

# Work-Stress Network News

**Hazards  
Campaign**

**UK NATIONAL WORK-STRESS NETWORK**  
*Summer Newsletter - August 2007*

**Have you booked for our November Conference?**

## **Corporate Killing Law on statute book – what will it achieve?**

After a seemingly endless struggle with disputes between the two chambers at Westminster, a Corporate Killing law has now been accepted for royal assent.

At times it appeared that we would never get a result that in some way held corporate bodies responsible for deaths in the workplace caused by negligent and careless employers and managers.

Company directors will however not be held liable if corporate negligence had led to the death of a worker.

The Corporate Manslaughter and Corporate Homicide Bill was passed as law in the Commons and creates a new offence of corporate manslaughter in England, Wales and Northern Ireland, and corporate homicide in Scotland.

The law will make companies, *not directors*, liable for any deaths due to a general breach of the duty of care by the firm. Individual directors would not be personally liable, as the new manslaughter offence would apply to corporations, including public bodies.

The Bill came as a "severe disappointment" for trades unions, particularly in Construction, as it failed to include clauses which would have allowed the imprisonment of company directors, if their negligence had led to the death of a worker. Without such clauses in the Bill, UCATT said there will not be a 'step change' in safety in the construction industry.

Alan Ritchie, general secretary of UCATT, said: "Ultimately any legislation involving corporate manslaughter is to be welcomed. However this is a hollow victory. The issue of director's duties will not go away because without them the construction industry will not become an appreciably safer industry."

TUC general secretary Brendan Barber said: "We are pleased that a sensible decision has been taken and the Bill will now become law. Even though unions wanted the Bill to make individual directors personally liable for safety breaches and for penalties against employers committing safety crimes to be tougher, we hope it will mean the start of a change in the safety culture at the top of the UK's companies and organisations. The catalogue of avoidable workplace deaths in recent years has highlighted in stark terms the need for a change of attitude over safety in UK boardrooms.

"To make a real difference, we now need to ensure that this law is accompanied by a new legal health and safety duty on directors and a requirement on companies to report annually on their workplace safety culture."

The new law could see unlimited fines if it were found that a death followed a serious failing by senior managers in the organisation of the corporation.

However, adverse publicity orders which must be published by negligent companies can be imposed as a penalty by the courts.

## **Urgent action called for over deaths of 241 workers**

Following the recent Health and Safety Executive (HSE) announcement that last year saw a sharp rise in the number of people killed at work, the TUC has urged the Government to get tough with the safety criminals. Last year 241 workers were fatally injured at work, an 11% increase on the 217 deaths in 2005/06, and the highest number of workplace fatalities in five years.

TUC General Secretary Brendan Barber commented: 'These figures are dreadful. Each of these tragic deaths was preventable and shows that employers are not doing enough to make their workplaces safe. Among the worst offenders are employers in construction, the waste industry, and agriculture, where there are high concentrations of migrant workers. This requires urgent attention.

'The UK needs a massive change in its workplace safety culture. Making employers more accountable when things go wrong and increasing the likelihood of a visit from a safety inspector would make a real difference. But ministers have refused to place a specific legal duty for health and safety on company directors, and with less money than ever at its disposal, the HSE has had to cut its staff, including the number of its safety inspectors.

'Employers must be encouraged to work more closely with union safety reps. Where there is a union presence at work, employees are at much less risk of fatal accident or injury.

'If the UK's figures on workplace deaths are to improve, ministers, the HSE and local authorities must take a much harder line against criminal employers. But with employers only likely to get a visit from a safety inspector once every 11- 20 years, it's still far too easy for them to risk the safety of their workers without fear of getting caught. Unless the Government gives the HSE more resources to do their job properly, today's increase could very well become a trend.'

## **New Chair appointed to the Health and Safety Commission**

Judith Hackitt CBE will succeed Sir Bill Callaghan as Chair of the Health and Safety Commission. Ms Hackitt whose five year term with HSC will commence on 1st October 2007 is returning from an assignment as Director of the Chemistry for Europe project with the European Chemical Industry Council based in Brussels.

