Legislation WATCH

THE No.1 RESOURCE FOR WORKPLACE LAW AND HEALTH AND SAFETY

Safety
in manufacturing

Employers must ensure that every employee knows how to prevent accidents and injuries, see more on page 16.

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SAFETY MADE EASY

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Letter
FROM THE EDITOR

Dear reader,

Welcome to your new edition of Legislation Watch magazine. Inside you'll find the latest legislation updates, easy-to-read articles and important guidance to help you stay on top of health and safety and workplace law.

As we move in to the winter months, it's now time to revisit the issues which this season may generate for your company and to decide whether your procedures are robust enough. On page 6 we have put together a Winter Safety Guide with tips on how best to prepare for the dangers of winter.

A report by mental health experts says that poor mental health costs the UK economy up to £99 billion each year (BBC News). Our article on page 20 explores the political and legal position on managing mental health at work as well as providing practical steps to promote mental well being in your workplace.

If you haven't already, don't forget to take advantage of our unique 'Ask the Expert' service. Our IOSH accredited experts can answer all your questions on health and safety and workplace law – see page 13 for more information.

I hope you enjoy this edition of Legislation Watch and don't forget you can also access all the information online at seton.co.uk/legislationwatch.

Thanks for reading!

Cheryl

Cheryl Peacock
Editor

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Legal UPDATE

Data Protection Bill

The new Data Protection Bill, which will provide new laws that will protect personal data, was introduced to the House of Lords in September. If the Bill is passed, an Act of Parliament replacing the Data Protection Act could come into force by 25th May 2018.

The bill will transfer the General Data Protection Regulation, as set by the European Union, into UK law. The legislation will remain in place after Brexit.

Key provisions include:

• Make it simpler to withdraw consent for the use of personal data
• Allow people to ask for their personal data held by companies to be erased
• Enable parents and guardians to give consent for their child's data to be used
• Require 'explicit' consent to be necessary for processing sensitive personal data
• Expand the definition of 'personal data' to include IP addresses, internet cookies and DNA
• Update and strengthen data protection law to reflect the changing nature and scope of the digital economy
• Make it easier and free for individuals to require an organisation to disclose the personal data it holds on them
• Make it easier for customers to move data between service providers.

(Source: Gov.co.uk)

Voluntary overtime must be included in holiday pay calculations

A recent ruling by the Employment Appeal Tribunal (EAT) means that employers must now take voluntary overtime into account when employees' holiday pay is calculated. Before the ruling, following an appeal by Dudley Metropolitan Borough Council against an action taken by 56 members of the Unite union, many employees throughout the UK were paid for voluntary overtime but did not receive annual leave entitlement for working the extra hours.

Under the EU's Working Time Directive, EAT found that there is no difference between work that is contractually required and tasks that employees do voluntarily using separate or special arrangements.

The tribunal decided that this voluntary work undertaken at normal levels of pay had to be maintained when holiday pay is calculated. This related to the amount of annual leave, four weeks guaranteed, that EU law provides.

EAT also ruled that when employees worked voluntary shifts or received pay for standby or call-out, they should also be included in calculations for holiday pay; in order not to discourage employees would be put off from taking annual leave in case they may be financially disadvantaged.

In practice this ruling will mean employers may need to make significant modifications to payroll and time recording systems.

18th Edition IET Wiring Regulations (BS 7671:2018)

Electrical safety in the workplace is a key part of any health and safety regime. The Code of practice relating to this, known as Wiring Regulations, BS 7671:2018, are due to be published in July 2018 and will come into effect in January 2019. This six-month period between publication and implementation will give electricians and electrical contractors time for transition to the new regulations and enable them to get up to speed with the changes. It's important therefore for your business to be aware of what changes are coming and to plan for them.

Here's three of the most significant proposed changes:

Protection against overvoltages
A revision of Clause 443 means the criteria to determine whether or not protection against transient overvoltage is required may change to bring the 18th edition in line with International standards. Instead, protection would have to be provided if the consequences of overvoltage affected human life, public services and cultural heritage, and industrial or commercial activity.

Residual Current Devices
Residual Current Devices (RCDs) can cut down the chance of fires that are associated with earth faults but don't reduce the risk of electrical fire if there is parallel or series arcing between live conductors. BS 7671:2018 will give details for installing arc fault detection devices to reduce the risk of fire due to an arc fault current.

