



Unite the Union's Response to a review of health and safety and the compensation culture by Lord Young of Graffham.

Introduction

This response is submitted by Unite the Union. Unite is the UK's largest trade union with 1.6 million members working in the private and public sectors. The union's members work in a wide range of industries including agriculture, forestry, horticulture, docks, construction, manufacturing, food manufacturing distribution and retail, financial services, road, rail, air and sea transport, print, media, not for profit sectors (including youth and community workers), local government, private contractors providing public services, education and the health service. Our members work in some of the most dangerous industries which include agriculture, construction and docks.

Unite provides legal advice and assistance about a range of different matters to its members. In order to do this, it instructs a number of solicitors' firms to provide advice to its members and to provide representation for certain claims where those claims have at least a reasonable prospect of success.

Unite receives anecdotal information from both its panel solicitors and Unite members about the activities of claims farmers and before the event (BTE) insurers. As a result Unite is extremely concerned about the ruthless commoditisation and exploitation of individuals by claims farmers and BTE insurers.

Unite also provides its members with support, advice and guidance on health and safety matters including training and supporting thousands of safety representatives who work actively and effectively in their workplaces to help prevent occupational injuries and ill health.

There is there is absolutely no room for complacency in relation to the UK's health and safety performance. Though headline fatalities and injury figures may be falling, thousands of other people are dying each year in Britain as a result of cancers and other occupational diseases for example Mesothelioma. And according to the Health and Safety Risk Index published by risk analysts Maplecroft in January 2010 the UK came 30th out of 176 countries for overall

health and safety performance, and the UK comes 20th among the OECD nations.¹

We are writing our response to this review in the immediate aftermath of a fire and explosion at the Lindsay Oil Refinery on 29 June 2010 in which a 24 year old maintenance worker, one of our members, tragically died. Unite is calling for an independent inquiry into his death.

We are making observations both about health and safety law and about compensation as these are quite distinct areas of activity, the former being largely about criminal law, whilst the latter largely involves civil law.

Health and safety law and enforcement

1. General points

Unite notes that Lord Young's remit includes an investigation into ... "the current low standing that health and safety legislation now enjoys..."

Where is the evidence of the "current low standing" of health and safety legislation?

Unite welcomes a genuine review of the impact of health and safety legislation in the workplace, and particularly a review that considers the widespread failure of employers to conduct workplace risk assessments; the lack of effective investigation or workplace accidents, incidents and causes of ill-health; a widespread failure by employers to report injuries and diseases and dangerous occurrences as required under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995; and the lack of involvement of workplace representatives, especially trade union appointed safety representatives.

All of these are current requirements under health and safety law, and Unite would expect a review also to consider shortcomings in the enforcement of these requirements.

However Unite is extremely concerned about the short period of time allowed for this consultation (less than 3 weeks – 17 June to 6 July 2010).

Our concern is reinforced by ill conceived and ill-informed remarks made about health and safety by leading Conservatives in advance of the election and by the publication of several articles in the media since the announcement of the review which have yet again sought to undermine and ridicule good health and safety practice. This included an interview with Lord Young (The Times 19 July) in which he is attributed with remarks such as

¹ http://www.maplecroft.com/about/news/global_health_hot_spots_jan_10.html accessed 1 July 2010

“people occasionally get killed, it’s unfortunate but it’s part of life” and “do you know anything dangerous in offices?”

Such statements are deeply hurtful and offensive, particularly to the families of those killed at work, and also send out completely the wrong message from the Government. Regrettably this suggests to us that the Government is not giving this review the weight that is urgently required. We sincerely hope this is not the case, as clearly safe and healthy workplaces are essential not only to protect workers and to underpin a civilised society but are also good for the UK economy.

We should not forget that the primary legal **duty** to ensure safe and healthy workplaces lies with the employer, but it is the families, and society, which bear the **burden** of workers being injured, made ill or killed as a result of negligent working practices.

