

Consulting Non-Recognised Workers

New regulations obliging employers to consult **all** their staff on health and safety matters came into force on October 1st, 1996. The Health & Safety (Consultation with Employees) Regulations 1996 (HSCER) "top up the existing Safety Representative Regulations. Also known as the 'Top Up Regs', they are required to enable the UK to comply in full with European health and safety laws.

The Safety Representative & Safety Committee Regulations (SRSC) 1977 remain in force in their entirety. They cover:

- members of trade unions recognised for collective bargaining purposes
- any other employees who are members of a bargaining group for which the union is recognised

Employers consultation duties

Any employees not in groups covered by trade union safety reps must be consulted by their employers under HSCER Regs. Employers may choose to consult either:

- directly with their employees or,
- through 'representatives of employee safety' elected by the employees.

Representatives of employee safety

The functions of representatives of employee safety are limited to:

- taking up concerns with employers about possible risks and dangerous events that may affect the employees represented;
- taking up general matters affecting the health and safety of the employees represented;
- representing employees who elected them in consultations with health and safety inspectors.

Areas for h&s consultation

Employers must consult representatives of employee safety on the following:

- any change which may substantially affect their health and safety at work;
- the employer's arrangements for getting competent people to help them satisfy health and safety laws;
- the information employees must be given on the likely risks and dangers arising from their work, measures to reduce or get rid of these risks, and what employees should do if they have to deal with risk or danger;
- planning health and safety training;
- the health and safety consequences of introducing new technology.

Employers must also allow:

- enough time for consideration of the issues and a response;
- enough time for this consultation to take place before any decision is taken or any changes are incorporated into the workplace.

Information

Employees or their representatives must be given enough information to allow them to take a full and effective part in the consultation.

Training and time off

Where employers consult representatives of employee safety, they shall:

- provide reasonable training in the representatives functions
- meet reasonable costs, including travel and subsistence
- permit representatives time off with pay during working hours to perform their functions and undergo training

Advice to Chapels

In most cases the SRSC Regulations will be the appropriate means through which Chapels gain legal rights to consultation and involvement in health and safety.

There are two main areas where the HSCER Regulations are of importance to GPMU Branches and members:

- where chapels are seeking to protect their trade union rights on health and safety in workplace where there are groups of workers not recognised for collective bargaining.
- where the union is seeking to represent members and gain recognition from employers

HSE advice is that in workplaces with trade union safety reps and representatives of employee safety; the employer may have to establish two parallel consultation systems to comply with the HSCER and SRSC regulations.

Such arrangements are unlikely to be in the interests of GPMU members and could be very divisive. Some employers may try to exploit this situation to undermine union organisation.

Chapels will need to make it clear to employers that they represent all workers in the bargaining group for which they are recognised, **including those who are not members of the GPMU.**

The HSE advice also states unions cannot say that they will represent non-members and do nothing in practice, eg only sharing information with members before responding to management proposals. HSE advises employers to

check that the trade union safety representatives do indeed cover all staff.

Therefore Chapels will need to consider how non members should be consulted in the future, and how they can use this as part of a recruitment strategy.

Although this may create practical difficulties for Chapels, they should take account of the advantages of:

- keeping health and safety consultation arrangements in trade union hands;
- preventing employers opting to set up separate consultation arrangements which would not be in the best interests of GPMU members;
- demonstrating the benefits GPMU organisation on safety issues to employers and employees;
- providing additional recruitment opportunities

Although non members will be gaining some representation on health and safety, they will not have any of the other benefits of GPMU membership.

Recruitment and recognition

Where the Union is recruiting members or seeking recognition from employers, the HSCER provides important rights and opportunities for workers.

Employers are required to consult with them on health and safety, and in effect "recognise" representatives of employee safety where they have been elected.

In workplaces where the GPMU is not recognised:

- Get GPMU members elected as representatives of employee safety, and co-ordinate health and safety consultation through them.
- Employee representatives must be elected by the workforce, not appointed by management.
- Point out to the employer that it is more effective and less burdensome to consult a few elected representatives, than the entire workforce.
- If the employer opts for direct consultation of all employees, GPMU members should still put forward an elected representative of employee safety to the employer.
- Provide GPMU health and safety information to representatives, and to members who are being consulted directly.
- Make sure members know who their GPMU representative is.
- Use health and safety activities to recruit non-members.
- Be prepared to challenge whether direct consultation is either genuine or effective.
- Show the employer the value of constructive consultation with GPMU representatives of employee safety, and see if you can use this to help get recognition.

HSE ADVICE

HSE's "Guide to the Health & Safety (Consultations with Employees) Regulations 1996" [ISBN 0-7176-1234-1] £8 from HSE Books tel:01787 881165.

Free HSE leaflet - Consulting Employees on Health and Safety: A Guide to the Law, phone HSE's Free Leaflet Line on 01787 881165.