Energy efficiency
The proposals also enable a client to specify what level of measures for energy efficiency they want applied to electrical installations, matching safety and service with the lowest electrical consumption. There have been substantial developments in metering and adding off grid electrical sources as well as arrangements for connecting electric car charge points.

Winter Safety

The winter months entail specific health and safety concerns that pose threats to employees. Although these hazards can be particularly acute for outdoor workers, there are also many potential dangers within the workplace itself and surrounding areas such as car parks or walkways.

As an employer, you have a duty to keep your workforce safe. But it's not solely up to you. The best way to prevent injuries associated with winter weather is to adopt the attitude that safety is everyone's responsibility– whether in large, medium or small organisations.

Employers must initiate safety protocols so that every employee knows how to prevent accidents and injuries, and understands what to do in the event of an emergency. Reinforce procedures regularly, so a culture of safety first becomes a natural part of how the company operates.

Involve your employees from the start, so they can help identify hazards and work on resolving problems. Inclusion gives you a strong platform for building a culture of safety within your organisation.

There are a number of key areas of winter safety that you should consider to provide the safest working environment possible for your employees.

Safe winter driving

Business doesn't stop in winter even when the weather is bad, but it can be disrupted. For instance, if your business depends on deliveries to and from your premises, or a travelling sales force, everyone should be prepared and equipped properly for conditions that may include snow, ice, heavy rain and floods.

• Vehicle preparation: vehicles should be fully serviced before the start of winter and anti-freeze checked. Ensure that batteries are fully charged, lights are clean and work, all windows, including windscreens, are clean and wipers are operating as they should. Check that tyres have good tread depth and are at the right pressure and that the brakes work effectively. Regularly check fluids and top up when necessary

• Emergency kit: include a shovel, towrope, sturdy water boots, a hazard warning triangle and a first aid kit. A working torch, de-icer and car blanket should also be included

• Preparedness: wear warm clothes and take emergency food and a hot drink in a flask on winter journeys. Make sure that there's at least one fully charged mobile phone in the vehicle. Remember to de-ice your vehicle and clear any snow from it before embarking to ensure visibility is not in jeopardy. Note that it is illegal to drive a vehicle if snow hasn't been cleared off it

• Weather forecast: listen to the news or forecasts. If there's impending dangerous weather, and a journey is nonessential, don't drive. It's better that you're safe and time can be made up when conditions improve. If there's snow or ice, adapt your driving to these conditions by reducing speed so you decrease the risk of skidding and being unable to stop quickly.

All employees should take time to learn how to deal with severe winter conditions when driving.

Slips, trips and falls

Tumbles are hazards at any time of year, but winter conditions increase their likelihood for employees unless safety precautions are put in place. Accidents can be expensive if you don't have a proactive safety plan in place, as workers may be able to get compensation payments if they are injured. You could incur government fines too, so ensure you have good planning in place.

Car parks pose problems if they aren't cleared properly, whether it's your own team that does it or a snow removal company. Even stepping out of a car can be hazardous if snow or other debris is blocking a walkway to an entrance, or there is ice on the car park or walkways

You should always be aware of the potential for danger and have measures in place to reduce the possibility of accidents.

• Ensure stairways, walkways and other work areas are kept clear
• Remove hazards such as snow on pavements or water on floors at once
• Every employee should look where they are going and be prepared to steady themselves with their hands if they should slip
• Avoid carrying heavy loads in bad weather as they could put an employee off balance if the underfoot surface is slippery
• Make sure hazardous areas are clearly and appropriately signed
• Use footwear with heavy treads to improve traction
• Wear high-visibility clothing so drivers can see you.

CONTINUED... ▶▶

Avoiding accidents

Winter conditions increase the potential for accidents, so your company's safety plan needs to be fit for purpose. Assess risks, distribute the appropriate information, and ensure that protective equipment is in place.

There are many possible injuries that can occur in poor weather conditions including:

- Falls caused by removing ice and snow from rooftops
- Employees being hit by vehicles or other mobile equipment if a driver loses control due to the conditions on the ground
- Injuries such as electric shocks, amputations or lacerations from using power equipment
- Being hit by falling trees or branches.

Training for all employees should include awareness of the problems that might arise from adverse weather or environmental conditions. Include instructions about how to mitigate the risks, and the importance of being alert to potentially dangerous situations at all times.