2. Unite wants to see a review of workplace health and safety law that:

1. Improves the enforcement of existing health and safety duties on employers, e.g. risk assessment, accident and incident investigation, inspections and reporting of injuries and dangerous occurrences.
2. Ensures that the HSE and local authorities are given adequate funding to enforce health and safety law.
3. Re-affirms that health and safety laws apply in all workplaces and to all workers and must be enforced accordingly.
4. Ensures that official health and safety statistics fully and properly reflect the incidence of occupational injuries and ill-health
5. Concentrates more on internal health and safety improvements at workplaces rather than issues relating to external consultants
6. Leads to the enforcement of union safety representatives’ rights
7. Recognises and uses union safety representatives as a driving force behind the improvement of workplace health and safety
8. Legislates to place explicit health and safety duties on company directors and their equivalents
9. Introduces new laws to require the early release of basic health and safety information after a death at work
10. Puts a stop to the trivialisation by the tabloid press and others of health and safety law and its enforcement and the so called “compensation culture”.

Enforcement

Unite strongly supports the work done by HSE and local authorities to enforce health and safety law and provide advice and guidance to duty holders.

Unfortunately enforcement activity has declined significantly in recent years. According to research done by Hazards Magazine², in 2001/2 it is estimated that each workplace enforced by the HSE would expect an inspection every 8.4 years, which in itself was clearly inadequate. The number of premises covered by the Field Operations Division is 884,000 covering 15 million workers. By 2009 it is estimated that a workplace could expect to be visited only once in about 38 years.

Unite also conducted its own research which was published in our report Lack of Investigation 2001-2007 (a copy is enclosed with this submission). This report examines incidents reported to and investigated by HSE over a 6 year period and concludes also that levels of investigation have declined significantly.

This very worrying downward trend is also noted in a paper Review of Enforcement by FOD³ considered by the HSE Board on 30 June 2010 which notes that the number of prosecutions approved in 2009/10 is 46% of the 1999/2000 level and the number of enforcement notices served in 2009/10 is 87% of those served in 1999/2000.

Most regulatory action which currently takes place is therefore largely confined to incidents where workers suffer sudden injury or dangerous occurrences.

However, when the HSE conducts proactive “blitz activity” for example on construction sites or farms, effective enforcement action results.

A recent HSE construction “blitz” in the North West in March 2010 resulted in a quarter of the sites failing the inspections, and 56 enforcement notices being issued including prohibition notices, at 42 sites.⁴

Similarly, an HSE intensive inspection initiative in agriculture reported in June 2010⁵ found that almost two thirds (62 per cent) of Scottish farms visited were not to be using All Terrain Vehicles such as quad bikes, safely and 36 improvement notices were served. It is hardly surprising, therefore, that the HSE provisional fatality statistics for 2009/10 released on 30 June 2010 confirmed that fatalities rose to 38 in agriculture and that agriculture is the most dangerous industrial sector with a rate of 8.2 deaths per 100,000 workers, many farm fatalities involving family members and children.

² *Once in a lifetime*, Hazards Magazine, No 110 April/June 2010

³ <http://www.hse.gov.uk/aboutus/meetings/hseboard/2010/300610/pjunb1054.pdf> accessed 1 July 2010

⁴ <http://www.hse.gov.uk/press/2010/coi-nw-037gmresults.htm> accessed 1 July 2010

⁵ <http://www.hse.gov.uk/press/2010/coi-sco-15010.htm>

More government health and safety inspectors must be appointed.

Voluntary systems of compliance do not work.

The proposed public sector expenditure cuts should neither jeopardise health and safety management and practice by employers in the public sector, nor should there be a further reduction in enforcement and other regulatory activity.

Barring HM Inspectors from certain workplaces, for example construction sites will not work either, and would be dangerous and irresponsible, and in our view, completely unethical.

Instead, the Young Review must take this opportunity to explore all measures which will give working people greater protection, including more regulatory and enforcement activity.

Application of health and safety laws

Unite notes with concern remarks made by Lord Young which suggest that the emergency services should be excluded from health and safety law. Unite represents workers in these services including ambulance staff and airport fire fighters. We strongly oppose any change in the law in this respect.

Depriving these workers of health and safety protection would be dangerous both for them and for members of the public as health and safety legislation enables them to work with their employers to manage the risk and ensure that proportionate safety steps are taken.

Creating a “two tier” system of protection for people working alongside each other in the sectors which provide emergency services such as the police, transport and the health sector is simply not acceptable for society.

