

WORK *stress*

The UK National Work-stress Network • workstress.net

**Hazards
Campaign**

Newsletter

January 2009

November 2008 Bullying Conference – a great success

The Bullying Conference was held over the weekend of November 15/16th 2008 and once more we are extremely grateful to [NASUWT](#) for their support in provision of the excellent Conference facilities at Hillscourt Conference Centre.

Not only is the accommodation and service of an extremely high standard, the venue is located in a very beautiful rural setting on the SW edge of Birmingham in Worcesterhire's Lickey Hills. Over 120 delegates expressed interest and we were inundated with applications towards the end – sadly having to turn people away. Such was the demand that accommodation requirements exceeded that provided and several late applicants had to be accommodated off-site. Nevertheless the overall view was of great satisfaction with the weekend's events being recorded by many delegates.

A more detailed account of the Conference is posted on this website's [Conference Report](#) page, and is free to download including the presentation slides used in the opening Plenary, and detailed reports on the workshop sessions.

Opening the Conference, **Simon Pickvance of SOHAS** welcomed delegates to this the first residential conference weekend. He introduced the panel of speakers and chaired the opening plenary as well as the Forum session at the end of day one.

The Opening presentation on recent research work was given by Prof Charlotte Rayner of Portsmouth University. This was followed by a legal overview of current court precedents delivered by Thompsons' Simon Dewsbury. A review of the important Dignity at Work campaign was presented by Debbie Hutchings, UNITE [AMICUS] Official, and copies of the latest publication on disc were provided. Jo Brown a Consultant from www.justfighton.org outlined the issues for bullied victims and how they can and should be returned to the workplace after sickness absence. Ian Draper concluded the presentations with a broad outline of the misuse and abuse of technology systems to bully workers, covering the new concept of Cyber-Bullying which is becoming more prevalent.

The afternoon session was devoted to 4 separate workshops enabling discussion on dignity at work, returns to work following absence, the use of technologies as a bullying tool and negative behaviours at work. All workshops were well attended and a short report back on their content facilitated some further plenary discussion.

This being our first residential conference, Saturday evening gave an opportunity for networking and most delegates stayed over for this useful social time.

Sunday morning provided four 'Masterclass' sessions to examine bullying in more depth. The weekend was a great success and we thank everyone for their input and compliments on its success.

IN THIS ISSUE

- 1 BULLYING CONFERENCE 2008
- 2 FROM THE CONVENOR'S DESK
DIARY DATES
- 3 RECESSION EFFECTS
IER CONFERENCE
- 4 NEW H&S SANCTIONS



From the Convenor's Desk

Happy New Year to everyone!

Ian Draper (Network Convenor)

Regular readers will notice that we have revamped our look for 2009. We felt it was time to develop a new identity and with that in mind we have commissioned our new Logo which you will see at the head of this newsletter. It will also be used in all our publications, including the web-pages, letter heads and other publications as and when they appear. The older version we felt was somewhat tired and certainly the cause of some problems for those with visual impairments.

We are grateful to Eve Barker for her guidance and excellent design work. Thanks Eve – a great job and well done.

The calendar moves on and already we are into 2009, and with the rather gloomy prospect of financial difficulties facing the world and UK economies. It is already likely that the recession and financial difficulties will be leading to higher stress levels, brought about by continued job insecurity, loss of overtime, reductions in income of one sort or another, leading to loss of job and of course the worry of whether the regular outgoings can be met.

Coming also over the festive period with for many, extended holiday allocations, this will lead to increased personal stress levels, which we hope will not affect the psychological well-being of the many thousands who will be caught up in this spiralling problem.

We have been contacted recently by *Time Life Magazine* to see what evidence there is about the stress impacts of the financial collapses of many Banks and associated companies is having on their staff as they see jobs on the line.

Whilst we have every sympathy with their plight, we must also remember that it is through the apparent bravado of the finance

industry that the world has been brought almost to its knees in this way.

The job security of many millions of others who have never enjoyed [nor will they enjoy] the kind of life-style that is associated with the finance industry is now at much greater risk and their stress levels are likely to be greatly higher.

Diary Dates

- **Steering Group Meetings:-**

Saturdays, commencing 10.00 a.m., at Hillscourt Conference Centre,

Rednal, B45 8RS

February 7th; 4th April; 4th July; 5th Sept;

- **Stress Conference weekend**

Saturday/Sunday 21st and 22nd November

- **Hazards Campaign Meetings**

Thursday March 12th

- **Hazards Conference 2009**

Manchester University, July 10th to 12th

Downturn 'fuels unpaid overtime'

The TUC says workers are missing out on an average £5,000 in pay

The economic downturn is leading to workers putting in record levels of unpaid overtime, the TUC has said. It estimates 5.24 million people put in extra work worth £26.9bn in 2008. TUC general secretary Brendan Barber said while some of the rise was down to a "long-hours culture", workers' fears of losing their jobs was also a factor.

"Inevitably, people will be putting in extra hours if they think it can help protect against redundancy or keep their employer in business," he said.

Workers' health

According to the TUC the average amount of unpaid overtime was more than seven hours a week, and workers were missing out on an average of £5,000 of pay.

Mr Barber said: "After years of progress, the numbers doing unpaid overtime has

increased for the second year in a row. This is disappointing. Employers should never forget that each extra hour worked makes people less productive

"But while some of this is due to the long-hours culture that still dogs too many British workplaces, the recession will now be making many people scared of losing their job in the year ahead and joining the ever-growing dole queue."