Carbon monoxide

When temperatures drop in winter the risk of carbon monoxide poisoning increases, especially during the first three months of the year. Accidental deaths from this are often due to malfunctioning furnaces or poor ventilation, but they can also occur through the use of portable generators and chain saws. In confined spaces carbon monoxide, an odourless gas, can build up and prove fatal.

It's the role of the employer to schedule regular operational checks on devices that produce carbon monoxide. In areas where there may be danger, particularly confined spaces, install carbon monoxide detectors. These are essential safety devices that warn anyone in a particular area of high levels of carbon monoxide. Comprehensive alarm systems should always be installed, but there's no substitute for good maintenance of equipment and tools, preventative action, and a workforce well-versed in health and safety procedures.

Hypothermia and frostbite

If you have workers who spend much of their time outside, raise awareness about the risks of hypothermia and frostbite. This goes for employers and employees. Many people associate these terms with mountaineers or arctic explorers who have been exposed to freezing temperatures. But hypothermia and frostbite occur in far more everyday circumstances, such as extended outdoor work situations without the proper protective clothing.

Both can have long term effects on the body, including amputation of affected limbs or even, in the worst-case scenarios, death.

Employees should receive training to recognise both medical conditions and know what to do if either is suspected.

Signs of hypothermia include:

- Shaking or shivering
- Confusion or drowsiness
- Lack of coordination
- Speech that is slurred

Those of frostbite include:

- Very cold skin that turns numb and becomes hard and pale
- Stiffness in joints and/or muscles
- Blisters or swelling.

If any of these symptoms occur, seek medical care as soon as is possible. Meanwhile, mitigate potential harm by elevating the affected body part so swelling can be reduced and move the person, where possible, to a warm area.

This helps prevent further heat loss. Remove wet clothing and dress affected areas in a dry, sterile bandage. If fingers or toes are suffering, then cotton should be placed between those affected.

Workplace temperatures

Maintain an appropriate ambient temperature in workplace areas. These will differ depending on the environment and the tasks performed there. Office workers who are mainly sedentary will require a warmer temperature, especially during the winter months, whereas workers on a factory floor may get additional warmth from machinery or processes being used. Always monitor temperatures because workplaces that are either too cold or too warm can affect the productivity of employees.

PPE for outdoor workers

Personal protective equipment should always be available for outdoor workers, especially when they have to undertake their duties in very cold weather. Examples include strong boots, warm socks, wind and waterproof jackets and trousers. These are essential to help keep workers safe. Protective headgear for outdoor work is another crucial requirement to prevent the potential of injury from falling debris or falls.

Working outdoors in bad conditions can be very challenging, so ensure that your employees are properly equipped.

Updating risk assessments

Winter presents multiple health and safety issues. Every season in the working year requires tailored risk assessments and specific protocols. But winter presents distinct threats to employee well-being. Keep your risk assessments up to date, adapt protocol accordingly, train your employees, raise awareness of individual obligations and responsibilities, and provide the safest working environment that you can.

Fire Warden
RESPONSIBILITIES

Whether you are a business owner, a manager or an employee, it's essential to familiarise yourself with health and safety policies and plans, including where responsibilities lie when an outbreak of fire occurs. Fire Wardens are appointed in a workplace to undertake set duties, both preventative and reactive. Preventative tasks are designed to enable an assessment of the level of risk of a fire in the workplace, while reactive duties are those carried out in the event of a fire breaking out. Being a Fire Warden is an important and responsible post, and as such they must carry out a series of checks on a regular basis.

Sometimes designated as fire marshals, wardens are usually involved in planning strategies for a fire evacuation or, if newly appointed, are required to familiarise themselves thoroughly with any existing plan. This plan is essential, because when implemented effectively it could save lives. It's a good idea for an organisation to undertake a regular audit of evacuation plans to ensure they are up to date and still workable.

Proactive duties

A fire warden's specific tasks will vary depending on the size of the building and its contents, and the number of staff. Among the things that might be involved, day to day, are:

- Checking that housekeeping in general is in good order, for example, that paper storage and waste is properly handled and controlled. Hazardous materials and flammable liquids must be stored correctly. Any room containing a fixed source of ignition or heat may not be used for storage of any kind of combustible material
- Ensuring that all fire exits and routes remain unobstructed and that they are available at all times. Rubbish and external security should also be monitored
- Surveying fire exit signs regularly and checking fire doors at least weekly. Remember that opening exit doors from time to time ensures they are not blocked from the outside
- Checking fire extinguishers to ensure they are in the right place, clearly signed and positioned above floor level. Regular services should be organised and recorded
- Ensuring that all break glass call points are visible and that they are clearly indicated by a break glass point sign and an emergency fire action notice
- Controlling smoking areas so that they are cleaned regularly, including any ashtrays supplied
- Putting in place testing schedules for:
  - o Electrical safety checks and PAT testing
  - o Emergency lighting (monthly tests are recommended)
  - o Smoke and fire alarms (weekly testing is recommended).