David Cameron indicated in his speech to the Policy Exchange last year that he wanted the Young Review to look at exemptions from “regulatory burdens” for example for the voluntary sector. Unite represents workers in the not for profit sector – charities and voluntary organisations. Our own research has identified stress is a particular occupational health and safety hazard in this sector, which will only increase with uncertainties about funding - the vast majority of workers in this sector are women.

Comprehensive statistics are needed

It is widely recognised that many employers do not comply with the reporting requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). In addition health and safety statistics for accidents and ill health do not include a number of areas of activity such as work related road accidents (these are not required to be reported under RIDDOR). There are also gross underestimates for

occupational cancer and other diseases such as Chronic Obstructive Pulmonary Disorder.

At present, therefore, a full picture of the numbers of people suffering as a result of occupationally caused incidents or diseases does not exist. Action needs to be taken to ensure RIDDOR compliance and collect comprehensive occupational accident and ill-health statistics.

Concentrate more on internal health and safety improvements at workplaces rather than issues relating to external consultants: trade union representatives not consultants

It is reported that Lord Young is concerned about the activities and influence of health and safety consultants. Unite has not experienced serious problems in this area. Our experience tells us that the problem lies *within* companies and organisations, predominantly at the middle management and supervisor level. It is here that there is a serious lack of experience in, and commitment to, good health and safety. This is of particular concern in small and medium sized enterprises but is by no means confined to them.

The law, companies and organisations need to provide more activity, support and training on health and safety at these levels. Health and safety knowledge and experience could be put to good effect by properly enforcing the current rights of trade union safety representatives, and enhancing those rights to provide an effective input from safety representatives.

Instead of concentrating on the so-called problems of health and safety consultants at high level, the review should look at ways of improving internal “consultancy” through the effective involvement of trade union safety representatives.

One area which also needs much closer attention and improvement is the link between health and safety legislation and equalities issues including the continued development of the HSE’s diversity and equalities work.

Lord Young may wish to consider, for example, the report of the first inquiry by the Equalities and Human Rights Commission Inquiry Into The Meat And Poultry Processing Sectors⁶ which highlighted a number of serious health and safety concerns, in a sector which employs many women, for example ignoring legal requirements in relation to pregnant workers and access to welfare facilities.

⁶ <http://www.equalityhumanrights.com/legislative-framework/formal-inquiries/inquiry-into-the-meat-and-poultry-processing-sectors/index.html> accessed 5 July 2010

Union safety representatives

The vital role of trade unions in helping to keep workplaces safe is recognised in the HSE's current strategy *The Health and Safety of Great Britain (2009)*⁷ which states at page 11:

Workplace research provides evidence to suggest that involving workers has a positive effect on health and safety performance. Equally, there is strong evidence that unionised workplaces and those with health and safety representatives are safer and healthier as a result.

One example of official research which also highlights the economic benefits of safety representatives' contribution is a DTI consultation paper published in January 2007: *Workplace Representatives. A review of their facilities and facility time.*⁸ This estimated that safety representatives at 2004 prices save society between £181 million and £578 million a year.

This is because union safety representatives have a range of legal functions which enable them, among other things, to carry out inspections and investigations, make representations, receive information from employers and inspectors and call for the establishment of consultative structures such as health and safety committees.

Unite has many thousands of safety representatives who are trained and supported by the union. They are brave and committed individuals who are volunteers in a role in which many develop considerable expertise, and they make a real difference to health and safety at work. We are including some examples of their action and views (see Appendix).

Directors' Health and Safety Duties

Unite believes that the absence of statutory directors' duties on health and safety hinders the prevention of accidents, injuries and fatalities and makes it more difficult to secure justice for the victims of health and safety breaches. Only the introduction of statutory health and safety duties on company directors and effective penalties will ensure directors can be held responsible for health and safety negligence.

Improving justice for victims of health and safety failures by early release of health and safety information

Unite has been instrumental in distributing details of deaths and very serious accidents, so that other organisations can take preventive action if they are involved with similar processes. Such information is not released by the Health and Safety Executive until there has been a prosecution many, many

⁷ <http://www.hse.gov.uk/strategy/strategy09.pdf> accessed 5 July 2010

⁸ <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/files/file36336.pdf/> accessed 6 July 2010

months later. Unite is aware of cases where if information had been released earlier further fatalities could have been prevented.