Welcoming Ms Hackitt to her new role Sir Bill Callaghan said, "Congratulations to Judith Hackitt on her appointment. Her previous role as a Commissioner and her considerable experience in the chemical industry makes her well placed for the responsibility for taking forward the HSC's Strategy for making health and safety a cornerstone of our society, achieving a record for workplace health and safety that leads the world and seeing through the merger of HSC and HSE."

## ***McKenzie launches next stage of consultation on the proposed merger of the HSE and HSE***

August 2007 Department for Work And Pensions

Lead Safety Minister in the Brown Government, Lord McKenzie announced a Ministerial Consultation on the proposed merger of the Health and Safety Commission (HSC) and the Health and Safety Executive (HSE). The merger would bring the governance arrangements for HSC/E in line with best practice and provide a more robust governance framework.

HSC conducted an initial consultation entitled 'A Stronger Voice for Health and Safety' between December 2006 and March 2007. There was strong support from stakeholders for the merger. The HSC and HSE have now asked Lord McKenzie, Minister for Health and Safety, to undertake a Ministerial Consultation to bring about the merger through the Legislative and Regulatory Reform Act 2006.

Lord McKenzie said: "The present arrangements for the governance of health and safety in Great Britain have served us well over the years. However, it is now the right time to review the structures which date back to the 1970s, as the world of work has changed significantly.

Welcoming the Ministerial Consultation, HSC Chair Sir Bill Callaghan said: "Merging the Commission and Executive into a single body will give us a more robust governance framework, and improve our working practices. Results from our own earlier consultation showed wide support for the principle of this merger."

**Network Comment** – we seek assurances that if any change as outlined takes place, the enforcement of safety will not be put at risk. In light of the alarming increases in work-related deaths we believe that the message is loud and clear to Government, HSC/E and Employers – get your act together. The more deaths each year from incidents and illnesses at work there are, the more culpable you are. Corporate Killing Laws are too late already and too feeble.

We also look to the new HSC Chair fully to promote and extend the regulatory requirements of H&S laws and to ensure that ALL Employers, Directors and managers who are guilty of failure under duty of care law are dealt with swiftly, personally and appropriately.

We note that the new Chairperson comes from the employers' side – Bill Callaghan has come from the trades Union side – not that you would notice! Nevertheless we wish Sir Bill well in his retirement from September.

We look for stronger more rigorous laws founded on the good principles of enforcement and appropriate penalty. Already there are serious concerns as to the ability of an underfunded HSE to fulfil its functions.

**The consultation can be downloaded from DWP website/HSE website**

Comments on the consultation should be sent to Ruth Feather, Health and Safety Sponsorship Team, Improving Working Lives Division, Department for Work and Pensions, The Adelphi, Level 2, 1-11 John Adam Street, London WC2N 6HT or email: [ruth.feather@dwp.gsi.gov.uk](mailto:ruth.feather@dwp.gsi.gov.uk) to arrive no later than 31 October 2007.



## **Hazards Conference, Manchester July 2007, another successful weekend!**

Over 500 delegates from across the nation gathered, during the weekend of July 29<sup>th</sup> again at Manchester University for their regular annual infusion of Health, Safety and Welfare advice and discussion. Another rip-roaring success yet again!

Congratulations to the Hazards Campaign and especially to the Greater Manchester Hazards Centre team for yet another excellent feat of organisation.

The opening plenary session saw presentations from **Fiona Murie** of the International Woodworkers' Federation also from Prof. **Andy Watterson** (Stirling University) on the theme of how work-related ill health and specifically cancers are being ignored by employ~~ER~~-preferred propaganda and lack of adequate enforcement from HSE.

A full programme of over 70 workshop sessions enabled delegates to sample a wide range of specialist and focus-group discussions and come away enthused to take up the cudgels again with their managers and employers.

Also a central theme of the conference was the presentation by **Eve Barker** of the '**ALAN Award**' (*in memory of the late Alan Dalton*) – this year it went to the [Battersea Crane Disaster Action Group](#), following the horrific death of local resident **Michael Alexa** following the collapse of a crane working in September last year. The crane driver was also killed in the incident. Each year the Hazards Campaign seeks to acknowledge the hard work of enthusiasts committed to right the wrongs of poor employers, company owners and the failure often of Government and the regulatory enforcement organisations to fulfil their role in protecting public and workers from danger and imminent death.

