EMPLOYMENT LAW • HEALTH & SAFETY • ENVIRONMENTAL • RISK MANAGEMENT

Knowledge*base*

Bibby Consulting & Support's Client Risk Management Publication

Winter 2011/2012 Edition

THE BRIBERY ACT

WHAT TO DO WHEN YOU SUSPECT A BRIBE HAS OCCURRED AT WORK

WORK-RELATED VIOLENCE

HOW YOU CAN EFFECTIVELY MANAGE THE SITUATION

EMPLOYMENT LAW REFORM

GOVERNMENT IDENTIFY WAYS OF CUTTING "RED TAPE" WITH A VIEW TO EASING THE BURDEN ON EMPLOYERS.

KEEP IN TOUCH

The latest Employment and Health & Safety issues with Bibby Consulting & Support

Keeping in touch with our clients is our main priority and we are pleased to announce that you can now keep up-to-date with the latest news and case updates simply by following us on one of the social media networks above from our website.

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WELCOME TO THE WINTER EDITION OF BIBBY CONSULTING & SUPPORT'S "Knowledge*base*"

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So the year of the London Olympics has finally arrived, but as this comes just a few weeks after the Queen's Golden Jubilee, many business leaders are wondering how these key events will affect their own organisations. The answer is simple – nobody can be sure. But one thing is for certain, it's important to be prepared! Keeping employees focused when all around are getting excited about extended bank holidays and the Games will be tough, but absolutely necessary if you are to ensure productivity doesn't take a dip. It would be well worth speaking to the Employment Law Support Line over the next week or two to think through what changes and communications you can make to help keep everyone motivated and productive during the celebrations.

Here at Bibby Consulting & Support, we implemented some changes ourselves at the end of last year. One of these was in response to the growth of clients' requests for specific training which sits outside our core consultancy service. In October 2011, we appointed our new Training Manager, Jon Hughes, to grow and develop our range of training services. It is a very exciting time and we now have some excellent courses with impressive accreditations from the Institute of Occupational Safety & Health (IOSH), ConstructionSkills and the Health & Safety Executive (HSE).

We have also enjoyed a significant rollout of our unique Mock Tribunal training and E-learning courses, which have been extremely well received, and last, but by no means least, partnered with the Institute of Directors (IOD) to deliver training workshops to members during the spring. If you would like further details about any of the courses or events, please contact a member of our marketing team who will be happy to talk to you.

2012 has started off strongly for us with a record number of new clients turning to us in January, proving that Bibby Consulting & Support really is the supplier of choice. In a competitive market such as this, we are delighted by this growth - and equally proud of our impressive renewal rates which show that our service really is worth having and keeping. Your views about how we deliver our services are very important to us, which is why have been canvassing your opinions over the last few months about the developments that you, our clients, most want to see. Thank you to all of you who have taken part in surveys, one-to-one research and more recently, our client focus groups here in Newcastle.

We face the same challenges as any business, but despite the media's best efforts, we are standing tall and won't be talked into a recession. We are confident about the year ahead, excited about the new opportunities that have already presented themselves during January, and are delighted to be working with you and your teams to help make your businesses buoyant.

In this edition of **Knowledge***base*, we cover a range of hot topics including Employment Tribunal compensation limits, how the Government has consulted to identify ways of cutting "red tape" and updated RIDDOR regulations.

Michael Slade

EMPLOYMENT LAW TRAINING SOLUTIONS

New Dates

- **Mock Tribunal Training - £349 per delegate**
  14th March, 18th April, 16th May – London
  15th March, 19th April, 17th May – Newcastle-under-Lyme

Finding yourself in the position of having to defend a case in a Tribunal can be an extremely intimidating and stressful situation. This course allows you to participate in role-play under cross examination, or as members of the panel, or to simply observe the proceedings in a safe environment, facilitated by our experienced Advocates.

- **People Management – At your premises – full day - £875 for up to 12 delegates**

The objective of this course is to provide a broad understanding of essential people management processes and procedures, including Performance, Discipline, Absence Management, Discrimination and Grievance.

- **Discipline & Grievance – At your premises – full day - £875 – half day - £495 – for up to 12 delegates**

Providing you and your management team with the knowledge needed to comply with the law and develop skills in managing situations effectively and efficiently.

- **Performance Management - At your premises – full day - £875 – half day - £495 – for up to 12 delegates**

This course will help you to get the best from your employees, which in turn will help to stop the drain on your business of poor performance. We explain the tools that will enable you to develop them whilst resolving any performance issues quickly and efficiently.

IF YOU WOULD LIKE TO KNOW MORE ABOUT ANY OF THE COURSES OR TO REGISTER PLEASE CONTACT: TRAINING@BIBBYCAS.COM

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EMPLOYMENT LAW REFORMS 2011/2012

In this edition of **Knowledge***base*, we take a look at how the Government has consulted to identify ways of cutting "red tape" with a view to easing the burden on employers.

NEWS UPDATE

Parental leave increase postponed

The increase in parental leave from 13 to 18 weeks will not be implemented by March 2012 as previously expected. The present period of up to 13 weeks' Parental Leave may be taken following the birth or adoption of a child. The terms apply to all categories of workers, providing they meet the qualifying period of one year's continuous employment.

The Parental Leave Directive requires the UK Government to implement the change by March 2012. However, it is relying on an exception that allows them an extension of an additional year where there are "particular difficulties." The changes should now be in place by March 2013.

Increase in Statutory Limits

From April 1st 2012, the lower earnings limit for national insurance contributions increases from £102 to £107.

From 6th April 2012, the standard rate of Statutory Sick Pay increases from £81.60 to £85.85 and on the 1st April 2012, Statutory Maternity Pay and adoption pay increases from £128.73 to £135.45 per week and the basic state pension increases from £102 to £107.45 per week.

TIME OFF FOR PRAYERS

REFUSAL TO ALLOW TIME OFF FOR PRAYERS WAS JUSTIFIED

An employer's refusal to allow employees time off to attend prayers is not discrimination on religious grounds where it can be shown the refusal is a proportionate means of achieving a legitimate aim, according to the Employment Appeal Tribunal (EAT) in Cherfi v G45 Security Services Ltd[2011].

The case involved an employee who worked as a security employee. From 2005-2008 he was allowed to leave work to attend prayers at a local mosque. He moved sites and his new manager did not want him to leave the site because the contract with the client required all security staff to remain on site at all times. There was a prayer room on site and the employee was offered alternative shifts to accommodate his needs but he refused. His discrimination claim failed because the EAT decided that given the alternatives offered to him and the client's security needs, it was a proportionate means of achieving a legitimate aim.

TRIBUNAL CLAIMS

GOVERNMENT PROPOSES FEES FOR MAKING A TRIBUNAL CLAIM

Many employers will have experience of employees who have submitted a claim to an Employment Tribunal even though the claim has little or no prospect of success. The business costs of such a claim can be immense and often these costs cannot be recouped. The Government, in an attempt to address this issue, has put forward various proposals. One is to introduce tribunal fees, and to this end on December 14th, 2011 they announced two possible options for new tribunal fees:

Option one would involve the claimant paying an initial fee of between £150 and £200 to begin a claim followed by a fee of £250 and £1250 if the claim goes to a hearing, with no limit to the maximum award of compensation.

A second option has an alternative model where claimants would pay a one-off fee at the outset but could choose between paying a smaller fee of between £200 and £600 and having their potential compensation capped at £30,000, or paying a higher fee of £1,750 and then being able to seek higher compensation.

In addition, tribunals would have the discretion to order an employer who loses a tribunal case to reimburse the fee paid by a successful claimant.

The introduction of fees may deter some claimants from making spurious claims, but it remains to be seen how the Government will address those on low income and how the tribunals will exercise their discretion when ordering employers to reimburse claimant fees.

HOLIDAY ENTITLEMENT WHEN ON SICK LEAVE

CARRYING OVER HOLIDAY ENTITLEMENT DURING LONG TERM SICKNESS

Recently there have been conflicting decisions about whether employees who are on long term sickness absence lose the right to holiday accrued during that time if they fail to correctly notify the employer of their intention to take the holiday.

In ***Fraser v St Georges NHS Trust [2011]***, the employee had been off sick for four years following an accident at work and during the last two years she received no pay. The Employment Appeal Tribunal stated that the employee was only entitled to holiday pay under Regulation 16(1) of the Working Time Regulations if she actually took the holiday that she requested payment for and had done so in compliance with Regulation 15(1) by giving the required statutory notice.

However, two subsequent cases cast doubt on the Fraser case which are considered below:

Firstly, ***KHS AG v Winfried Schulte [2011]***, where it was held that German national law, which provides that workers lose their right to holiday (or pay in lieu) at the end of a "carry over period" of 15 months (starting at the end of the year in which the holiday entitlement had arisen), was compatible with Article 7 of the Working Time Directive. They stated that a "carry over" period right is not without limits, and that to allow workers to accumulate unlimited amounts of holiday entitlement, or pay in lieu, does not reflect the purpose of Article 7 and 18 months would be a sufficient period for holiday to be carried forward.

In the second case, ***NHS Leeds v Larner [2011]***, the Employment Appeal Tribunal (EAT) held that the claimant who had been on long term sick leave throughout the whole of her leave year, who did not request holiday was entitled to be paid for it on termination.

According to the EAT there was a presumption, as she had been signed off sick for the entire annual leave year, that she was not well enough to exercise her "right to enjoy a period of relaxation and leisure" during that period and had not had the opportunity at any time during this period to take her annual leave. In this situation, she had not "had the opportunity" to exercise her right to take statutory holiday.

This second case is due to go to the Court of Appeal and until this case is decided, employers should be aware of the potential risks of following Fraser when dealing with a request for pay for untaken holiday on termination of employment. ■

EMPLOYMENT LAW
TRAINING SOLUTIONS

For more information on our HR and Employment Law Training Courses, please call our Training Department on:

08453 100 600.

THE GOVERNMENT HAS CONSULTED
TO IDENTIFY WAYS OF CUTTING
"RED TAPE" WITH A VIEW TO EASING
THE BURDEN ON EMPLOYERS...

EMPLOYMENT LAW REFORMS 2011/2012

CONSULTATION, REGULATION AND IMPLEMENTATION SUM UP THE GOVERNMENT'S ATTITUDE TOWARDS EMPLOYMENT LEGISLATION DURING 2011. THE IDEA IS TO MAKE IT EASIER FOR EMPLOYERS TO NAVIGATE THE COMPLICATED WATERS OF PRESENT LEGISLATION AND REGULATION AFFECTING EMPLOYEES AND WORKERS.