We therefore urge that there should be a legal duty on employers and the HSE to ensure that relevant information is released after a very serious accident in the workplace, without prejudice to any potential legal action, so that others can take preventive action to avoid any further deaths or very serious injuries.

An end to trivialisation of health and safety and of the “compensation culture”

Unite calls for an end to trivialisation and mockery of health and safety concerns and indeed of the so-called “compensation culture”. There is ample evidence in the press of this. This is not only dangerous but causes great offence to those who have been the victims of employers’ negligence through no fault of their own.

“Do you know anything dangerous in offices?”

“Offices are safe” is a long held misconception amongst a number of people, including, apparently, Lord Young. Offices may appear to some to present fewer physical risks than other workplaces, but they are certainly not without risk and this is recognised by the HSE, which provides advice and guidance on office safety on their website.

HSE statistics show that 500,000 people suffer from repetitive strain injury, and in 2007/8 it was found that 420,000 people believed they were experiencing occupational stress which was making them ill. In addition office workers are being exposed to hazardous substances including asbestos, and many staff also face exposure to violence and verbal abuse. So offices may not be “safe”.

Unite has many members who work in office environments in all sectors of the economy. Here is just one recent example of the seriousness of the problems that can develop:

“I am writing with regards to a work related condition which I have developed whilst working for my current employer. In 2006 I developed serious pains in both wrists and hands whilst working on my computer. I was under a lot of pressure at the time as I had a very heavy workload along with tight deadlines. In August 2006 I was in so much pain I was forced to take 6 weeks off sick as I was in severe pain and couldn't carry out the simplest of daily tasks. I managed to come back to work after a long rest but had to dictate to a temporary member of staff to enable me to do my work as I was unable to carry out the duties myself on the keyboard. I visited my GP and eventually a hand specialist and was eventually diagnosed with Carpal Tunnel syndrome.

My condition slowly improved with monthly massage therapy along with Chiropractic treatment (both of which I paid for myself) I went to see a hand surgeon in the first

part of 2007 who offered me Carpal Tunnel release surgery however I decided not to go ahead with surgery at this point because the condition appeared to improve. Over the course of the next couple of years I still had symptoms of the condition.

In February of this year my symptoms worsened dramatically to the point where I had to take a week off work and my mother had to come and stay with me to help me around the house. Since then my condition has been bad to the point where I cannot drive for a week at a time. [My employer] sent me to see an Occupational Doctor who said that because my condition is work related I should take 15 minutes per hour away from the computer.

I visited my GP at the beginning of this year who referred me to have Carpal tunnel Surgery. I have decided to have surgery as the symptoms appear to be ongoing. I am having surgery on 17th June.”

Health and safety regulations

Unite believes that there is no case to reduce further health and safety legislation.

In 1974 an appendix to the Robens report listed 10 main statutes and 452 statutory instruments relating to safety. This means that the number of regulations in 1974 was 462.

HSE's Review of Health and Safety Regulation published in May 1994 states that HSE was responsible for 28 pieces of primary legislation and 367 sets of health and safety regulations. It also stated that the Commission's programme had led to the removal of 350 sets of regulations, replacing them with around 100 sets of modern regulation.

The HSE website at <http://www.hse.gov.uk/legislation/enforced.htm> as at April 2009 lists 17 pieces of primary legislation and 231 statutory instruments owned and enforced by HSE/Local Authorities as at April 2009

This means we have 46% less regulation than 35 years ago and 37% less than just 15 years ago.

It is not just the number of regulations that have declined. Over the last three years the HSE has reduced the number of forms used for collecting information from business from 127 to 54 – a 57.5% reduction.

Children and risk

According to the interview in the Times previously referred to, Lord Young appears to believe that children are suffering because schools are so risk averse. However, useful government guidance is already in place.

Play England/Department for Children, Schools and Families published guidance, *Managing Risk in Play Provision*⁹, which seeks to provide balanced advice on “risk-benefit assessment” so that the benefits to children are considered as well as the risks.