The **Stress Network** once again hosted two sets of highly popular workshops across the weekend, covering Stress Risk Assessments (Dianne & Dave Jones) and a new slant on Stress Management Standards by focussing on Workload as a key stress factor (Ian Draper & Brian Robinson). Reports of these workshops will be posted on the Network Website in due course. Check the following link to see when the report has been published: <http://www.workstress.net/downloads.htm#new>.

**Congratulations also to Greater Manchester Hazards Centre on its 20<sup>th</sup> Anniversary – may you go on for a further 20 years steering Safety reps and Shop Stewards along the hazards pathway towards improved working conditions. Well done ALL at GMHC!**

**Book a slot in your diary:-  
Hazards Conference, Friday 18<sup>th</sup> – Sunday 20<sup>th</sup> July 2008,  
Keele University**

## **Newsagent fined for overworking staff**

August 2007

Britain's largest newsagent chain has been prosecuted for overworking an employee in only the second case brought to court in the UK under the Working Time Regulations. Edinburgh Council officers investigated an outlet owned by Martin McColl in Edinburgh and discovered one employee worked 51.5 hours a week on average between June and October 2005, well above the 48-hour limit.

The employee received no recompense for the extra hours, and once even worked a 68-hour week.

The company was fined £600 at Edinburgh Sheriff Court on 3 July.

A spokesperson for the Union of Shop, Distributive and Allied Workers (USDAW) said: 'Other people, who perhaps before were afraid their case would not be taken seriously, may now be tempted to speak out. Overworking staff is bad business.'

Tired staff make mistakes, are less productive and they are more prone to illness and absenteeism, so there is even a business case for it.'

## **Employee's stress claim fails as psychiatric harm was "not foreseeable"**

August 2007

The Court of Appeal has held that an employer was not liable for personal injury caused to an employee by its failure to deal with an allegation of harassment in accordance with its procedures. *The psychiatric harm suffered was not foreseeable.*

The employee, Mr Deadman, had worked for the council for 30 years and had an unblemished record when an allegation of sexual harassment was made against him. The employer's harassment policy provided that complaints of harassment would be dealt with sensitively and would be investigated by a panel comprising three members.

The High Court agreed that the employer had acted in breach of contract:

- o as it had acted insensitively when it informed him of the renewal of the investigation merely by leaving a letter

on his desk for him to see on his return to work; and

- o by convening an investigation panel comprising of only two members as opposed to the three stipulated by policy.

It held that the employee was entitled to damages as a result of these breaches of contract but stopped short of finding that the employer had acted in breach of its duty of care so as to found a claim in tort for personal injury. The case was appealed to the Court of Appeal (CA).

The CA upheld the High Court's decision that the Council's failure to convene a panel of three amounted to a breach of contract but found the obligation to handle the investigation sensitively did not form part of his contract and could not therefore be relied on to found a breach of contract claim.

However, the CA went on to hold that the employee was not entitled to any damages for breach of contract as it was not reasonably foreseeable that a failure to convene a panel of three (the breach) would cause stress sufficient to lead to psychiatric harm.

In coming to its decision, the Court of Appeal, referred to the principles laid down in **Hatton v Sutherland** which requires a court to consider whether this type of harm to this particular employee was reasonably foreseeable.

Given that the employee appeared to be a man of robust health, it held that there was no reason to think/foresee that he would be severely adversely affected by the employer's ordinary operation of its procedure for investigating complaints. This claim therefore also failed.

### **Stress Case Difficulties**

This case demonstrates the difficulty posed for employees bringing stress at work claims. Issues of foreseeability arise whether the claim is brought as one for breach of contract or for breach of the employer's common law duty of care. Most of the recent stress cases have arisen from overwork. In such cases, where the adverse effects of overwork are likely to build up over a period of time, there may be warning signs which might lead to a finding that the injury was reasonably foreseeable.

However, in such cases where the employee relied on a single act of the employer, it will

be extremely difficult to show that the injury was reasonably foreseeable, particularly where the employee has until that point been in good health. Many stress claims are likely to fail because the injury was not reasonably foreseeable.