During 2011, the following are some of the changes to legislation for employers to contend with. In addition, the Government has consulted to identify ways of cutting "red tape" with a view to easing the burden on employers.

In April 2011, the default retirement age was removed and additional paternity leave of 6 months was introduced. In July 2011, the Bribery Act 2010 came into force and in October, the Agency Workers Regulations came into effect.

In November 2011, Vince Cable, Government Business Secretary, announced proposals for employment law reforms and at the same time the Government's response to the Consultation Paper "Resolving Workplace Disputes" was published.

The Government intends to implement a reform programme in which mediation is to play a fundamental role in the resolution of workplace disputes. Regional mediation schemes would be set up by selected businesses that will undergo government-funded mediation training. They will then go on to form a regional network to provide low cost mediation to other organisations within the network.

To start with, a pilot mediation scheme will be set up with large retail businesses who will share their mediation expertise with small businesses within the retail sector.

Another area covered by the reform programme is the Employment Tribunal Rules of Procedure. The present system will be reviewed by the former President of the Employment Appeal Tribunal (EAT) who will look at ways of reducing the tribunal costs and case load by implementing proposals put forward by the government. This includes changes to costs and deposit orders as well as to expand strike out powers of the judges and the possible use of "legal officers" in certain circumstances.

In addition to this, other proposals have been put forward by the government, including:

- An increase in the unfair dismissal qualifying period from one to two years, which is to start from April 2012.
- Consultation on the introduction of protected conversations, which will not extend to protect discriminatory acts. The protected conversations will allow employers and employees to have early, open and frank face-to-face discussions with each other about employment issues such as performance and capability without the existence of a formal dispute. It is already possible to have a "without prejudice" conversation but use of this type of conversation should be restricted to where there is already a dispute.
- Possible compensated no-fault dismissal for firms with fewer than 10 employees and simplifying and slimming down the present dismissal process.
- All tribunal claims will be lodged with ACAS in the first instance, before they are lodged with the Employment Tribunal, to allow the opportunity for early conciliation. The idea is to reduce the number of cases going forward to Employment Tribunals and the associated cost to the taxpayer. Where early conciliation is unsuccessful, the claimant can still go on to lodge their claim with the Employment Tribunal.
- A standard wording for compromise agreements will be introduced along with better guidance on how to use them, to help employers worried by the potential cost of legal advice that presently has to be sought when drawing up a compromise agreement with an employee. The idea is to make things cheaper and simpler for employers in order to encourage them to use compromise agreements where they would have not done so before.

The name of a compromise agreement document will be changed to "settlement agreement". This is to help avoid any party refusing to sign an agreement on the grounds they do not wish to be seen to be "compromising." Also, the government intends to amend present legislation to allow compromise agreements to cover existing and future claims, without requiring long lists of causes of action. They are also planning to amend s147 of Equality Act 2010 in order to clarify a present anomaly, so that compromise agreements can be used to settle discrimination claims.

- Complaints about breach of employment contract will be taken out of whistle blowing legislation altogether.
- A possible consultation on reducing the minimum period for redundancy consultation to 60, 45 or 30 days and one for simplifying TUPE rules.
- Introduction of a 'rapid resolution scheme', to enable low value, straightforward claims (such as holiday pay) to be settled within three months through a non-judicial process, based on papers, without the need for an oral hearing.
- In unfair dismissal tribunal cases, Employment Judges to sit alone in an effort to minimise costs to the taxpayer.
- In order to address business concerns about weak claims, the government will increase the present deposit orders from £500 to £1000 and costs awards from £10,000 to £20,000. They are also considering introducing fees for lodging tribunal claims.
- Introduction of a financial levy, paid to the Exchequer, imposed at the Employment Judge's discretion, on employers who are found to have breached employment rights.
- Merging the 17 National Minimum Wage regulations into one set.
- CRB checks to be portable, so no need for a fresh application when moving jobs.
- Maternity and paternity leave will be 'modernised', with an emphasis on greater involvement for fathers. ■

CASE UPDATES

In this edition of **Knowledge***base*, Support Line Team Leader, Hazel Beeston, updates us on recent case law

TUPE DISMISSAL CONNECTED WITH TRANSFER

Spaceright Europe v Baillavoine and another [2011]

This case removes doubt over whether or not a transferor must have identified a buyer at the time of a dismissal for that dismissal to be connected to a subsequent TUPE transfer. In addition, an economic technical or organisational (ETO) reason may not be established where the dismissed employee's role will be required following a TUPE transfer, as was the situation in this case.

Mr Baillavoine was employed as a CEO by Ultraton Holdings ltd. The company was placed into administration on 23 May 2008 and Mr Baillavoine was dismissed on redundancy grounds. The company's business and assets were sold on 25 June 2008 to a company, later renamed Spaceright Europe Ltd. This sale amounted to a relevant transfer under the TUPE regulations. Mr Baillavoine claimed unfair dismissal.

The Employment Appeal Tribunal (EAT) agreed with the findings of the Employment Tribunal that the dismissal was for a reason connected with the transfer (the administrators believed his high salary costs £120,000 p.a. compared with the other employees, meant his role was something the business could operate without, save costs and attract more buyers) and therefore was automatically unfair, even though the transferor had not identified a buyer at the time of dismissal. The EAT also agreed with the original tribunal decision that the reason for dismissal was not an economic, technical or organisational (ETO) reason entailing changes to the workforce.

EXPRESS DISMISSAL

CF Capital plc v Willoughby 2011 IRLR 985

It has always been the case that once dismissal has been communicated to the employee, even if it was given by mistake, it will be effective and cannot be withdrawn. The following case is a salutary reminder of this fact.

Here the Court of Appeal held that the employer's mistake did not prevent the clear unambiguous words of the dismissal taking place. Here the employer had discussed with the claimant the possible move from employee to self-employed status and the employee had been interested but not given consent to the change. The employer thought she had agreed to the change and she was issued with a letter terminating her employment with a service agreement for future work on a self-employed basis. Willoughby succeeded in her complaint that she had been unfairly dismissed. It is therefore essential to take advice from the Support Line if you are thinking about dismissing a member of staff.

› FIRST CONVICTION UNDER THE BRIBERY ACT

R v Munir Patel 18th November 2011

Mr Patel, a Magistrates Court administrative clerk, pleaded guilty to the bribery charge under Section 2 of the Bribery Act 2010, for receiving a payment of £500 to stop details of a speeding charge at Southwark Crown Court being entered into the court's database. He was sentenced to three years imprisonment plus a further six years for misconduct in public office.

Other prosecutions are intended to be brought by the Crown Prosecution Service and the Serious Fraud Office. Businesses should bear in mind that they will be held liable for any act of bribery by their employees, agents or anyone else performing services on their behalf. The only possible defence is where the business has "adequate procedures" in place to prevent bribery but it is up to the business to demonstrate the adequacy of these procedures if they end up in court.

If you suspect a bribe has occurred within your organisation it is advisable to conduct an investigation to ascertain the extent of the issue, preserve documents, identify who sanctioned or knew about it and consider how to deal with the relevant external authorities, such as the Serious Fraud Office.

If you have not already carried out a risk assessment and provided all employees with a policy relating to bribery, it is important to do so, particularly in light of this recent case. Please contact the Support Line if you require assistance with this.

› VARIATION OF CONTRACT TERMS AFTER TUPE TRANSFER

Smith & Ors v Trustees of Brooklands College [2011]

A recent Employment Appeal Tribunal (EAT) Case confirms that employers are not always prevented from making changes to terms and conditions of employment following a TUPE transfer. It is essential however, that the sole reason for any variation is not connected with the transfer even if the transfer took place some time before.

Four Teaching and Learning Assistants (TLAs) were employed by Spelhorne College. They were paid for 36-hour week contracts but only worked between 22 and 25 hours. Although not in line with any other practice in the education sector, it was agreed between the four TLAs and Spelhorne College. They were transferred by TUPE to Brooklands College in 2007. The College's HR Director identified the difference in pay and hours for the TLAs and thought that they had been overpaid in error. She sought to reduce their payments in line with standard practice. A phased reduction in pay was agreed and implemented in January 2010 but a subsequent claim was brought in the Employment Tribunal (ET) by the TLAs, arguing that the variation was void for a reason connected with a relevant TUPE transfer, citing the real reason for the variation was to harmonise their pay terms with those of existing staff.

The Employment Tribunal Judge, rejecting this claim, decided that the reason for the variation was the HR Director's belief that the employees were being overpaid and not in line with the rest of the sector. Therefore, the agreed variations were not made void by the TUPE transfer. The EAT agreed, stating that the Tribunal were right to hold that the agreed variation was not to achieve harmonisation of all employees salaries.

▸ CASE UPDATE ▸

Illegality and Immigration Restrictions

Okuoimose v City Facilities Management (UK) Ltd

Employers should always check the eligibility to work of their employees. However, care should be taken where the employee is entitled to reside and work in the UK at all times, as the following case demonstrates.

Here the employee was entitled to reside and work in the UK at all times because she was part of the family of an EEA national by marriage. Her passport stamp confirming her work status had expired and her employer suspended her from work without pay, until they received confirmation from the Borders Agency that she could work in the UK.

The Employment Appeal Tribunal (EAT) held that her status was not affected by the failure to obtain a new stamp in her passport, therefore it was irrelevant whether the employer was or thought it was, behaving reasonably, or that it was, worried about the penalties. Her claim for unauthorised deduction of wages succeeded.

COMPENSATION LIMITS

COMPENSATION LIMITS INCREASE FROM FEBRUARY 2012

The annual increase in employment tribunal compensation is a stark reminder to employers that it is important to get things right when dealing with employees. Failure to follow employment legislation could prove very costly indeed. It is always essential to obtain prompt advice from the Support Line when any employment issues arise.

On the 1st February 2012, the annual increase in Employment Tribunal compensation limits takes effect as follows:

- Statutory Guarantee Pay will increase from £22.20 to £23.50 per day (£117.50 for 5 days in any rolling 3-month period).
- The maximum compensatory award for unfair dismissal will increase from £68,400 to £72,300 (there is no limit for unfair dismissal on health and safety, whistle-blowing or discrimination awards).
- The maximum basic award for unfair dismissal and the statutory redundancy payment increases from £11,400 to £12,000.
- The minimum award for unfair dismissal on trade union, health and safety or working time grounds will increase from £5,000 to £5,300.
- A maximum week's pay will increase from £400 to £430.
- The maximum basic award for employees excluded or expelled from a trade union increases from £7,600 to £8,100.
- The unfair dismissal additional award for failure to re-instate or re-engage increases from £10,400 - £20,800 to £11,180 - £22,360 (26-52 weeks at £430).
- The maximum award for breach of right to be accompanied increases from £800 to £860 (up to 2-weeks' pay capped at £430 per week).
- The maximum award for failure to provide a statement of employment particulars increases to £860 for 2 weeks and £1720 for 4 weeks' pay capped at £430 per week.
- The maximum award for breach of flexible working regulations or upheld complaint increases from £3,200 to £3,440 (up to 8 weeks pay).