Whilst we note Lord Young’s concern about the need to toughen up school children and lightening the “health and safety burden” on small businesses Unite believes he should be more concerned about small companies that ignore their basic health and safety duties and as a result ruin young people’s lives as this case shows:

***East Lancashire Box Company, Rishton, Lancashire, 4th February, 2009
Schoolboy illegally employed on a printing machine***

East Lancashire Box Company were prosecuted after a 16-year old employee's hand was dragged into a printing machine while he was cleaning it, breaking a finger and causing crush injuries to two of his fingers.

The company had no risk assessments or safe operating procedures for any of their machines and the procedure used to clean the printer roller posed a risk to their employees' safety.

The 16 year old was employed as a factory worker with the specific task of folding and breaking out cardboard boxes. However, if he completed these tasks the teenager was told to help with tidying up.

This company failed to consider the additional responsibilities associated with employing a young person, and ensuring he was properly supervised.

This accident was avoidable and despite several operations, this young man is still unable to straighten his hand. He has also been unable to follow his chosen career path which was to join the armed forces.

The lesson from the East Lancashire Box Company case is clear: no risk assessments were done, no safe systems of work were in place, and the company was illegally employing a schoolboy. An entirely avoidable accident was the result.

Unite is not convinced that there is a health and safety “burden” on small businesses.

Government research in 2005, the “Administrative Burdens measurement Exercise” found that the average firm spends a very little time (approximately 20 hours every year) and very modest sums indeed (just over £350 a year) on the administrative costs of complying with the Management of Health and Safety at Work Regulations 1999. As this figure includes a considerable number of very large firms, it is clear that the normal cost for smaller companies will be considerably less.

⁹ *Managing Risk in Play Provision: Implementation Guide* (2008)
http://www.playengland.org.uk/Page.asp?originx_9424fe_1139449502553e76o_2009171038g
accessed 1 July 2010

The tragic result is the sort of case outlined above, repeated across Britain.

Young people are also at risk on farms, which are homes as well as workplaces.

Education is needed to raise awareness amongst young people about the dangers of redundant sites, as this Unite safety rep reports:

One big issue is that there's an increase in redundant site trespassing of children, which raises concerns of potential injury etc.

Only last week we had a teenager fall through a roof of a redundant site ... fracturing his skull and is in a 'critical' condition.

And this site was actually well fenced and secured, but they still managed to scramble over two fences, barbed wire, balance and walk across a narrow concrete beam, no wider than a fence post, approx. 30ft above ground, to reach the roof.

So not only do we need to educate employees, but now also children, to raise awareness of the dangers of these redundant sites.

Compensation

As those conducting this review will already be aware, employers' liability personal injury compensation claims arise as a result of negligence and/or breach of statutory duty – that is, health and safety failures on the part of the employer. It therefore follows health and safety compliance by employers should result in a reduction in compensation claims, and also, of course, fewer claims for welfare benefits.

Unite notes that part of the remit is to report on the “rise of the compensation culture over the last decade”.

The compensation culture is a complete myth nurtured by the tabloid press and others to discredit genuine claims and undermine rights. Unite's own experience is that referrals to its panel solicitors of personal injury claims dropped on average by 20% over the period 2008 to 2009.

The Better Regulation Task Force (BRTF) concluded in its report *Better Routes to Redress*¹⁰ that there was no compensation culture, but it was the perception of its existence that impacts on behaviour and imposes burdens on organisations.

Compensation claims firms

¹⁰ <http://archive.cabinetoffice.gov.uk/brc/upload/assets/www.brc.gov.uk/betterroutes.pdf> accessed 5 July 2010

The BRTF concluded that it was not possible to legislate against people's perceptions. It did however start the important debate about the role of compensation claims firms - which eventually led to their regulation.

But even with regulation, the existence of claims firms and the marketing techniques they use – day time TV ads, seemingly random text messages encouraging recipients to claim for their accident, and even accident management companies which exchange vehicles that have been damaged but also have a claims management arm – continue to fuel the myth that obtaining compensation is easy.

Datamonitor

The BRTF was not the first report to conclude that there was no UK compensation culture. In 2002, the business intelligence gathering organisation Datamonitor published "UK Personal Injury Litigation: The Compensation Culture Myth Exploded".

