently no recognised trade union to ensure that these representatives had access to independent training and had protection from victimisation

There is also a case for a new kind of safety advisor for small employers. In 2002 trade unions supported a one-year pilot of union-appointed health and safety representatives who would go into small workplaces to act as safety advisors. It concentrated on six sectors that were notoriously hard to reach and which needed particular support in encouraging the partnerships and joint working fundamental for improving health and safety. Some 88 employers participated. Surveys before and after the pilot showed that the involvement of these union supported advisors led to improvements in small, non-unionised, workplaces' approach to health and safety. Nearly 73% of employers said awareness of health and safety matters had increased and a third said communications had improved. Over 75% of employers said they had changed their approach to health and safety and nearly 70% of workers observed an increase in the amount of discussion on health and safety. The Pilot facilitated the creation of safety committees in some workplaces and joint working on risk assessments and training.<sup>12</sup>

The TUC believes that the appointment of union-appointed and supported health and safety representatives who have a roving remit to support employers and workers in non-unionised areas where there is currently no consultation would have real and lasting benefits to the health and safety culture of smaller workplaces. A similar system in Sweden is considered by both employers and the government to be a success.

We believe that these changes would have a significant effect on the safety culture across all sectors and would lead to a significant reduction in ill-health and injury.

### **The need for more enforcement**

Given the huge difference that health and safety representatives make in the workplace it is surprising that the HSE has been so reluctant to enforce the existing regulations.

Although the 1977 Consultation Regulations lay down the requirements on employers in respect of health and safety representatives and consultation, most of these legal duties can only be enforced by the HSE or local authorities (the exception is time off). Unfortunately, there has never been one case where an employer has been prosecuted for failing to consult, or for refusing to

meet their legal obligations under the 1977 regulations, although a small number of enforcement notices have been issued in the past.

Yet enforcement activity is necessary if employers are not going to continue to flaunt the law on consultation. Consultation should not be seen as an “add-on” which is good to have. It is one of the two pillars that hold up a good safety system, along with risk assessment and management.

Worker involvement, and the benefits it brings, will only happen if employers, the HSE and the government change their attitude towards consultation, unions, and health and safety representatives. The 150,000 trade union-appointed health and safety representatives represent a major resource for improving the safety culture in the workplace and reducing levels of injury and ill-health. They could also be a valuable tool in warning regulators about “rogue” or dangerous employers.

Given the affect full consultation and the presence of union health and safety representatives can have on an organisations’ serious injury rates a major extension of these would be the most significant and effective development in occupational health and safety since the 1974 Health and Safety at Work Act and could lead to a significant reduction in both injuries and occupational illnesses.

***Trade unions believe that there is a need for stronger regulations which require all employers to have safety representatives if they employ more than 10 workers. Larger employers should also have to set up safety committees. Where there are lots of different employers working in one workplace, or if the employer has lots of different small sites, unions should be able to appoint roving health and safety representatives to cover all the workers. There should also be a legal right for health and safety representatives to call in the enforcement authorities if an employer fails to act on their concerns.***

## References

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- <sup>6</sup> Grazier "Compensating wage differentials for risk of death in Great Britain, Swansea University, 2007
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- <sup>10</sup> IRS Employment Review Issue: 903, 2008
- <sup>11</sup> Thomas Coutrot DARES, Ministere du Travail, des relations sociales et de la Solidarite.
- <sup>12</sup> <http://www.hse.gov.uk/research/rrhtm/rr144.htm>