There is currently no cap to awards that can be made in discrimination cases. From 2010-2011, the average award for unfair dismissal cases was £8,924 and the maximum award was £181,754.

The average award for race discrimination was £12,108 and the maximum award was £62,530. The average award for sex discrimination was £13,911 and the maximum was £289,167.

The average award for disability discrimination was £14,137 and the maximum £181,083.

The average award for religious discrimination was £8,515 and the maximum £20,221.

The average award for sexual orientation discrimination was £11,671 and the maximum was £47,663.

The average award for age discrimination was £30,289 and the maximum was £144,100.

These awards can have a significant impact on businesses and it is therefore essential that you contact the Support Line for guidance at the outset when employment issues arise. ■

PENSION SCHEME LEGISLATION UPDATE

NEW RESPONSIBILITIES FOR ENROLLING ELIGIBLE EMPLOYEES

From 1st October 2012, United Kingdom employers will have new responsibilities to automatically enroll all eligible employees into either the National Employers Savings Scheme (NEST) or an alternative 'qualifying' workplace pension and to make minimum contributions into it to comply with the provisions of the Pensions Act 2008.

This will be implemented over a 4-year period from 2012 to 2016 in monthly, staged phases for auto-enrolment on the scheme known as "Staging dates". Employers will be sent letters giving them notice to implement the new scheme, 12 months and then 3 months before they are due to start. A compliance notice will be issued to those who fail to comply by the set date. The scheme starts with the largest businesses employing over 120,000 workers on October 1st. This process was originally set to be implemented monthly through to 2016; however, on 25th January 2012, the Government announced a change to the start of staging dates when automatic enrolment will be legally required for employers with fewer than 50 employees. It will now commence in May 2015 instead of April 2014.

EMPLOYED OR SELF-EMPLOYED?

Autoclenz v Belcher & others

This case highlights the need to use the correct contract when engaging workers and that the contract in place must reflect the true relationships between the parties.

Mr Belcher and his colleagues worked as sub-contracted valeters. Their contractual terms were revised to state that valeters did not have to carry out the work personally (the "substitution clause") and that there was no obligation on Autoclenz to provide work or for the valeters to accept work.

The valeters claimed unpaid wages and holiday pay under the Working Time Regulations which was upheld. The tribunal judge accepted they were "workers" employed by Autoclenz and not self-employed because of the degree of control the company had over them and viewed the substitution clause was a sham and did not reflect the reality of the working relationship between the valeters and Autoclenz.

The Employment Appeal Tribunal's decision that the written terms were not a sham, because there was no intention to mislead and therefore there was no mutuality of obligation was overturned by the Supreme Court.

They stated that in reality, four essential contractual terms were agreed. 1. The valeters would perform the services defined in the contract for Autoclenz within a reasonable time and in a good and workmanlike manner, 2. they would be paid for that work, 3. they were obliged to carry out the work offered to them and Autoclenz undertook to offer work and 4. they must personally do the work and could not provide a substitute to do so. Therefore, the contract was not a true reflection of the relationship and the valeters were deemed to be workers.

MORE INFORMATION

If you are unsure how any of these subjects affect you, please contact our Support Line on:

08453 100 999.

NEWS UPDATE

A reminder that the Default Retirement Age no longer exists

As you will recall from our previous newsletters, the Default Retirement Age (DRA) for employees has been abolished.

From the 6th April 2011, employers could not issue any notifications for compulsory retirement and from 1st October 2011, employers could not use the DRA to compulsorily retire employees. The 4th January 2012 was the last date on which any employee who has been given the maximum 12 months' notice on 5th April 2011 could make a statutory request to continue working.

The 5th April 2012 will be the last date on which an ordinary retirement can take place under the old DRA regime unless the employer has agreed to a request by the employee to extend their retirement date for a further six months. In this case, the 5th October 2012 is the last date on which a retirement can take place.

If you have any queries about this, then please contact the Support Line.

HEALTH AND SAFETY TRAINING - IT MAKES SENSE

IT MAKES GOOD BUSINESS SENSE TO SEEK OUT EFFICIENCIES AND COST SAVINGS WHEREVER POSSIBLE. THE NEED TO CONTROL COSTS HAS NEVER BEEN MORE IMPORTANT, AND THERE IS A GREAT TEMPTATION TO REDUCE OR EVEN ELIMINATE SPENDING ON TRAINING. HOWEVER THIS CAN HAVE A SIGNIFICANT IMPACT UPON A BUSINESS, AS TRAINING MAKES GOOD BUSINESS SENSE.

Every organisation must have a means of effectively managing the health, safety and wellbeing of their workers and those who may be affected by their work activities such as the public, visitors, contractors, neighbours etc.

The health and safety policy is the cornerstone of any management system, but there are many other component parts – such as effective organisation, suitable arrangements, risk assessments, regular inspections and ongoing review.

There are three key reasons why any organisation manages health and safety:

1. Moral – a moral duty to keep people safe at work.
2. Legal – there is a legal requirement to comply with the relevant Act and Regulations.
3. Financial – it makes good business sense to manage safety.

So where does training fit in to the equation?
Whilst there is a cost consideration for organising training – both in terms of paying for the training, plus also the downtime for the employees on the course- most employers appreciate the benefit that training brings to their organisation.

Better trained workers are less likely to suffer a work-related accident. In accidents where there is a serious injury or fatality, in 85% of cases, the person who could have avoided the accident is the one who is injured or deceased. Clearly this has a massive and potentially devastating impact upon the individuals concerned, their family and wider circle of friends and colleagues, but from the employer's perspective, any accident can have significant cost implications.

Employers are legally obliged to ensure that their staff are competent in the tasks that they undertake. One aspect of demonstrating competency is through effective training. There are many instances where the law specifically demands training – such as in relation to fire, asbestos, hazardous chemicals, manual handling, display screen equipment, working at height and more.

Should the worst happen and an accident takes place, the training records of a company will be brought under very close scrutiny to ensure that all reasonable steps have been taken to provide suitable and sufficient training, as specified in law, and as described within the health and safety policy, risk assessments and safe systems of work.

TRAINING SOLUTIONS

With Jon Hughes, our newly appointed Training Manager at Bibby Consulting & Support

What types of training are there?
Health and safety training can take a multitude of forms, from a simple instruction poster or email, a toolbox talk, e-learning, a half-day face-to-face training seminar, a week long course, through to undergraduate and post graduate studies. Many clients ask how far they have to go with training – would an email suffice, or should it be face-to-face? Can a manager deliver the training or do we need to call in a training provider?

Training must be suitable and sufficient, accurate, up to date, delivered/provided by a competent person and be understood by the target audience. Ideally where there is in-house capability to deliver the course then that would be great, and especially for larger organisations is often more cost-effective. The Home Retail Group – parent company of Argos and Homebase have their own directly employed team of First Aid trainers specifically to deliver training to their own staff throughout the UK. Most other companies would rather outsource to a competent provider. How detailed the training has to be is open to debate – as long as it meets your requirements, is cost effective and is suitable and sufficient.

eLearning can be ideal if you have home workers, a small number of people to train, or to complement existing training. But if you had the great misfortune to suffer an accident at work where you had a wound with an embedded object – such as a large piece of glass - would you feel more confident knowing that the First Aider has completed a three-day HSE approved course where they were examined on their practical first aid skills, or had completed a 20 minute online course? If you knew that the person in the kitchen preparing your dinner in a restaurant had recently completed a three-day food hygiene certificate, or had been told to look at a poster showing them how to store food properly and wash their hands, which would you most prefer?

Trust in your Trainer
By using competent people to provide your training, you are placing your trust in their business and expertise. There are several things to consider before appointing a training provider. You need to be sure that they are competent and experienced – so look for accreditations from independent bodies – such as IOSH, HSE, NEBOSH etc. For example, if they are providing first aid training for the workplace, they must be accredited and quality checked by the Health & Safety Executive. Look out and ask for case studies and examples of clients similar to your business to ensure that they understand your workplace and can relate to your needs.

By providing appropriate training to your staff, you are going a long way to ensuring compliance with your health and safety management system, demonstrating to your employees that you care about their safety and welfare, and greatly reducing the chance of an accident occurring in your workplace – saving you heartache and a huge amount of time and money. Surely that makes good business sense?

NEWS UPDATE

Update to RIDDOR Regulations announced

There has been much debate around the topic of over three day injuries – and we now have confirmation from the HSE that things are likely to change.

From 6th April 2012, subject to Parliamentary approval, RIDDOR's over three day injury reporting requirement will change. From then the trigger point will increase from over three days' to over seven days' incapacitation (not counting the day on which the accident happened).

Incapacitation means that the worker is absent or is unable to do work that they would reasonably be expected to do as part of their normal work. Employers and others with responsibilities under RIDDOR must still keep a record of all over three day injuries – for example in an accident book. The deadline by which the over seven day injury must be reported will increase to fifteen days from the day of the accident.

ONLINE UPDATES

Read our Latest News Articles online to keep up-to-date on Employment Law and Health & Safety Industry News.

WORK-RELATED VIOLENCE

By Carol Sefton, Health & Safety Consultant

Do you know what is meant and is included in the term work-related violence?
The Health and Safety Executive (HSE) defines work-related violence as, "Any incident in which a person is abused, threatened or assaulted in circumstances relating to their work".
This includes verbal abuse or threats as well as physical attacks. Verbal abuse and threats are the most common types of incident.

Some statistics on work-related violence
It was estimated from the 2009/10 British Crime Survey (BCS) that there were 366,000 threats of violence to British workers during the 12 months prior to the interviews and 310,000 physical assaults.

The risk of experiencing at least one violent incident (threat or assault) was estimated at 1,400 per 100,000 workers for the year. The 2009/10 BCS estimated that 43% of all people assaulted or threatened at work were repeat victims, with a quarter experiencing three or more incidents of workplace violence during the year, while a further 17% experienced two incidents during the year.

In total, there were 6,017 RIDDOR reported injuries to employees caused by violence at work during the financial year 2009/10. This corresponds to a total estimated rate of 23.4 per 100,000 employees.

These reports comprise of:

- 1 fatal injury
- 924 major injuries
- 5,092 non-major injuries that resulted in absence from work for at least three days.