It found that between April 2000 and March 2001, 743,593 claims were made to insurers. Between April 2001 and March 2002, 688,691 claims were made. This represented a decrease of 7.4% and was largely due to a steep decline of 39.9% in disease claims.

Disease claims fell from 123,814 in 2000-2001 to 74,408 claims in 2001-2002. Accident claims, however, remained relatively stable, increasing by just 0.3% during the same period.

In relation to employers' liability claims, Datamonitor noted that, according to Labour Force Statistics, there were 1.05 million accidents in the workplace in Britain in 2001. It estimated that 40% of those could have resulted in a personal injury claim. Yet between 2001 and 2002, only 137,000 successful workplace injury claims were made, representing just 32.8% of the potential number of claims.

Datamonitor estimated that there were a potential 537,311 successful motor injury claims per year. As 347,086 motor injury claims were settled in 2001-2002, it said it could be argued that only 64.6% of potential motor injury claims are being made.

The organisation concluded that personal injury claims would grow by less than 1% to 2007.

Third party capture

By 2007, Datamonitor appeared to have reached a different conclusion. "Personal injury claims numbers continued to mount in 2007" was its headline finding from its survey.

It claimed that legal costs were estimated to reach £8.9 billion in 2012.

The real picture was somewhat different. "It was motor claims that drove the increase in the overall increase in accident claims," the report clarifies. They accounted for 75.3% (up by 6.4%).

Non motor related accident claims were just a fraction of personal injury claims made in 2007-8.

Employer Liability claims fell to a five year low to 11.9%, *down* 11.5% on the previous year. Disease claims were *down* by 32.5% and work-related accident claims *down* by 3.2%. Public Liability claims were *down* 0.5% to 10.8% of total claims.

Datamonitor said the increase in motor claims was "a worrying trend given that motor personal injury claims are among the most expensive claims insurers can face".

In our view it is the activities of insurance company third party capture units who have been actively generating claims by approaching injured people directly to try to, in our experience, (under) settle their claims.

Ironically, in their desperation to cut out lawyers, insurers appear to be fuelling an increase in claims.

The trade unions and union lawyers have provided the FSA with many examples of the worst behaviour by the insurance industry in its attempts to capture claims before a potential claimant contacts, or even thinks of contacting, their union or a law firm for independent advice.

A recent code of practice on third party capture published by the Association of British Insurers is, in our view, wholly inadequate to prevent insurance company behaviour.

Commoditisation and exploitation of individuals by BTE insurers and claims farmers

Unite shares the concerns expressed both in the Report of Lord Justice Jackson's Review of Civil Litigation Costs published in January 2010 (the "Jackson Report") and elsewhere, about the fact that these have, in the hands of before the event (BTE) insurers and claims farmers, become commoditised and exploitative.

The Jackson report comments on the lack of value that BTE insurers and claims management companies add to the process. We agree with and share these concerns. We are also concerned about the detrimental impact that referral fees charged by BTE insurers and claims management companies are having, in some circumstances, upon the quality of advice provided, the types of claims being run, and the likelihood of claims being under settled.

We understand that, in order to be able to afford to pay ever spiralling referral fees, solicitors' firms are being forced to use less experienced (and therefore less expensive to the firm) members of staff to undertake work, even in complex/high value cases where a higher degree of expertise is required. This must affect the quality of the advice being provided. In addition, and again because of the level of referral fees, those firms instructed by BTE insurers/claims management companies are, we understand, being forced into a position of only accepting those claims which have a very high chance of settling or winning as their margins are being squeezed to such an extent because of exorbitant referral fees that they can only afford to take on those claims where there is a very high prospect of their costs being recoverable.

We also consider that there is a much higher likelihood of claims being under settled in the BTE insurance/claims management company arena. This is because the solicitors' firm involved will usually be able to recover their costs from the other party as part of a settlement and this will be preferable to taking the risk of fighting a claim and losing it or failing to beat a Part 36 offer, and thereby not recovering legal costs from the other party for all or part of the case. We consider, therefore, that settlement of claims at whatever value is often seen as the preferred option for the lawyers.