### **Tinnitus and Deafness Support and Awareness Conference**

Support is being offered to people experiencing Tinnitus and Deafness. Chesterfield and North Derbyshire Tinnitus Support Group are running a *free* Conference to help people understand their condition, as well as offering advice and support on how to manage their difficulties.

According to the Support Group, Tinnitus, which is ringing in the ears or head, can have a devastating affect on people's lives. Stella Reddington, Chair of the Chesterfield and North Derbyshire Tinnitus Support Group explains "When I first started with Tinnitus, I couldn't understand what was happening to me. There was a terrible noise in my ears which did not go away day or night. I couldn't concentrate and lost weight."

Fear and anxiety is a common reaction to the onset of Tinnitus.

The Conference will help people to understand their emotional reaction to Tinnitus and how to develop appropriate responses in order to manage their condition.

Audrey Carlin, Secretary of Chesterfield and North Derbyshire Tinnitus Support said "It is important to learn how to relax and focus your attention away from your Tinnitus in order to avoid the vicious circle of stress which in turn exacerbates Tinnitus."

The Tinnitus Support Group welcomes donations which will be sent to the BTA, specifically for the purpose of Tinnitus Research.

There will also be Exhibitions and Displays with information to take away.

The Conference is on **WEDNESDAY, 17<sup>th</sup> OCTOBER 2007** at the Function Rooms, Winding Wheel, Holywell Street, Chesterfield, S41 7SA from 1.00pm – 4.30pm.

Registration:- 12.30pm.

**Network Comment** - being a sufferer of Tinnitus personally, I can vouch for the stress levels that are linked to incessant noises in the head.

If stressful situations are not the direct cause, stress is certainly an outcome for many sufferers. ID

### **Stressful jobs double risk of depression for young workers**

August 2007

High-stress jobs make young workers twice as likely to suffer from major depression and anxiety disorders, according to a British study of mental health in the workplace.

Psychiatric assessments of nearly 1,000 people in the early stages of their careers revealed that one in 20 can expect to experience serious depression or anxiety every year as a direct result of work.

The study is the first of its kind to establish a firm link between stressful working conditions and poor mental health among people who had no previous history of the disorders before their career began. Previous studies across Europe and the US have found that cases of depression have risen in the past two decades, mirroring increases in reported work stress.

Researchers at the institute of psychiatry at King's College London, called on employers to be vigilant for signs of chronic stress in their workplace. In Britain, lost productivity due to depression and anxiety is estimated to cost companies £12bn a year.

The psychiatrists interviewed 972 employed men and women from the city of Dunedin, New Zealand, who have been enrolled in a long-term medical study since birth. All of the volunteers were aged 32 and held a variety of jobs, from politician and police officer to brain surgeon and refuse collector.

The study revealed a marked increase in cases of major depressive disorder and generalised anxiety disorder among people in highly demanding jobs, with 14% of women affected and 10% of men. Of these, 45% were directly attributed to stress in the workplace.

"Work stress appears to bring on diagnosable forms of depression and anxiety in previously healthy young workers; in fact the occurrence is two times higher than

among workers whose jobs are less demanding," said Dr Maria Melchior, lead author of the study, published in the journal Psychological Medicine.

Research consistently shows a greater prevalence of depression among women, though the risk appears to be higher only in women of reproductive age, suggesting that the female sex hormone oestrogen may play a role, said Professor Terrie Moffitt, a co-author on the study.

Head chefs in large restaurants were among the most highly stressed, probably because they have constant inflexible deadlines, and very public failure for any mistakes they made.

### Most stressful jobs

- Head chefs in large restaurants
- Schoolteachers
- Slaughterers
- Construction workers
- Top managerial positions

### Least stressful jobs

- Postmen
- Librarians
- Hairdressers
- Legal/accounts administrators
- Speech therapists

## Dismissals following Bullying Induced Stress Absence

The Court of Appeal has upheld the EAT's decision in [McAdie v Royal Bank of Scotland](#). The case considers a dismissal where the employee was on long-term stress-related sick absence, caused by bullying and mismanagement at work. The Court of Appeal held that:-

- ☞ the fact that the employer has caused the incapacity in question, however culpably, does not preclude it from fairly dismissing the employee
- ☞ the real question is whether the employer acted reasonably "in all the circumstances" - and the circumstances include the fact that the employer was responsible for the original absence
- ☞ where the employer is responsible for an employee's incapacity, it should normally be expected to "go the extra mile in finding alternative employment for such an employee, or to put up with a longer

period of sickness absence than would otherwise be reasonable"

## Lone nurses 'at risk of attack'

Nurses 'need more protection' when working alone. A third of nurses working alone in the community have been assaulted or harassed in the last two years, says the Royal College of Nursing (RCN).