So we can see from the above statistics that work-related violence is your concern as an employer ***and*** Health and Safety law applies to risks from violence, just as it does to other risks from work. The legislation relevant to violence at work is covered in the following Acts and Regulations:

The Health and Safety at Work etc Act 1974
Employers have a legal duty under this Act to ensure, so far as it is reasonably practicable, the health, safety and welfare at work of their employees.

The Management of Health and Safety at Work Regulations 1999
Employers must consider the risks to employees (including the risk of reasonably foreseeable violence), decide how significant these risks are, decide what to do to prevent or control the risks and develop a clear management plan to achieve this.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)
Employers must notify the enforcing authority in the event of an accident at work to any employee resulting in death, major injury, or where an employee or self-employed person is away from work or unable to perform their normal work duties for more than three consecutive days (not counting the day of the accident). This includes any act of non-consensual physical violence done to a person at work.

Safety Representatives and Safety Committees Regulations 1977 (a) and The Health and Safety (Consultation with Employees) Regulations 1996 (b)
Employers must inform and consult with employees in good time on matters relating to their health and safety. Employee representatives, either appointed by recognised trade unions under (a) or elected under (b), may make representations to their employer on matters affecting the health and safety of those they represent.

So how can it be effectively managed?
By following a four stage management process as set out in HSE document INDG69.

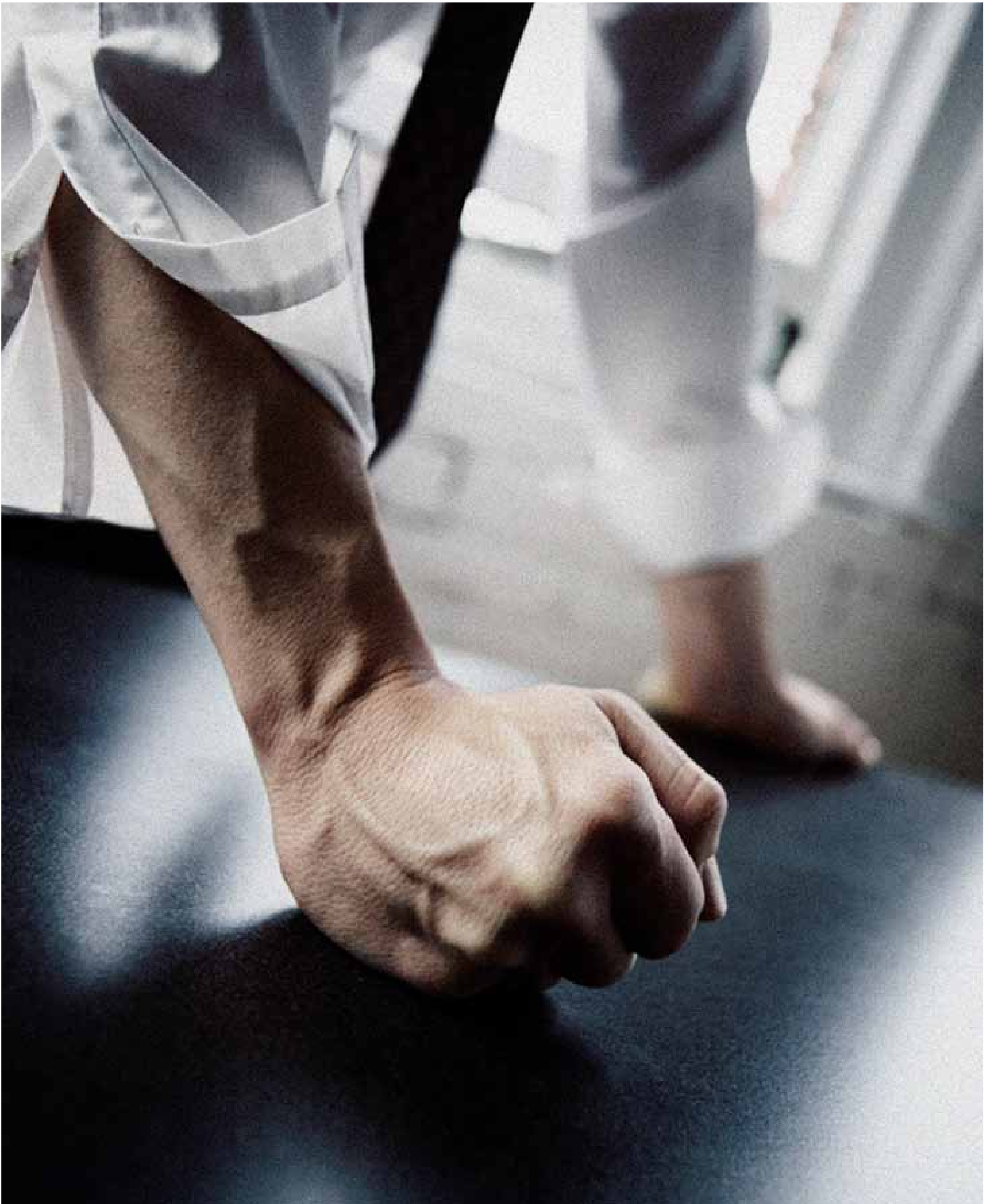
Stage 1: Finding out if you have a problem
Ask your staff. This can be done informally through managers, supervisors and safety representatives or use a short questionnaire to find out whether your employees ever feel threatened. Tell them the results of your survey so they realise that you recognise the problem.

Stage 2: Deciding what action to take

- Decide who might be harmed and how
- Evaluate the risk
- Training and information
- The environment
- The design of the job
- Record your findings
- Review and revise your assessment

Stage 3: Take action
Your policy for dealing with violence may be written into your health and safety policy statement so that all employees are aware of it. ▶

> "ANY INCIDENT IN WHICH A PERSON IS ABUSED, THREATENED OR ASSAULTED IN CIRCUMSTANCES RELATING TO THEIR WORK"



This will help your employees to co-operate with you, follow procedures properly and report any further incidents.

Stage 4: Check what you have done
Check on a regular basis how well your arrangements are working, consulting employees or their representatives as you do so. Consider setting up joint management and safety representative committees to do this. Keep records of incidents and examine them regularly; they will show what progress you are making and if the problem is changing. If your measures are working well, keep them up. If violence is still a problem, try something else.

What about the victims, i.e. your employees?
If there is a violent incident involving your workforce, you will need to respond quickly to avoid any long-term distress to employees. It is essential to plan how you are going to provide them with support, before any incidents occur.

Debriefing
Victims will need to talk through their experience as soon as possible after the event. Remember that verbal abuse can be just as upsetting as a physical attack and other employees may need guidance and/or training to help them to react appropriately. Individuals will react differently; some will need time off work and may need differing amounts of time to recover. In some circumstances, they might need specialist counseling. In serious cases, legal help may be appropriate.

Where can I get further information?
Preventing violence to retail staff HSG133 1995
Prevention of violence to staff in banks and building societies HSG100
Managing and preventing violence to lone workers: Case studies Health and Safety Laboratory/Report WIS/03/05.
Violence and aggression to staff in health services: Guidance on assessment and management (Second edition) Guidance
Work-related violence: Case studies - Managing the risk in smaller businesses HSG229. ■

SLIPS & TRIPS

LARGE SUPERMARKET FAILS TO PREVENT SLIPS & TRIPS

A large Supermarket has been fined £17,500 after a worker fractured her elbow when she slipped at the local store in Ipswich.

In June 2008, an environmental health officer from Ipswich Borough Council made a routine visit to a Morrisons store in Sproughton Road, Ipswich. She warned the store's management about a potential slip hazard behind one of the food counters, where smooth terrazzo tiles had been installed.

The tiles are highly polished and smooth and become extremely slippery when oil or grease is spilt on them. The store's risk assessment had identified the issue but had failed to introduce any control measures. The EHO recommended that the company either provide workers with protective footwear, or add a resin coating to the floor to increase slip resistance.

On 4 December 2008, an employee at the store slipped on some tiles, which were positioned behind a counter in the oven-fresh area, after there was a spillage of grease. She suffered a serious fracture to her right elbow and had to undergo three operations to repair the damage. She was unable to return to work for seven months and still suffers constant pain in her elbow.

As part of the investigation into the incident, the council worked with experts from the Health and Safety Laboratory (HSL) to measure the slip resistance of the tiles. The results showed that there was a high risk of slips when the floor was contaminated with water or oil.

The prosecuting EHO Officer stated "This serious accident could have been easily prevented had the company acted on my previous written warning and reduced the risk of staff slipping in these areas by improving the floor surface and/or providing anti-slip footwear."

WM Morrison Supermarkets plc appeared at Ipswich Magistrates' Court on 5 September and pleaded guilty to breaching s2(1) of the HSWA 1974. In addition to the fine, it was ordered to pay full costs of £32,482.

Bibby Consulting & Support would advise to conduct risk assessments on your premises to identify if you have any potential slip or trip hazards. However, once a major hazard has been identified, you must implement control measures to reduce or eliminate the risk - in this case providing staff with non-slip safety footwear along with a better grip surface on the tiles and/or isolating the area once wet/cleaned until dry may have prevented the accident and fines.

SAFE REMOVAL OF ASBESTOS

DEMOLITION FIRM FINED FOR MAESTEG SITE ASBESTOS FAILINGS

A demolition contractor has been fined after exposing workers to potentially deadly asbestos fibres at the former Revlon factory in Maesteg. An investigation by the Health and Safety Executive (HSE) found Walsh Plant Hire and Demolition Contractors Ltd of Pontypridd had ignored repeated warnings to manage the safe removal of asbestos during work on the demolition of the site.

Bridgend Magistrates Court heard the company was first served with a Prohibition Notice ceasing activity at the site in February 2010, because work to remove asbestos cement sheeting debris was likely to generate asbestos dust which could have posed a health risk to those working at the site. Before resuming work, the company was required to produce a plan for the safe removal of the materials to make sure it was properly managed.

A management plan was developed to keep the asbestos cement in a safe condition by damping down the waste until it was removed from the site. However, a further visit by the HSE on 27 May 2010 found the company had ignored the guidelines in its own plan, as the site was dry, and no damping down had been undertaken for a week. Excavators were also found to be moving rubble contaminated with asbestos-containing debris, and tracking over asbestos cement fragments, potentially contaminating workers with asbestos dust.

Walsh Plant Hire and Demolition Contractors Ltd, pleaded guilty to breaching Regulation 7(5) of the Control of Asbestos Regulations 2006. The company was fined £5,000 and ordered to pay full costs of £6,828. After the hearing, HSE inspector Phil Nicolle said: "The company was well aware of what it should have done to ensure the health of its workers and others when working with asbestos-containing materials at the site.