In consequence, we believe that there is genuine concern about the level and quality of service being provided by BTE insurers and claims management companies which may well be causing the interests of justice to be compromised.

Please contact Susan Murray at Unite the Union, on 0207 611 2596, in the event of any queries.

July 2010

Unite the Union's response to a review of health and safety and the compensation culture by Lord Young of Graffham.

Appendix: Unite safety representatives' actions and views

Working with the HSE on the "Better Backs" Campaign

In 2005 the HSE conducted research with Unite safety representatives: *HSE Better Backs 2006: worker involvement evaluation*¹ to evaluate whether promoting HSE campaigns at Unite safety representative training is an effective way of encouraging safety representatives to take action. The findings were that this was certainly the case. For example, within 3 months of the training course around half the representatives had already raised awareness of back safety issues among work colleagues, had been involved in workplace safety assessment and distributed and/or put back safety information in the workplace.

Food factory

A Unite Safety representative engaged on their regular hazard spotting activity in a food factory observed a trainee operator positioned right inside a jar filling machine carrying out a changeover of filler heads. Workers should not enter this machine. There was no lockout procedure in place. The door of the machine was standing open and projecting into a walkway and could have slammed shut which in turn would have resulted in starting up the machine with the worker still inside.

The safety rep ensured that the worker immediately vacated the filling machine, and immediately reported a near miss to management. The safety rep also insisted the employer carry out a full review of all risk assessments for the area and a series of briefings and lock out & tag refresher training was undertaken to prevent a repeat incident.

Local Authority Street Cleaning

"Only last year ... [jointly] with my supervisor ... we re-wrote a safety procedure for small mechanical sweepers, sweeping on the pavements to avoid damage to property and machine also to prevent injury to pedestrians.

We ... actively enforce the wearing of hi-visibility vests whether inside the depot or out on site. I even remind the management [to wear] them whilst they walk around the depot.

In my view the active enforcement of H&S regulations has had an impact in reducing accidents and the need for litigation for compensation."

Mine

At a mine in Yorkshire the safety harness used for shaft inspections was changed to correct type after the union provided information to the employer about the relevant standards.

Call centre

At a call centre in the north east of England, Unite action resulted in workers' headsets being replaced to correct standards to help prevent acoustic shock and hearing damage.

¹ <http://www.hse.gov.uk/research/rrpdf/rr581.pdf> accessed 5 July 2010

Transport: supermarket supply chain

“H&S (is) sometimes is a necessary pill to swallow, but swallow we must if it helps regulate corporations. If left to their own volition, some of these well known high street names will decimate, in very short order, what safe working practices are in place.”

Warehouse distribution centre

“In an area of our warehouse we used to store and work cages full of return items which in certain areas restricted visibility – both from the drivers’ point of view and of course the team members who were processing that work.

We had complained on a number of occasions that it was a particularly dangerous place to work - a few near misses had occurred. [There was then an] incident involving a [collision between a] pedestrian and a fork-lift, it could have been really nasty With my recommendations and the backing of the HSO ..we now have mirrors [to improve visibility] all over the distribution centre along with compulsory hi-viz jackets [being issued] for every single person entering our building.

Therefore Unite and its well trained reps followed their training and made a great impact in our working environment.”

Quarry – “gentle policing”

“I am a safety rep .. and the Reg 40 [activity] we carry out on our sites and within our laboratories and offices has had a profound effect on management awareness throughout this establishment. It can be likened to a gentle policing, which minimises bad practice and supports the welfare of the employees. The success is measured by the lessening number and severity of issues arising as time progresses.

Without this system dangerous occurrences would have to arise to validate the need for safety measures to be put in place, as was the former practice. Hopefully we won’t regress into this costly past in order to make a political gesture.”

Safety representative working in retail distribution warehouse

“Lord Young needs to be reminded of the number of people in this country who are now on disability benefits or incapacity benefits as a result of accidents at work which occurred because employers were not fulfilling simple requirements under health and safety law. I ask how much of this is costing the government bearing in mind the cost of people being on benefits is in some cases for the rest of their life.”

Trade Union

“I became the local H&S rep last year. I undertook training with Unite (my union). Since then, I have carried out a H&S inspection in conjunction with my employer. An action plan was created and recommendations to improve safety of my colleagues in the workplace have been implemented.”