Planning and paperwork

Fire Wardens manage the checks that are carried out and ensure compliance in terms of legal requirements. For example, should hot works permits be needed for tasks such as welding, soldering, torch cutting, etc., the Warden is responsible for their issue. He or she must also control contractors engaged in such work.

When the fire evacuation plan is audited, the Fire Warden has the opportunity to revisit the risk assessment on which it's based and to update this where necessary. Wardens should arrange fire drills at least once per year and carry out thorough staff inductions with all new employees or with all members of staff if changes are made to the evacuation plan.

Reactive duties

Obviously, the principal role of the Fire Warden is designed in such a way as to prevent a fire breaking out. However, should a fire occur, the Warden has a set of reactive duties to deal with the situation. In this case, their responsibilities might include some or all of the following:

- Using a fire extinguisher or other equipment to fight the fire
- Calling the emergency services and raising the alarm
- Directing staff to available exit routes that are available to them and checking all rooms to make sure everyone is accounted for
- Assisting people with disabilities
- Closing all open windows and doors, being sure to also close any corridor windows
- Ensuring all fire doors are closed, including the final exit ones
- Ensuring any hazardous manufacturing machinery and processes have been isolated
- Taking part in the roll call at the designated assembly point
- Reporting to the fire service personnel when they arrive

Fire warden numbers

Every organisation should carefully consider how many Fire Wardens it needs. Larger workplaces with multiple floors or several different rooms on one level, for example, will want to appoint several wardens to take care of all the required tasks. Even in a smaller organisation, there's a case to be made for having at least two Wardens in order to allow for ab-

sences from work. Staff members who are designated fire wardens may go offsite for training courses, for holidays or because they are unwell.

Although there has been a downward trend in the number of fire incidents in recent years in the UK, during 2013–2014 there were 22,500 fires reported in non-domestic buildings. Three-quarters of those were recorded as accidental. Faulty fire alarms that failed to sound accounted for 3,700 fires, hence the importance of testing alarms on a regular basis. (Source: Gov.co.uk).

Retail distribution centres had the most fires at 3,000, closely followed by industrial premises with 2,500. There were 2,200 fires in restaurants, takeaways, pubs, cafés or wine bars. The four most common causes of fire were:

- Electrical faults
- Misuse of equipment
- Smoking
- Arson

One-quarter of accidental fires in non-domestic premises were due to faulty cables or appliances, which is why testing electrics on a regular basis is essential. Two thousand fires happened when equipment was misused. That might have been due to inadequate training or a flawed risk assessment. Smoking is another common cause of a fire in the workplace, so a designated smoking area away from any combustible or hazardous materials is vital. Fires set deliberately totalled 4,950 during 2013–14, so it's important to ensure correct storage of flammable material and equipment and, if necessary, use appropriate security measures such as CCTV or security patrols.

Despite the downward trend, the death of even one person at work as a result of fire is one too many. A good fire risk assessment, competent fire evacuation strategy and well-trained fire wardens who properly implement a health and safety policy may be all that stands between your workplace and disaster as a result of fire.

Getting out safely

In the event of fire, a safe and well organised emergency evacuation can mean the difference between life and death.

Fire Safety
Do you have the right equipment?

First Aid
Are you prepared for emergencies?

Safety Signs
Have you identified escape routes?

Fire action
Sound the alarm

Fire exit

Do not use the lifts

Fire door keep shut

Ask the expert...

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Data security

AND EX-EMPLOYEES

A new study has revealed that businesses are failing to block ex-employees from accessing the company's data. More than 50 per cent of former employees can still get hold of information from organisational networks, even after they have left the corporation. It's clear that business owners and leaders are not protecting vital and often confidential data. Such breaches by ex-employees have been experienced by almost one-quarter of UK businesses.

The study was undertaken by data management company OneLogin, which specialises in identity management, and

responses were gathered from more than 600 influential business personnel with a remit for IT security. It emerged that many companies have flawed security systems and the vast majority are still using manual processes to change the provision for individual access to corporate data. In fact, 50 per cent of survey respondents admitted they were not using automated systems, and many said they were spending up to an hour on manual processes instead.