The areas of the country that saw the biggest rises in unpaid overtime were London, the East Midlands and eastern England, said the TUC.

Mr Barber added: "Long hours are bad for people's health, and employers should never forget that each extra hour worked makes people less productive once they are over a sensible working week."

Institute of Employment Rights Conference on "Stress the workplace Killer"

We were invited to participate at this conference in London on [January 14th 2009](#), held at Hamilton House. Other speakers included Linda Millband from Thompsons' Law in the East Midlands. Linda is the company's Stress case co-ordinator.

The third speaker Isabelle Schöemann of the European Trades Union Institute for Research Education and Health & Safety.

Ian Draper outlined the basic causes, effects and symptoms of stress in the workplace and was able to demonstrate the existence of evidence that stress remains one of the most common causes of sickness absence.

Linda Millband [Thompsons Law] covered the range of historic landmark cases that have created legal precedent over the years.

These include the ground-breaking [Walker Case vs. Northumberland CC](#) back in 1995, through to the [Hatton](#) and others judgment in 2002 that set a major yardstick on foreseeability for any case of stress. The 16 points set down by Lady Justice Hale in this Appeal have now become the key elements in any test of liability.

Further cases outlined included [Barber](#), one of the original Hatton 4 which secured an improvement in the likelihood of success.

Under the **Protection from Harassment Act 1997**, she highlighted:-

Majrowski vs. Guys & St Thomas's NHS Trust (HoL 2006)

Where the Lords' Judgment confirmed in this case where Majrowski was bullied and harassed by his manager that the principle of vicarious liability is applicable where an employee commits a breach of statutory obligation whilst acting in the course of his or her employment; and that the PfH Act 1997 applies as much between and employer and an employee as between any two other persons, and that the perpetrator may well be a corporate body; and damages can be awarded for anxiety caused by harassment and any related financial loss.

Conn vs. City of Sunderland (CA November 2007)

The Court of Appeal held that the threatening and aggressive behaviour of a supervisor against a team of workers [road gang] did not come close enough to the threshold of the type of conduct which would give rise to liability under the Act, and that Conn and his colleagues worked in an environment where 'robust language' would be expected. However a further incident where the supervisor had threatened to give one of the team 'a good hiding and to punch out the windows of their cabin', was felt to have been closer to the threshold, but nevertheless the claims failed.

Allen vs. London Borough of Southwark (CA 2008)

In this case Mr. Allen sought recompense under the Act in respect of harassment by the Council over alleged arrears of rent. In fact the council was claiming his arrears when in fact they had the wrong person and address, and that he was never in arrears. He claimed harassment on the part of the council and their threats to evict him and bring in the bailiffs. The Court of Appeal sent the matter back to County Court for further consideration and noted that the Borough

had claimed its behaviour was only negligent and not harassment. We await the outcome.

Isabelle Schöemann outlined the recent work within the ETUC and associated research institutes on the slow progress in implementing the EU framework agreement on work related health problems.

Several nations have made some progress, but it is not consistent across the EU. There remains a north-south divide where the southern member states are in some cases less wealthy and not in tune with the same issues as those in the northern member states, where stress related illnesses are perhaps more prevalent. Nevertheless, some 41 million workers across the EU [28%] are suffering from work related illnesses at any one time. Certain sectors and levels of employment show high prevalences.

There remains much work to be done.

New health and safety legislation increases the power of the courts to hand down larger fines and prison sentences comes into effect.

The Health and Safety (Offences) Act 2008, a private member's Bill, received Royal Assent in October and will increase fines for most existing health and safety offences from £5,000 to £20,000 in the magistrates court, although they remain unlimited in the crown court. It also increases the number of offences which can result in a custodial sentence. Health and safety authority the British Safety Council has welcomed the Act, hoping it will help to strengthen awareness of the need to maintain vigorous risk controls and safety management systems – especially in the current economic climate. BCS chief executive Brian Nimick said: "With the new risk of higher fines and possible imprisonment for health and safety offences, this law should act as a deterrent and increase awareness of the need to adequately train and protect workers.

"Risks including accidents, illness and even deaths among the workforce could cost far more in the long term than the short term savings gained from cutting back on training."

But legal experts have raised concerns over some elements of the Act, particularly the change in powers for prison sentences.

Eversheds regulatory partner David Young said: "The reassurance given by the MP proposing the Act is that a custodial sentence will be imposed only in the most serious 'public outrage' cases. These will include cases of serious neglect, reckless disregard for health and safety requirements, repeated breaches which create significant risks, false information, and serious risks which have been deliberately created to increase profit.

"However, there is no clear guidance as to which individuals will be particularly at risk of imprisonment by virtue of their positions within companies. Armed with the threat of prison sentences, we can expect more in depth Health and Safety Executive and police investigations leading to more intrusion into individual employees' lives."

The Act follows new corporate manslaughter legislation, which came into effect last April.

Network comment

We are pleased to see this addition to the armoury of sanctions against those who transgress the Safety law we have, however we remain sceptical that it will be used. All too often the HSE fails to respond to cases where very evident flagrant disregard for the law and common law duties creates major problems.

Employers who still fly in the face of the law and fail to implement H&S Regulations and get away with it MUST be severely punished. Specifically those cases related to workplace stress-related illnesses and bullying, a major cause of stress related sickness absence, should also bear the cost of the damage they cause to their workforce.

Advance Notice

**Stress Network Conference 2009
Weekend of 21st/22nd November
Hillscourt Conference Centre, B45 8RS**