Working Together at BAE Systems

“One of the best examples I can give is the tripartite arrangement of LOPP (Large Organisation Partnership Programme). This programme has been running in BAE systems for five years.

The LOPP has brought together the Trade Unions, safety professionals, HSE, site managers and external organisations to share experience and promote best practice in 6 key areas: work at height, manual handling, slips trips & falls, hand arm vibration syndrome, contractor control and confined spaces.

The LOPP was required to ensure standards across BAE Systems are consistent whilst reducing the likelihood of duplication of effort. Longer term it is expected that it will also help to reduce the accident rate and therefore reduce costs to the business.”

Drinks manufacture

“Through a combination of strong commitment from the management and the Unite Reps in our workplace it is a safer and better place to be.

The roles of our Unite H&S Reps are a constant influence in updating, adjusting and enforcing existing safety policies to make it safer.

It is their dedication, time and effort that makes it safe.

For the employees, risk has been reduced to the minimum and their working environments improved because of the efforts made.

The Unite Union’s influence in the workplace proves again and again that it has an important role to play in all aspects of working life.”

Manufacturing

“Promoting a positive health and safety culture should never be based on the value of the Queen’s shilling, nor the quantum of risk severity be sacrificed for profit, or grossly outweigh the balance of risk or loss of life.”

Oil refining

“As a safety rep working in a high risk industry (oil refining), the application of stricter H&S regulations in the early 1990s reduced the amount of fatalities and serious injuries by immeasurable amounts. I find the proposals of self -regulation by companies to be particularly concerning, if the HSE didn’t carry out regular inspections of my workplace I believe the standards would inevitably drop. the oil companies are particularly profits driven and I have heard many times the comment that safety doesn’t earn money. BP are a classic case of a company that made cut backs to their H&S, which resulted in 15 deaths at a refinery in Texas city ... and then the fatalities and environmental disaster that has recently occurred in the Gulf of Mexico.”

Safety representative currently working in the water industry, and formerly in chemicals and nuclear industries

“I know wherever I’ve worked, the employers consulted and took seriously H&S and the companies valued the watchful eye and critical input from the union safety reps. Including them on the safety team or committee was likened to getting internal watch systems, with trained and developing expertise. Usually a positive relationship, even when they hear things that will cost money, but with the understanding prevention is better than cure. Often less expensive that out sourcing to external consultants too.”

Quarry: electrical, gas and fire safety, and work at height

“On an inspection I discovered an unsafe item of laboratory equipment in regular use, with a broken switch and a connector that did not meet current safety requirements (17th edition wiring regulations). The item was repaired promptly after the publication of my report.

.. I discovered a very old propane regulator in regular use feeding a torch, in regular use. The equipment had not been inspected by a competent person for a very long time. Soon after publication of my report, the item was brought up to current standards, and is now regularly inspected by a gas engineer.

A store room has had fire escape windows consistently blocked with stored equipment and samples. By escalating the problem through union and management systems the room has recently been cleared of its congestion.

Inspection revealed numerous instances of excess storage at height of heavy items around the site. By consistently reporting these events, and discussing the issues and the HSE's recommendations with employees and management I have been able to drastically reduce the frequency of occurrence of excess storage at height.

Inspection revealed a set of damaged step ladders in regular use in a store room. By liaison with the manager and staff concerned, I was able to get the steps replaced and increase awareness of the potential danger of using damaged access equipment.”

Docks

“Health and Safety regulation plays a critical part in the day to day operation of our nation's ports. Increased regulation and enforcement in this industry has resulted in a decline in fatal and serious accidents. Those ports with trade union safety representatives have seen the most improved statistics.

Safety reps play an important part in developing safe working practices and delivering the changes on the ground. Employers have recognised the valuable contribution which the trade union safety reps play.

We are appalled at the myths being pedalled about burdensome regulation, these regulations save lives on the docks. The enforcement by HSE plays an important role and should be strengthened. “

And finally.. health and safety management is not about “ticking boxes”

“Without [union safety representatives] ...the British “tick the box culture” would have no challenge whatsoever. [If this culture goes unchallenged] people will die and compensation will be paid.”

July 2010