FAILING TO PROTECT EMPLOYEES

LARGE PENALTY FOR COOLING TOWER DROWNING

A maintenance contractor has been ordered to pay £155,000 in fines and costs after a man drowned when he fell into a water filled sump at a power station in North Wales. The employee concerned died in August 2007 while helping two colleagues remove sludge and debris from part of a cooling tower at Connah's Quay Power Station.

When the HSE investigated the accident, it found that his employer had failed to put in place a safe system of work. The employee - who later died - had entered an enclosed culvert to check the depth of water in the sump. When colleagues working nearby heard him shout in distress, they went to the area but could not see him. His body was recovered later from the bottom of the sump. An inquest in February 2008 returned a verdict of accidental death.

HSE principal inspector Colin Mew said the employer would or should have been aware that the injured party, or one of his workmates, would need to approach the sump, and the inherent risks should have been obvious. The enclosed culvert was poorly lit, noisy and the conditions were wet and slippery.

"The cost of providing barriers or other measures to prevent this incident and the time and effort involved would have been minimal," added Mew.

The company concerned, who provide services to control bacteria in the water services, pleaded guilty to a charge under Section 2(1) of the Health and Safety at Work Act of failing to protect employees. On Wednesday (21 September), a judge at Mold Crown Court fined the firm £35,000 plus costs of £120,000.

NEWS UPDATE

Fire Safety Measures

Is your fire safety as it should be? Do you have a current Fire Risk Assessment. Evacuation plan in place that all employees, visitors and contractors have read? Are all your emergency routes clearly signed and unobstructed at all times? Do you have employees who are trained fire marshals or fire awareness trained? Can employees use the fire safety equipment properly? And can you produce records to show you are complying with the Regulatory Reform (Fire Safety) order 2005 if required?

Recently, a Rochdale care home were prosecuted and fined £5,000 for failing to provide adequate fire safety measures within the home. Some of the fire safety areas they had not covered were: not conducting a suitable and sufficient fire risk assessment, emergency routes were blocked at the time of the inspection, and they had not adequately signed the emergency routes.

Are you happy that you comply with all the fire safety requirements?

NEWS UPDATE

Legionella Bacteria – what to be aware of?

Legionella bacteria are common in natural and artificial water systems. They can survive at low temperatures and thrive at temperatures between 20°C and 45°C. They are killed at higher temperatures and this is the main method used for their control in domestic water systems.

Under the Health and Safety at Work etc. Act 1974, you have a duty to consider the risks from legionella. The Control of Substances Hazardous to Health Regulations 2002 (as amended) state that you must assess the risks to employees and third parties (For example Contractors and members of the public) from legionella and take suitable precautions.

You should ensure that your system is operated to minimise growth of legionella. One way of doing this is to store hot water above 60°C and distribute it at above 50°C. Water systems need to be routinely checked and inspected by a competent person and the risk assessment should be reviewed regularly.

ONLINE UPDATES

Read our Latest News Articles online to keep up-to-date on Employment Law and Health & Safety Industry News.

BUILDING COMPANY FINED

CONSTRUCTION WORKER SERIOUSLY INJURED BY FALLING STONE

A 56-year-old self-employed construction worker suffered a serious head injury and permanent personality changes after a 10kg stone fell nearly three metres, hitting him on the head at a building site in Abbots Leigh, near Bristol.

North Somerset Magistrates' Court heard that Paul Hinton of Bristol had been hired by Elegance Building Contractors Ltd. to work at a domestic property on 6 September 2010. The work included raising the roof level of the building and cladding part of the property with feature stonework. The construction worker was not wearing a hard hat at the time of the incident. Mr Hinton was airlifted to hospital by air ambulance and was off work until early May 2011. The company used subcontractors for the work but failed to ensure brick guards were installed on the scaffolding, which are designed to stop materials falling below.

Speaking after the case, Health and Safety Executive Inspector, Mark Renouf, said: "This tragic incident could easily have been avoided if the brick guards, or similar, had been fitted to the scaffold.

"Mr Hinton has suffered major injuries and the incident could very well have led to a fatality. The use of hard hats was not common on this site; however, the greater failing is not stopping materials from falling in the first place. Building companies must learn from this case and make sure basic safety precautions are observed on sites."

Elegance Building Contractors Ltd, of Princess Victoria Street, Bristol, pleaded guilty to a breach of Regulation 10 (1) of the Work at Height Regulations 2005 and was fined £6,000 and ordered to pay costs of £4,733 at the hearing on Friday 23 September.

UNNECESSARY INSPECTIONS TO BE CUT

SHOPS AND OFFICES PLANNED TO RECEIVE FAR FEWER INSPECTIONS

The government have announced, following a health & safety review regarding red tape burdens on small businesses and organizations, unnecessary health and safety inspections of shops and offices are to be cut by a third.

As the next step to reduce the burden of health and safety on what is seen as "low-risk" businesses, the HSE and the Local Government Group have published guidance, which advises local authorities on how to concentrate on higher-risk companies and reduce the number of inspections of well-run premises by 65,000 a year.

The guidance makes it clear that firms with a good record of managing safety hazards should not face routine inspections. Instead, councils will put greater emphasis on reactive work – dealing with complaints, investigating incidents and providing advice and support for businesses on managing workplace risks.

Firms will be given an individual risk rating, based on their health and safety performance, hazard management, and staff welfare standards, with the higher-risk firms still facing unannounced inspections. The risk-rating system is set out in a Local Authority Circular published by the HSE last year. Employment minister Chris Grayling said: "This is another step on our journey to restore common sense to health and safety.

FIRST AID KITS

NEW BRITISH STANDARD ISSUED FOR THE CONTENTS OF FIRST AID KITS

The first seconds after an accident are critical and well trained first aiders and medical professionals are, in many cases, able to minimise the effect of an accident to a casualty if appropriate first aid equipment is readily available. Recognising their importance and effectiveness, a new national standard for workplace First Aid kits has been introduced.

The Health and Safety (First Aid) Regulations 1981 require employers to provide adequate and appropriate equipment (including First Aid kits), facilities and personnel to ensure their employees receive immediate attention if they are injured or taken ill at work. These Regulations apply to all workplaces including those with fewer than five employees and to the self-employed.

What should a 'Standard' kit contain?

To date there has been no 'Standard' list available, only guidance and advice contained in such documents as 'The Health and Safety (First Aid) Regulations 1981 - Approved Code of Practice' and 'INDG214 First aid at work - Your questions answered'. Precisely what equipment should be available to ensure the contents of the First Aid kit provided will be adequate for all reasonably foreseeable circumstances needs to be determined by a suitable and sufficient First Aid needs risk assessment.

With changes in training protocol, new product innovations and increasing infection control in mind, a new national standard for Workplace First Aid kits in the UK has now been introduced by the British Standards Institute (BSi) – BS8599-1:2011

Following research, the new kit lists include increased quantities of products identified as insufficient and new additions. Quantities of some items have been reduced to keep the overall size of the kits broadly similar.

What are the key differences between the old 'Guidance' lists and the new 'Standard'?

Previously, four different kit sizes were advised, based on the HSE guidelines, 10, 20, 50 and a travel kit. Under the new standard there will continue to be four kits, now called Small, Medium, Large and Travel.

Gloves: It was felt that existing kits had insufficient quantities of gloves, given current infection control concerns.

Plasters and Wipes: A survey of users indicated that a larger quantity of plasters was required.

Burns Dressings: Modern wet gel burns dressings are now much lower in price and are universally used by accident and emergency services. Given that any workplace that has a kettle has a risk for burns, this item is added. A conforming bandage is added to the kit(s) to secure this dressing, where appropriate.

Resuscitation Device: Mouth-to-mouth resuscitation can present an infection risk to the patient or first aider.

Finger Dressings: A large proportion of injuries involve fingers. Old kits had only plasters to offer for treatment of such injuries; the smallest serious wound dressing was 12cm^2. A finger sized dressing is added.

Adhesive Tape: Adhesive tape is added to conveniently and safely secure dressings and bandages, without the need to use safety pins. Safety pins are retained as an option, particularly for triangular bandages used as slings.

Triangular Bandages: The number of triangular bandages has been reduced reflecting the current first aid protocols that no longer indicate their use for immobilisation of lower limb injuries.

Foil Survival Blanket: Clinical shock presents a risk to life. The treatment includes keeping the casualty warm. The addition of foil survival blankets allows first aiders to treat clinical shock, where in the past they would be reliant on blankets being available.

Scissors/Shears: Where injuries occur through clothing or shoes, protocol dictates that the clothing should be cut away around the wound site to allow it to be covered with a dressing. Current first aid kits do not include the equipment to do this task. New kits include shears that are capable of cutting leather. ■

HEALTH & SAFETY

FOR MORE INFORMATION

If you are unsure whether the kit(s) you have meet the new standard, you should contact the Bibby 24hr Health and Safety Helpline on 08453 100 999 for expert advice.

› LONE WORKING

NEWSAGENT CHAIN LEFT STAFF "OPEN TO VIOLENT ATTACKS"

A local authority has taken action against a large newsagent chain for failing to protect employees from workplace violence. Cheshire West and Chester Council decided to prosecute the company after a worker was violently assaulted during a robbery at its branch in Willow Square, Winsford. The firm appeared at Northwich Magistrates' Court on 25 August and pleaded guilty to breaching s2(1) of the HSWA 1974. It was fined £5000 and ordered to pay £5505 in costs.

It was reported that the store manager was working alone when the incident took place in November 2008. The manager had just opened the store and was sorting through a delivery of newspapers when a masked man entered the shop and pushed her to the floor. She was then dragged into a storeroom where the man demanded she open the safe. She complied and handed over £2641. The man then struck her in the face, which knocked her unconscious, and she suffered a fractured eye socket.

The store had been robbed one month earlier, after which the Police had given a number of suggestions to help protect staff. The Police discovered that the store's CCTV was not working, and that staff were unaware that the panic alarm had been disconnected, which meant it would only ring internally and wouldn't notify a security company when activated. It was also suggested that the company install a time-delay safe.

The council's investigation found that none of the police's suggestions had been implemented, and staff had not received training in how to deal with robberies or violent customers.