Does it matter?
An employee's access to corporate applications should stop as soon as he or she leaves a business. That is because

corporate data in the hands of a competitor or that is leaked can be damaging to both ongoing and future business. The fact is, it's possible to put in place relatively simple processes to protect confidential data. Unfortunately, many businesses seem to ignore the potential threat to data security, as well as brand image and revenue details. Instead, almost 30 per cent of former employees' accounts are still active for at least a month after they depart. Remember that restricting access to data is just as important as restricting access to hazardous areas.

Unscrupulous ex-employees who still have access to your organisation's corporate data are being handed the opportunity on a plate to exploit it. That is unnecessary, as there are a range of tools, such as automated 'de-provisioning', that will help you to block unwanted access easily and quickly. It's within your power to monitor and manage employees' and ex-employees' use of corporate applications without resorting to manual processes.

You may also want to pause and think about your organisation's policy regarding BYOD (bring your own device)

to work. With the advent of cloud technology, businesses can now set up systems that make document and data accessible to employees working from home. This might well turn out to be a safer option, as long as the remote server is secure than allowing workers to bring their own laptops or other devices to the workplace.

Data protection legislation
In 2018, the European Union plans to introduce a General Data Protection Regulation (GDPR), which will make data protection by your business a legal

requirement. Organisations could face fines of up to four per cent of their turnover or €20m (£18.1m), whichever is higher. Instead of risking a hefty fine, check out some of the Security Information and Event Manager (SIEM) software services and products. These deliver analyses of any security alerts that may be generated by intruders seeking access to applications or network hardware.

Safety in manufacturing

Workplaces don't have to be dangerous places, but they certainly can be. As an employer, one of your primary responsibilities is to ensure the health and safety of your employees and any visitors to your business under the Health and Safety at Work Act (1974) that was modified in 2008. As one of the UK's largest industry sectors, manufacturing presents many safety concerns that need to be addressed. Here you will find some statistics and a dozen or so areas that you should be aware of to keep everyone as safe as possible in the workplace.

Injuries and fatalities in the manufacturing sector

According to the Health and Safety Executive, over the last five years there was an average of over 3,100 reports of major injuries in the sector and a further 4,100 or so reports of injuries where employees were kept away from work for seven days, and often more.

In those five years, there was an average of 22 workers who died each year in workplace accidents. Additionally, many workers in the manufacturing sector suffer from ill health due to exposures from the workplace with an average of 33,000 each year suffering from illness that was caused or aggravated by a recent or current job.

Handling materials

There is a lot of responsibility on manufacturing workers to move a range of materials from raw, in-process and those ready to market. If workers handle materials inappropriately, they open themselves up to risks that include overexertion. This could lead to exhaustion as well as the risk of equipment failure as a result of complacency when procedures are not followed correctly. Lifting objects the right way to prevent the risk of strains and sprains is an essential part of employee training and care should be taken when using heavy equipment.

Lockout Tagout

When equipment is being maintained it's important to implement a lockout tagout system to ensure power to any equipment is completely disconnected and is unable to be turned back on while an employee is working on it. This will help ensure the safety of any worker in a maintenance situation and protect them from any potential hazard or injury.

Fatigue

Tiredness can often be a contributory factor to workplace accidents, especially for employees working long shifts. They may be accustomed to these types of shift, but if they are fatigued they are more likely to make mistakes. You should ensure that they take regular breaks and that processes and procedures are in place to reduce the risk of fatigue.

Complacency

As the phrase has it, "familiarity breeds contempt". With regards to safety in the manufacturing industry, it may not be contempt as much as complacency. Operating heavy machinery such as forklifts and moving vehicles requires operating personnel to be attentive and motivated at all times. Complacency can lead to carelessness, mistakes and the potential for injuries or even fatalities. Risks can be alleviated by having clear safety measures in place and the right Personal Protective Equipment (PPE).

Inconsistent maintenance

On the factory floor, it's crucial that all equipment is properly maintained — no cutting corners should be permitted. If equipment is poorly maintained there can be extreme dangers in the working environment, especially when machines malfunction. Employees should be vigilant and know what to look for in a malfunctioning machine. The relevant training should make them especially aware of warning signs such as leaks, vibrations, alarms, smoke or exposed wires.