The firm was issued an Improvement Notice in January 2009, which required it to produce a written risk assessment for workplace violence. Following the hearing, councilor for Cheshire West and Chester Council, Lynn Riley, said:

"This is the first prosecution of its type for this authority and I am reassured with the outcome. It is unacceptable for any company to leave its staff open to violent and aggressive attacks. Bibby says that this shows the importance of companies reviewing the potential "Lone Worker" situation within their own organisations, by conducting a risk assessment on lone working and potential violence – once the hazard has been identified then implement control measures to reduce or eliminate this type of hazard, perhaps a procedure whereby two staff are always present may have helped and certainly a working panic alarm informing the Police/security company – again may have helped the situation.

Once your risk assessment has been completed, then ALL staff would need to be informed of the intended policy and procedures to take, should this incident ever happen within your organisation.

› TREE SURGEON LEFT ACTIVE MACHINE UNATTENDED

FAILING TO IMPLEMENT A SAFE SYSTEM OF WORK

A tree surgeon has appeared in court for failing to implement a safe system of work, following an incident where one of his employees had his leg pulled into a tree-stump grinder. A small, local tree surgeon company based in Maidstone were removing six conifer tree stumps at a property in Bearsted, Maidstone, when the incident took place on 29th September 2010.

An employee was operating a tree-stump grinder to remove the stumps, and during the job he left the machine running without being at the controls. A work colleague walked in front of the unmanned machine carrying a sheet of corrugated metal. His trousers got caught on the rotating cutting head of the stump grinder, which pulled his leg into the moving parts of the machine. He suffered a broken leg and severe muscle injuries, which required a number of operations to reconstruct his leg. He has been unable to return to work owing to his injuries.

The HSE's investigation found that the employee operating the grinder had not undergone sufficient training to operate the machine, and had failed to implement a safe system of work. The local HSE inspector said: "The serious injuries sustained by the employee involved show how hazardous the equipment used in the tree surgery profession can be, and the life-changing effects that an injury can have.

It is vital that all those involved in tree work and grounds maintenance must ensure they have received the relevant training in the safe use of their equipment and remain vigilant when using it.

Furthermore, a safe system of work would have identified how to use the grinder and in what sequence, reminding, if needed, any staff of the correct usage. The local tree surgeon company appeared at Maidstone Magistrates' Court on 13 September and pleaded guilty to breaching s3(2) of the HSWA 1974. They were fined £5000, plus full prosecution costs of £3679.

HEALTH AND SAFETY TRAINING SOLUTIONS

Bibby Consulting & Support is accredited by various awarding bodies, and here is a selection of our forthcoming accredited courses:

- **IOSH Managing Safely - £550 per delegate**

  Slough: March 7th, 14th, 21st, 28th
  Liverpool: April 4th, 11th, 18th, 25th

  Perhaps one of the most recognised health and safety courses, we are delighted to offer places on the IOSH Managing Safely course. This course is unlike any other, with a sharp business focus, inspiring and engaging delegates and covering the fundamentals of managing safety.

- **ConstructionSkills Site Management Safety Training Scheme - £550 per delegate**

  Newcastle-under-Lyme: March 7th, 14th, 21st, 28th & April 4th
  Slough: April 18th, 25th, May 2nd, 9th, 16th
  Liverpool: May 23rd, June 6th, 13th, 20th, 27th

  The 5-day SMSTS training course is intended for Project Managers, Site Managers and Site Supervisors as well as proprietors of small to medium sized construction companies. SMSTS is listed in the CDM Regulations ACoP as a demonstration of competence in the role of Site Manager.

- **HSE First Aid at Work - £200 per delegate**

  Newcastle-under-Lyme: March: 20th, 21st, 22nd or May 15th, 16th, 17th
  Liverpool: March 13th, 14th, 15th or 12th, 13th, 14th June
  Slough: April 10th, 11th, 12th or 10th, 11th, 12th July

  This HSE accredited course will provide theoretical and practical training in workplace first aid, and will provide the delegate with the knowledge and confidence to effectively manage a first aid incident or emergency in the workplace.

IF YOU WOULD LIKE TO KNOW MORE ABOUT ANY OF THE COURSES OR TO REGISTER PLEASE CONTACT: TRAINING@BIBBYCAS.COM

› EXPECT THE WORST IF YOU DON'T COMPLY WITH HEALTH AND SAFETY REGULATIONS, SAYS BIBBY CONSULTING & SUPPORT

Michael Slade, Managing Director of Bibby Consulting & Support, has responded to news that Marks & Spencer was fined £1m (and ordered to pay £600,000 costs) for failing to protect customers, store employees and construction workers from potential exposure to asbestos in two of its stores.

"When construction companies are carrying out refurbishment work, there should be safe systems of work in place and full risk assessments carried out," he said, "particularly for something as hazardous as asbestos. And if those safe systems of work are in place, it is the responsibility of everyone involved to make sure that they are followed."

At Marks & Spencer's Reading store, the contractors were said to be working overnight in enclosures on the shop floor with the aim of completing small areas of asbestos removal before the shop opened each day. As well as Marks & Spencer being fined, the contractor was also found guilty of contravening the Health and Safety at Work Act at the second store in Bournemouth and fined £100,000 plus £40,000 costs.

"Marks & Spencer have incurred a particularly hefty fine because they are technically the overall project manager," Slade explained, "and therefore are ultimately responsible for the health and safety of employees and customers at their stores."

He went on: "If part of the problem was that the timetable for opening the store forced the contractors to work with a hazardous material when unprotected people were on site, then both parties would be culpable. If a contractor finds himself being given a target that puts people in harm's way, then the onus is on them to point out that work cannot continue on that basis.

HSE guidance says: "Large retailers and other organisations who carry out major refurbishment works must give contractors enough time and space within the store to carry out the work safely. Where this is not done and construction workers and the public are put at risk, the HSE will not hesitate in taking robust enforcement action."

The HSE claimed that Marks & Spencer had failed to ensure the work was completed to the appropriate minimum standards set out in asbestos removal legislation, and although the company had produced its own guidance on asbestos removal in its stores, this was deemed to have been followed "inappropriately" by its contractor.

Slade concluded: "The HSE guidance is clear – if anyone involved in construction work follows the advice in the Approved Code of Practice (ACoP), they will be doing enough to comply with the law. But it's one thing having the systems in place and quite another ensuring they are adhered to. Nobody should take risks with other people's lives, no matter what the pressures may be."

This case comes on the back of new European Commission guidance saying that in general, the UK was failing to implement, in full, recognised asbestos removal procedures. ■

HEALTH & SAFETY
FOR MORE INFORMATION

If you are unsure about any concerns, you should contact the Bibby 24hr Health and Safety Helpline on 08453 100 999 for expert advice.

MRSA

(METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS)

We are approaching the period when hospital patient and visitor numbers increase. With extensive media coverage, mobile staff such as cleaners, home helps etc may become concerned when they realise the person they are visiting has had MRSA or that person has visited someone who has the condition. Due to misunderstanding the condition, they may believe they could be at risk, so it will help to provide clear information on the risks involved and the control measures to follow.

What is MRSA?

Staphylococcus aureus bacterium is often found in 20-30% of the noses of normal, healthy people. Most strains are responsive to antibiotics and infection is effectively treated. Bacterium which are resistant to an antibiotic called Methicillin are referred to as MRSA. Many common antibiotics are not effective against this strain and patients infected with MRSA must therefore be treated in hospital.

Is MRSA Dangerous?

MRSA rarely presents a danger to the general public. It is usually confined to hospitals and occasionally nursing homes and in particular vulnerable or debilitated patients. MRSA does NOT pose a risk to hospital staff, family members of an affected patient or close social/work contacts, unless they are suffering from a debilitating disease themselves. Friends, family or work contacts need not take any special precautions and should not be discouraged from normal social/work contact.

What are the common symptoms?

Most people found to have MRSA bacterium present do not display or develop any signs of illness. A proportion of patients can become infected if they have been at greater risk, such as following an operation, in the presence of an intravenous infusion or surgical drain. These patients may then develop illnesses such as wound and skin infections or urinary tract infections.

How is the spread of MRSA prevented?

The single most important and effective infection control measure is scrupulous hand washing and good personal hygiene practices by hospital staff before and after contact with patients and prior to any procedure. This is most likely to effectively prevent the spread of MRSA.

HSE CONSIDERS CHARGING STRATEGY

BUSINESSES CHARGED FOR ENFORCEMENT INSPECTIONS

The fiscal cutbacks have led to a number of cost saving measures by the HSE . As a direct result, the HSE are considering the need to charge organisations and businesses for enforcement inspections. Whilst this is a not necessarily a new activity for businesses facing prohibition, improvement or enforcement notices, the new revelation of "charge per visit" is a new concept where, in the event of an enforcement body finding cause to return to the workplace to follow up the initial inspection, this would have normally been an activity completed without an additional charge for the organisation.

As a result, businesses and organisations are encouraged to ensure all statutory inspection, risk assessment and communicated documents are reviewed on a regular basis to prevent the slightest possibility of the Enforcement Agency returning to the premises. Discussions with Enforcement Agencies are ongoing, however additional revenue is anticipated to bridge the financial gap created by the HSE spending cuts.

NEWS UPDATE

Payout for prison officer injured by Prisoner

A prison officer who was injured while trying to restrain an inmate has received £47,500 compensation from the Ministry of Justice. Keith Brown, 55, who still works at HM Prison Dorchester, was put in an unsafe position when he was required to attend the cell of two known violent and disruptive prisoners whilst on night duty.

In breach of prison procedures and without consulting Mr Brown, the night orderly officer opened the prisoners cell door in the early hours of New Year's Day, 2006. Mr Brown was charged by one of the prisoners, and while trying to restrain him sustained a fracture to the base of his right thumb.

The tearing fracture did not heal fully, resulting in fibrous scar tissue developing which continues to limit Mr Brown's use of his thumb. This has restricted his role as an officer in the Prison Service. In a compensation claim supported by his union the POA (Prison Officers Association), lawyers argued that the Ministry of Justice, as the employer, was vicariously liable for the night orderly officer's failure to comply with prison procedures and therefore for the injuries Mr Brown suffered as a result. The Ministry admitted liability and agreed to an out of court settlement.

The above case shows the need for employers to not only have policies and procedures in place but to ensure that all managers and staff are fully aware of them and they are adhered to.

GREY FLEETS

Grey fleet is the term generally used to cover business travel carried out by employees in their own vehicles. For many organisations in both the public and private sectors, it is an often overlooked issue but there are compelling business and legal compliance reasons for taking a close look at grey fleets. This is not a comprehensive guide but is intended to give an outline and raise awareness of the issue to highlight the main areas of concern so that you can examine the problem in the context of your own company.

In the public sector alone, it is estimated that 57% of all work related mileage is 'grey fleet' mileage. This equates to approximately 1.4 billion miles per annum. Figures for the private sector are much harder to estimate as the reporting and managing of the issue is not carried out in a consistent way and is rarely handled as a company-wide issue. However, private sector grey fleet usage is significant and does need to be managed. For both public and private sectors, failing to manage grey fleet mileage can expose an organisation to problems in four key areas:

1. Health and Safety
2. Environmental sustainability
3. Financial efficiency
4. Compliance with road transport legislation.

Reducing grey fleet mileage can have significant benefits in all of these areas and suitable control measures may reduce an organisation's or individual's exposure to enforcement action.

Below are some facts and figures for three of these areas - Health and Safety, Environmental and Compliance with road transport legislation.

Health & Safety

57% of total road mileage is reported as being grey fleet mileage. In the UK, grey fleet undertakes as much as 1.4 billion miles per year (this is just public sector figure).

There are 3 grey fleet vehicles for every single fleet vehicle. Over 34% of organisations admitted in a survey that they do not have basic procedures for checking the driving licenses and insurance of grey fleet drivers. One in three road accidents involve a vehicle driven for work. 200 near death/serious accidents per week are work related.

Employers have a legal obligation to manage their duty of care to employees and to others not in their employ; this obligation extends to employees driving their own vehicle for work purposes. In the case of a work-related road incident, organisations may need to provide evidence to show that they have taken 'reasonably practicable' steps to manage their duty of care.

The first stage of this process would be a risk assessment which may form the basis of a policy document, i.e. driving policy to cover areas including, but not limited to:

- ***Driver competence:*** driving licences held (e.g. car, LGV, PSV) – check the license is current, valid and applies to the vehicles to be driven
- Accidents within the last five years
- Traffic violations and penalties – in particular, any drink-driving convictions
- Notifable medical conditions. Advice is available from the DVLA about medical standards for driving
- Date of last eyesight test, and whether glasses are required for driving. The Eyecare Trust found that 1 in 20 drivers surveyed had eyesight that fell below minimum legal standards, whilst a leading Opticians estimates that a third of British drivers could be on the roads with substandard vision
- Additional training received, for example advanced motorist, skid pan training, computer based training
- Minimum vehicle standards to include: crash-worthiness, minimum safety features, unacceptable features (such as bull bars). RoSPA can provide further advice on features to seek or avoid in a new car
- Document checks - e.g. MOT, insurance for business use, service history
- Permitted journeys
- Monitoring and control - reviews of licenses, mots, insurances, providing a vehicle checklist and training staff to use it
- Conducting an audit to make sure checks are being made
- Vehicle checklist would cover areas such as checking the outside of the vehicle (e.g. tyres, lights, mirrors), the interior (e.g. seat belts, head restraint, first aid kit), fluids (e.g. oil, washer fluid) and carrying out functional checks such as lights, fuel and brakes.

Environmental Issues

There is a great deal of pressure on organisations to reduce their carbon footprint, either voluntarily or by legislative target setting. For many there will be significant reductions achievable through grey fleet management and control. 400,000 tons of CO2 are emitted, on average, from grey fleet cars over the 1.4 billion public sector miles. This is an annual carbon profile that would take 550,000 UK trees their whole lifetimes to offset.

Add in the private sector mileage to these figures and the environmental impact of grey fleets becomes even more significant. Exacerbating the issue is the fact that grey fleet cars used by employees tend to be older (on average they are 6.6 years old) and therefore emit much higher levels of CO^2 than lease vehicles and/or pool cars which on average tend to be 3- 4 years old.

Compliance with Road Transport Legislation

Almost without exception, organisations will invest a lot of time and effort in ensuring that their own vehicles comply with relevant legislation, but because of the way some grey fleet vehicles are managed, there is a much higher risk of non-compliance.

The primary legislation is the Road Traffic Act 1988 and its associated regulations which cover areas such as mechanical condition of the vehicle, MOT Testing, driver licensing, insurance, seat belts and driving standards.

Breaches of these regulations may result in the driver being prosecuted under the relevant section of the Act. Less well known is the fact that if the vehicle is being used for work purposes with the permission of the employer, then the employer may also be prosecuted. Each of the regulations also makes it an offence for anyone to cause or permit the offence or to 'use' a vehicle on a road in contravention of the legislation.

In order to minimise these risks, an employer should have in place, checks to ensure the driver has the correct driving license, that their insurance cover includes business use, that the vehicle is mechanically sound and, if necessary, has a current MOT and is displaying current tax disc.

Managing the Issue

The first step in managing and controlling grey fleets is to set and communicate a policy detailing the steps to be considered before use of an employee-owned vehicle will be permitted. Put in place control measures to monitor and measure grey fleet mileage so that true costs and environmental performance of these vehicles can be measured.

Carry out documentation checks on driving licences, insurance cover and MOT certificates before allowing employees to drive their own vehicle for work, and then repeating these at regular intervals to ensure they are still current. Finally, ensure a process is in place to monitor, review and report on grey fleet usage on a regular basis. This process should include a review of road traffic accidents. ■

FIRE SAFETY BREACHES

SUSPENDED PRISON SENTENCE FOR BUILDING OWNERS

A London building owner has been given a six month suspended prison sentence after being convicted of seven offences under the Regulatory Reform (Fire Safety) Order 2005. The owner was sentenced on 14 September after being found guilty of four offences at a trial at Tower Bridge magistrates' court on 1 June 2011. The owner had already admitted three other offences at an earlier hearing.

He was also sentenced to 150 hours of community service and told to pay over £13,000 in costs. Fire safety officers visited his property in Camberwell London on 9 December 2009. The basement and ground floors of the building are used as a takeaway restaurant, while the first, second and third floors were being used as sleeping accommodation with five bedrooms.

Officers found a range of fire safety breaches on the upper floors of the building. These included having no fire alarm or emergency lighting; the bedroom doors were not fire resistant or self closing; the staircase from the ground to second floor was not fire protected; and there was no alternative means of escape from the sleeping accommodation. The inspectors also found no evidence of an emergency plan and that no Fire Risk Assessment had been carried out.

"It is essential that building owners understand their responsibilities under fire safety law," said the assistant commissioner for fire safety regulation. "London & other Fire Brigades work hard to ensure individuals and companies understand their responsibilities under fire safety law and only use prosecution as a last resort, but this verdict sends out a clear message that if they ignore fire safety, then they will face serious penalties."

Bibby Consulting & Support state all employers must ensure a Fire Risk Assessment is undertaken, identifying risks & hazards and then what measures can be put in place to reduce or eliminate those risks. Some examples would be a Emergency Action Plan, highlighting what actions should be taken & by whom in the event of a fire and emergency, and not forgetting suitable training – particularly for those people who have been allocated additional responsibilities such as fire marshals.

NEWS UPDATE

Miner dies after Roof Collapses at North Yorkshire Colliery

One man died and a second was rescued at Kellingley Colliery in North Yorkshire on Tuesday 27th September. Gerry Gibson was killed when the roof of a mine shaft collapsed 800 metres below ground.

Kellingley Colliery, one of Britain's deepest remaining pits, is owned by UK Coal, the country's biggest producer. It employs around 600 staff.

Andrew Macintosh - UK Coal's communications director - said the initial inquiry had shown no problems with the coal seam or the equipment. A full investigation is now being carried out by the HSE and North Yorkshire Police.

The mine is developing a poor safety record, with fatal accidents occurring in both 2008 and 2009 and an evacuation last year following a methane explosion. UK Coal appeared at Pontefract Magistrates' Court on Friday 30 September in relation to the death of Ian Cameron, 46 who died when equipment fell on him in October 2009.

The recent event happened just weeks after a mine flooding incident in South Wales caused the deaths of four miners.

REMOVING PREMISES REGISTRATION

JUST IN CASE YOU MISSED IT

Most businesses will either be aware of the following change or were ignorant of the previous need to register their company.

However, although this has been in place for the last 2½ years, it is reproduced from the HSE website for those companies who may still need to know. It also serves as a reminder for those types of businesses who still need to register with local authorities.

Since 6th April 2009, employers no longer have to register the factories, offices and shops in which their employees work, with the relevant health and safety authority. This is because new rules have removed the requirements to register under the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963.

This means that:

- Factory employers no longer have to complete the F9 form and register with the Health & Safety Executive (HSE);
- Office and shop employers no longer have to complete the OSR1 form and register with their local authority; and
- Railway operators no longer have to complete the OSR7 form to register certain track-side buildings.

However, these changes do not affect the registration or form-filling requirements of other legislation.

Some businesses will still have to register and submit forms under other regulations. This will depend on the type of business and the regulations that govern it. For example:

- Food and catering businesses must continue to meet food standards registration and other requirements, which local authorities enforce;
- Businesses producing, storing, using, and/or transporting substances defined under major hazard legislation, must continue to meet major hazard requirements, which the HSE enforces.

The general register for factories no longer applies.

Also, factory employers no longer have to complete and keep the series of forms and records that make up the "general register" (ie forms F31, F32, F34, F35 and F36).

HEALTH & SAFETY MORE INFORMATION

If you are unsure on how any of these subjects affect you, please call our Health & Safety Support Line on: 08453 100 999 or email: enquiries@bibbycas.com.

RAGWEED: THE NEW PLAGUE?

THE EFFECTS IT COULD CAUSE FOR HAY FEVER SUFFERERS

It is one of America's most irritating weeds and threatens to spoil the summer months of thousands of Britons who are prone to crippling hay fever attacks. Scientists said yesterday that ragweed has already established a beachhead in central Europe and is spreading westwards towards Britain.

Each plant is reputed to be able to produce about a billion grains of pollen over a season, and the plant is anemophilous (wind-pollinated). It is highly allergenic, generally considered the greatest allergen of all pollens, and the prime cause of hay fever in North America. Common Ragweed (A. artemisiifolia) and Western Ragweed (A. psilostachya) are considered the most noxious to those prone to hay fever. Ragweeds bloom in the Northern Hemisphere from early July until mid-August or until cooler weather arrives. According to a recent study, lengthening of the pollen season has been observed in the North America, probably as a result of global warming. Ragweed is a plant of concern in the global warming issue, because tests have shown that higher levels of carbon dioxide will greatly increase pollen production. On dry, windy days, the pollen will travel many kilometres.

Although common ragweed is not an issue here in the UK yet, an increasing number of Europeans are showing signs of ragweed allergy as the plants spread from the Hungarian plains to the fields of Italy, Austria, France and more northerly regions bordering the English Channel. It is thought to be only a matter of time before the ragweed crosses the channel and becomes an invasive species, especially as we are experiencing warmer summers and milder winters, as well as the formidable reproductive powers of the plant itself. The pollen has been found 400 miles out to sea and two miles high so the channel is little more than a skip to cross.