Emergency response and first aid

Procedures need to be in place for emergency responses to accidents and injuries. All employees should be aware of what to do in emergency situations and dedicated and trained first aiders should always take the lead in terms of response to an incident. Procedures should be codified so everyone is clear about what to do. First aid kits are an essential part of any workplace's safety measures, and the larger and more potentially hazardous the workplace is the more items will be needed.

Slips, trips and falls

Some dangers in the workplace don't always seem obvious, but slips, trips and falls are an ever-present problem. Advice should always be given to employees about the potential for injury, and using posters to give that advice on prevention is a useful way to get information across. Common causes of falls include spillages, cables that can trip up employees, obstructions, flooring that can also be the cause of slipping and tripping, poor lighting and inappropriate footwear.

Fire hazards

Fire hazards are always potentially dangerous to your workplace, so ensure you comply with fire safety codes. This includes removing anything that blocks doorways and walkways. If your business uses combustible materials, you should only use what you need for the job being done. All flammable material should be kept in a safe storage space when not being used and any combustible waste needs to be stored in metal containers and disposed of on a daily basis.

Falling objects

Protection against falling objects, which can cause serious injuries or even death, can be achieved by using nets, toe rails and toe boards so that items don't fall. Heavy objects should always be put on lower shelves and boxes stacked straight up and down, away from work areas and aisles. When using a forklift for picking up objects, ensure there is no one near a place where an item could fall. You should also make sure any item being lifted is centred on the fork and be aware that the higher you raise the fork the more unstable it will become, leading to the possibility of it falling over.

Safety equipment and PPE

Employees should always wear the appropriate safety equipment necessary for the work they are doing and the workplace environment in which they are doing it. This type of equipment includes goggles, gloves and hard hats. PPE is particularly important when dealing with hazardous materials, such as chemicals, and for that a mask and hazmat suit are essential.

Safety signs

Good safety signage should be used in all areas of the workplace where there are potential hazards or simply as good practice. There are many signage options available to help keep your workforce healthy and safe.

Managing
Mental Health
at Work

Employers have to deal with many health and safety issues in the workplace following legal requirements and regulations to keep employees safe. Generally, these are considered to do with physical health, such as the potential dangers of handling materials or working in hazardous environments.

However, employers also need to be aware of their responsibilities relating to mental health in the workplace and take steps to address it and improve it. As the UK's largest single cause of disability, the issue has to be taken seriously.

Workplace mental health statistics

When you consider that each year, one in six workers (close to 17%) experience anxiety, depression and overwhelming stress, you can see the scale of the problem.

In addition:

- 74% of those who have a mental health problem for over a year are out of work, and 55% who have anxiety or depression for over a year are also out of work
- Mental health conditions were responsible for 18 million days lost to sickness absence in 2015
- Mental illness in the workplace costs employers around £26 billion every year
- 49% of workers would be uncomfortable revealing at work that they had a mental health issue.

The political situation

A review into workplace mental health, commissioned by the Prime Minister in January 2017 and carried out by Lord Stevenson and the CEO of Mind, Paul Farmer, who is also Chair of the NHS Mental Health Taskforce, is currently underway. The review will examine recommendations that may extend protection from workplace discrimination due to mental ill health and will also look at reviewing health and safety regulations. It will also examine provisions for first aid training, and if needs assessments that are already carried out for physical health risks are also to be done for mental health issues.

Taking practical steps to address mental health issues in the workplace

Given the statistics relating to sickness absences and the cost to employers, it makes sense to invest some time and thought into making your workplace one that is both aware and supportive of issues that can arise.

You should also be aware of legislation, especially the Equality Act 2010, to check what might apply to your business's circumstances.

- Introduce a dedicated counselling service or establish a helpline for mental health issues. This will help give employees with a problem the confidence to come forward to try to deal with it
- Provide training on issues relating to mental health, and include mental health first aid as a standard part of that training
- Foster a culture that is supportive and open so that anyone who needs help can be reassured that seeking it would not stigmatise them. The use of positive language can also be very supportive in difficult situations, and managers and team leaders should be trained in communication skills
- There are several organisations, such as the charity Mind, that provide advice and resources, and they will be only too happy to help as your business sets up its needs assessment and strategy
- There are also organisations that provide mental health toolkits that you could adopt. These include Business in the Community, Public Health England and the Samaritans, with advice that covers how suicides can be prevented
- Physical activity is known to improve mental health, and you could adopt a programme to develop activities amongst the workforce. One such programme is from the Scottish Association for Mental Health, with the Scottish Government backing it and working on its development.