The invasiveness of the plant is not really a problem, but the effect on the human immune system certainly is and not just for current hay fever sufferers. The effects could increase the absenteeism of workers with obvious implications. Ragweed pollen sensitivity was currently affecting about 2.5 per cent of the wider European population, which is the current threshold for a "high prevalence" allergy

American ragweed has been present in Europe for about a century but it emerged as a seriously invasive plant species in Hungary during the 1990s.

WASTE (ENGLAND AND WALES) REGULATIONS 2011

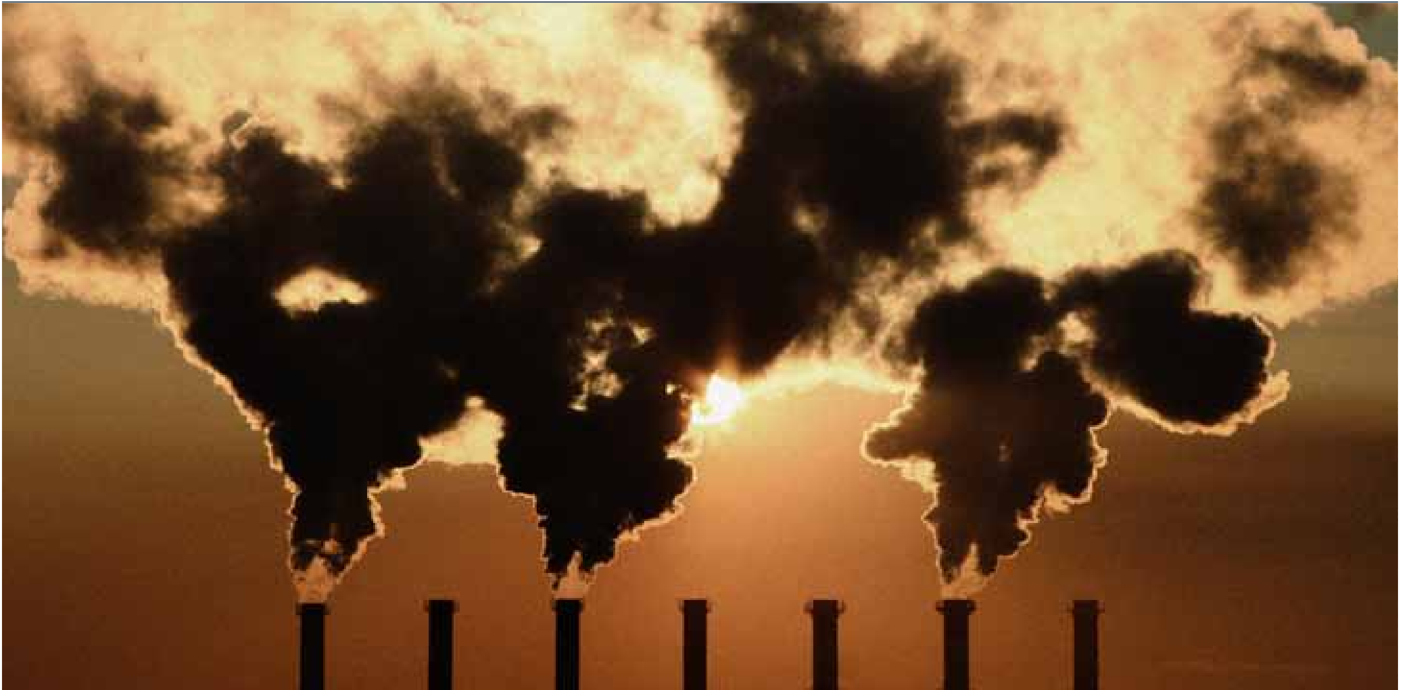
REMINDER OF LEGISLATION CHANGES

The Regulations came into force on 29th March 2011 and implement the revised Waste Framework Directive by:

- Requiring businesses to confirm they have applied the waste management hierarchy when transferring waste;
- Introducing a 2-tier system for waste carrier & broker registration and the concept of a waste dealer;
- Making amendments to hazardous waste controls and definition;
- Excluding some categories of waste from waste controls.

The regulations affect businesses that produce, import, export, transport, store, treat or dispose of waste or who operate as waste brokers or dealers. Businesses should reconsider what wastes they produce and how they are managed by reconsidering:

1. ***Using the waste management hierarchy***
   From 28 September 2011, you will have to declare on the waste transfer note, or consignment note, that you have applied the waste management hierarchy.
2. ***Carrying waste***
   From the end of December 2013, you need to register as a lower tier carrier if you normally carry controlled waste produced by your own business – this is a new requirement.
3. ***Changing Environmental Permit conditions***
   If you have a permit, new permit conditions will be applied.
4. ***Check whether your waste is now excluded from waste controls.***
   You no longer need a permit or exemption for wastes covered by the Animal By-Product Regulation.
5. ***If you deal with radioactive wastes, check to see if waste controls now apply***
   Most radioactive waste is controlled by radioactive substances regulation and does not require waste control.
6. ***Check your hazardous waste procedures***
   The regulations introduce a new property, H13 Sensitizing, to the list of properties defining waste as hazardous,
7. ***End of Waste***
   A forthcoming EC Regulation on End of Waste will define the point ferrous and aluminium scrap metals may cease to be waste. This will impact on;
   - accreditation for recycling these metals and
   - some permits may no longer be required,
8. ***Separate waste collections***
   The regulations require the separate collection of waste paper, metal, plastic and glass from 1st January 2015.



EU TO MEET KYOTO PROTOCOL

BUT LIKELY TO MISS 2020 TARGETS

The EU will meet its obligations under the Kyoto agreement, but member states are not doing enough to hit its goal of a 20^{C} reduction by 2020, according to the European Environment Agency (EEA).

The EEA estimates that despite an increase in greenhouse gas (GHG) emissions during 2010, overall, the 15 countries legally-bound by the Kyoto protocol to cut GHG emissions 8$^{\%}$ on 1990 levels by 2012, will meet their targets.

The economic recovery in 2010 and an unusually cold winter resulted in a 2.4$^{\%}$ increase in GHG emissions, with outputs from the energy sector up 2.6$^{\%}$, and emissions from industry, for example, cement, iron and steel production, up 7$^{\%}$.

However, emissions from the EU-15 are still estimated to be 10.7$^{\%}$ lower in 1990, with the European commissioner for climate action, Connie Hedegaard, saying the reports showed the EU was making progress in decoupling emissions from GDP.

"Between 2008 and 2009, emissions fell by 7.1$^{\%}$ in the EU-27, much more than the around 4$^{\%}$ contraction in GDP," she said. "However, last year's estimated 2.4$^{\%}$ rise in emissions shows that we need to continue the decoupling process."

While the economic climate was an important influence on the creation of emissions, says the EEA, EU and national policies are also contributing to the long-term decline in GHG emissions in Europe. It highlighted in particular, moves to improve energy efficiency, the 8.8$^{\%}$ increase in energy from renewable resources and the shift towards natural gas from more carbon-intensive fossil fuels.

The EEA also estimates that 2010 saw a 2.3$^{\%}$ drop in emissions from the waste sector in the EU-15 in 2010, due to the implementation of the Landfill Directive, and a 1.3$^{\%}$ decrease in emissions from the agricultural sector, with the EU Common Agricultural Policy credited with helping to cut methane and nitrous oxides. "Many different policies have played an active role in bringing down greenhouse gas emissions", the EEA executive director was quoted as saying.

"Besides renewable energy or energy efficiency, efforts to reduce water pollution from agriculture also led to emission reductions. This experience shows we can reduce emissions further if we consider the climate impacts of various policies more systematically."

More worrying, however, were the agency's conclusions about future emissions. According to its "Greenhouse gas emission trends and projections" report, not only were existing approaches not enough to cut GHG emissions by 20$^{\%}$ by 2020, but additional measures currently planned by European government's would not be sufficient to meet targets. "By 2020, member states must enhance their efforts to reduce emissions in non-EU emissions trading scheme sectors, such as the residential, transport or agriculture sectors," the report concludes. ■

The EEA is based in Copenhagen. The Agency aims to help achieve significant and measurable improvement in Europe's environment by providing timely, targeted, relevant and reliable information to policymakers and the public.

CRC REPORTS BACK ON TIME

REPORTING AND RESPONSIBILITIES

It would appear the majority of initial emissions figures have arrived back on time. The figures presented back to the Environment Agency do suggest that most businesses and public sector bodies who are active within the Carbon Reduction Commitment Energy Efficiency scheme have handed in their first reports on time.

The reports were due back to the EA by the end of July 2011 – with only 254 reports out of 4500 not being handed back in on time.

It now seems that due to the compliance of reporting, a first time performance league table will be published as planned in the autumn. Each participant has had to collate and present two reports to cover the first year of the scheme, which started in April 2010. The reports showed a footprint report summarising all the energy they were supplied with in the previous year and an annual report detailing emissions that fall under this scheme (CRC).

Various major groups participating have had many issues and problems in obtaining the information which becomes quite difficult for complex organisations - therefore the general request will be to simplify the scheme – allowing organisations to focus more on making energy efficiencies.

Estimates indicate that more than 60 million tonnes of carbon dioxide emissions were reported on in this first year of the scheme, all of which equates to more than 10% of the UK's total annual CO2 output.

FLY TIPPING

FLY TIPPING INCREASES AS WASTE DISPOSAL CHARGES SOAR

The Environment Agency and the Local Government Association have reported a surge in the number of fly tipping incidents reported as businesses feel the need to cut corners and break the law by means of unlicensed waste disposal companies, dispose of waste at the road side or use unconventional means to dispose of waste without a suitable means of control.

All commercial businesses and organisations are required to ensure their waste is disposed by a licensed waste carrier. You may be asked by an enforcement body to prove this by means of a waste disposal certificate. It is in your interest to ensure your waste is disposed of correctly. In the event of a letterhead or company documents found at an illegal fly tip, you will be asked to demonstrate your waste disposal certificates for the past 5 years or be subject to a maximum £20,000 fine.

With waste disposal costing currently £56 per tonne, the cost of landfilling waste continues to increase. Taking simple measures to reduce waste to landfill by means of reducing, recycling and reusing where possible will help keep waste costs down. Alternatively, you may seek a waste management company to separate your waste for you (Energy from Waste = Incineration) may help temporarily reduce your waste management overheads.

Bibby Consulting & Support are able to provide technical and non-technical support to help your business reduce waste management costs. Contact your SHE Consultant for more information.

SERVICES

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