The legal position

As with most areas of the law, it can be difficult to establish exactly what an employer's position is in relation to mental health in the workplace. One major challenge includes determining if it is the workplace itself that is causing an employee mental health problems or whether it is due to circumstances at home or in their social life.

According to the courts, there are no occupations that are intrinsically dangerous to mental health, though recent studies suggest that in certain sectors there are higher incidences of difficulties. From the perspective of common law personal injury, the main focus is on whether any harm suffered was reasonably foreseeable. This approach also focuses on whether or not reasonable steps were taken by the employer to avoid it.

Counselling service provision and occupational health consultation may help if claims arise. However, it is worth getting advice from professionals in the mental health field to explore the legalities, what your options are, and what you should put in place for the ongoing safety of your employees.

In recent years, awareness of mental health issues has risen up the agenda. The more informed you are, the more likely you are to be able to protect your workforce and your business.

Carrying out a COSHH assessment

**COSHH – Control of Substances Hazardous to Health – falls under the Control of Substances Hazardous to Health Regulations 2002.
It requires that employers either prevent or reduce their staff's exposure to materials that are dangerous to their health.**

Substances hazardous to health

Many substances that are health hazards may appear obvious, such as chemicals and radiation, but you should also be aware that other substances can be harmful. Chemicals will have labels to warn you of their toxicity and danger, but other dangers include fumes and dust from sanding wood or from cutting silica. Bacteria also pose threats, and asbestos still appears in older buildings and should be removed safely.

In terms of health and safety, you must protect your employees from the potentially dangerous consequences of handling, manufacturing or being in areas where there are hazardous substances.

Identifying COSHH risks

If you are working with hazardous substances in the workplace, you must carry out a risk assessment. Initially, you should check which substances are harmful by reading their product labels and the safety data sheets supplied with them. Your supplier may also be able to give you additional information if you are in any doubt.

Remember that some harmful substances may be produced by your processes, so workers who are grinding or cutting materials could be at risk, as could other employees in the work environment.

Who could be harmed, and how?

Harmful substances can get into the body in a number of ways. They could be breathed in or get onto the skin, thus damaging it, or in certain situations they may permeate the skin, and enter the body that way. There is also a risk of swallowing a harmful substance, and you need to understand the effects of exposure by any of these routes.

Other considerations are how long and how often people work with the substance. Also be aware of those who could be exposed even if they do not work directly with a hazardous substance. It's not just your workforce who could be affected, but also contractors, maintenance workers and other visitors, including members of the public. Cleaners or other part-time staff undertaking specific tasks may also be at risk of accidental exposure.

Risk evaluation

When your risk assessment is completed and you identify harmful substances and how your employees could be harmed, the next step is how to prevent them being exposed. Questions to ask are:

• Is it essential to use a particular substance? There may be a safer alternative available – you would need to research this with your supplier
• Is there a way that you can change a particular process so that the risk of exposure is reduced? If you can't, then you have to put adequate control measures in place so that the risk of exposure is reduced.

Depending on what the answers are, there are ways that you could look at to cut down potential exposure levels to hazardous substances.

Risk reduction by changing processes

Look at ways that you could change processes that risk employees being exposed to danger. If you use a process that has high temperatures, it might be possible to reduce the temperature so that there is a reduction in how much vapour is released into the air. Maybe you could use pellets rather than powders, making a process less dusty.

Containing harmful substances

Minimise the escape or release of harmful substances in whichever activity or process is being carried out by containing them. Enclosing the process can reduce the risk of exposure, and using closed transfer and handling systems help to cut down on the handling of materials. Substances that produce emissions should be extracted, where possible, near the source.

Review work systems

If employees don't need to be in an area where there are hazardous materials, then access should be restricted, and only those who have to work there should be allowed in.

Materials storage should be carefully planned using appropriate containers. These should be correctly labelled, and any incompatible substances – for example, caustics and acids – must be separated. Establish a waste disposal system and seek advice from the relevant local authority as to appropriate ways of getting rid of hazardous waste.

Develop a cleaning programme

During cleaning, there is the possibility of workers being exposed to hazardous substances. Planning and organising your workplace will allow it to be cleaned easily and effectively. If you have smooth work surfaces, they will be easier to clean, and if there are spillages, make sure that the right equipment and procedures are in place to clear them up quickly and safely.

COSSH summary

Legally, you must protect your employees with safe working practices, appropriate training and the right personal and protective equipment when required. Check legislation and regulation to keep your workforce safe and to protect your business.

Q&As

First Aid Kits

Q. Does a first aid kit that is going to be used in a kitchen need to be blue?

A. In a kitchen, you need to ensure you use a catering first aid kit as opposed to a standard first aid at work kit. The contents of a catering kit differ slightly. There are blue plasters rather than flesh coloured (on the basis there is rarely any blue food served so a plaster can't go missing). The kits usually have little "finger buddies" that keep dressings in place. The gloves are slightly different too.

Some companies put their catering kits in a blue box to distinguish it. All first at work kits should comply with BS8599 but it doesn't matter what colour the box is as long as the contents are right for the job.

Aerosal Storage

Q. We have a range of aerosols that we need to store in our office. The aerosols are highly flammable. Which storage cupboard should we use?

A. Highly flammable aerosols should be stored in a cupboard called a flams or COSHH cabinet. They are usually bright yellow or sometimes red steel cabinets and very distinctive. They work well in most manufacturing, workshop and plant locations. For extra piece of mind, if there is any electrical safety risk, an earth can be easily attached to this type of cabinet.

CCTV in Operation

Q. We have recently installed CCTV on our premises for the prevention of crime. What type of signage and wording do we need to comply with current legislation?

A. The Data Protection Act requires that if you have CCTV you:

- must tell people that they are being recorded
- must include the fact of your CCTV in notifications to the Information Commissioners Office about the personal data you hold

Signage is a good way to comply with the first of these two requirements. The wording of the sign must make it clear that information is being recorded. Signs are supposed to be clearly visible and readable.

CCTV signage often takes the form of the yellow hazard warning triangle from EN ISO 7010:2012 and Health and Safety (Signs and Signals) Regulations 1996 (with code of practice L64).

However, because the presence of CCTV is not a direct safety risk, they do not strictly have to comply with these. Although the yellow triangle certainly looks official, there is a variety of different sign designs used. The most effective are those that are readable, visible and will help someone to know the reason why they may be being recorded and who to contact for further information.

News ROUND UP

November 2017

Suspended sentence for roofing contractor

Many workers were put at risk of falling from unprotected roof edges while undertaking work for a roofing contractor. The company owner was given an 8 month prison sentence suspended for two years and ordered to complete 200 hours of community service.

No packed lunches outside

A school has stopped children from eating their packed lunches outside, allegedly for health and safety reasons. The HSE made it clear that it is not a requirement of health and safety regulation or government guidelines on food hygiene or healthy eating.

One potato, two potatoes…

HSE inspectors will be visiting farms that grow, pick and process potatoes over the next few months to remind them of the importance of managing risks to workers. Incidents during potato harvesting season are a common cause of serious and fatal injury.

Go home healthy

A new national campaign has been launched by the HSE to help reduce cases of work-related ill health. Figures show it is costing the economy more than £9bn with 26 million working days being lost.

Metal recycler jailed over arson blaze

The director of a metal waste firm has been sentenced to 12 months in prison and fined £30,000 for various failings, including allowing arsonists to access his Swansea site on three occasions and set fire to used gas cylinders.

JCB wheel falls on worker's feet

An apprentice was left with broken bones in both feet after a 400kg JCB digger wheel fell on him. The company he was working for pleaded guilty to breaching the Manual Handling Regulations 1992, they were ordered to pay a fine of £67,000 and costs of £2,929.70.

Big Ben silenced until 2021

Big Ben's deafening chimes have been stopped for four years to protect workers involved in the major conservation project. The HSE released a statement saying "people's health should not be made worse by the work they do and that no worker should suffer any hearing loss while working on this project."

Ban enforced wearing of high heels

A petition was created requesting that it be made illegal for companies to force women to wear high heels for their jobs. The petition was set up by Receptionist, Nicola Thorp, and attracted more than 152,400 signatures.

Disputed invoices raised under the FFI scheme

From 1st September, disputed invoices raised under the fee for intervention (FFI) cost recovery scheme will be considered by an independent panel consisting of a lawyer and two others with practical experience of H&S. Previously it would have included two HSE members and one independent.

Organised crime in nail bars

Some high street nail bars have been raided by Home Office immigration officers resulting in 97 arrests over illegal immigration, fines for 60 businesses and 14 people identified as victims of "modern slavery".

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