It surveyed 1,000 nurses who sometimes work alone and found 52% also felt the risk of abuse had risen in this time. The RCN is calling on the government to give more protection to these nurses.

The NHS Security Management Service says NHS trusts must protect their own workers and receive guidance to do so which matches the RCN recommendations. Attacks on nurses, whether physical or verbal, are completely unacceptable and the results of this survey are extremely disappointing.

## UK workers 'get least paid leave'

**UK workers will have a minimum of 28 days' paid leave from April 2009.**

The UK is set to stay at the bottom of the league for holiday entitlement in the European Union even after a rise to 28 days in April 2009, a survey warns.

A change in EU rules means the UK will have to stop counting its eight public holidays towards the EU 20-day minimum.

But Incomes Data Services says the UK will still lag entitlement elsewhere, which ranges from 28-29 days in the Netherlands to 39.5 days in Denmark.

The TUC says six million workers will benefit from the rise in paid leave.

### Annual Leave League Table

Denmark 39.5	Spain 32
Austria 38	Greece 32
Sweden 36	Poland 31
Slovakia 35	Finland 31
Luxembourg 35	Bulgaria 31
France 35	Belgium 30
Germany 34-39	Hungary 30
Portugal 34	Romania 30
Czech Republic 33	Ireland 29
Slovenia 33	Netherlands 28-29
Italy 32	UK 28

Source: Incomes Data Services

The UK entitlement will be raised in two stages, initially going up to 24 days from October 2007.

The new regulations are aimed at preventing the inclusion of the eight bank holidays in the minimum entitlement - whereby some employees effectively got just 12 days' annual leave. However, even though they will get more paid holiday, UK full-time workers will still not have any legal right to avoid working on a public holiday if their employer wants them to.

The EU Working Time Directive gives workers in all member states a minimum of 20 days paid leave. Despite being bottom of the EU holiday league, the UK is still well ahead of many other developed nations.

In Canada and Japan, workers are guaranteed only 10 days of paid leave per year while the USA does not have any legal minimum for paid leave.

### **Teacher makes cyber bullying call**

The Headteacher of a Highland school has called for social networking websites to be closed because of an increase in cyber bullying.

Kirsti Paterson, of Avoch Primary, said teachers as well as pupils were being singled out on such sites, which include Myspace and Bebo. Ms Paterson branded the problem "an invasion of privacy". The kind of things that have been brought to our attention are the posting of hurtful comments about teachers on sites."

**Network Comment** – it has come to our attention before that abuse of the internet and other technologies, including mobile telephones equipped with cameras are being used by school students to abuse and even attempt to blackmail teachers and their co-workers.

Schools and Employers must take a firm stance on this insidious form of bullying. Parents have a part to play in properly education and controlling their children, and to encourage acceptable behaviours.

### **Stress Network Conference**

**Saturday November 10<sup>th</sup> 2007**

**Hillscourt Conference Centre, nr  
Birmingham**

[www.workstress.net/downloads/comnference2007.doc](http://www.workstress.net/downloads/comnference2007.doc)

### **Workers stressed by e-mails**

More than a third of workers say they feel "stressed out" by the number of e-mails they receive in the office and the pressure to respond promptly.

Scottish research found some workers are viewing their inbox up to 40 times each hour, leaving them tired and frustrated - as well as unproductive. According to the survey, females felt particularly hard-hit by the deluge. Internet psychologists said people should relax, and not take their work quite so seriously.

"If you think about the e-mails you receive, how many of them need a reply instantly?" said Graham Jones. "How many of those e-mails that you send need to go exactly right now? Probably very, very few indeed.

### **Check less**

Only 38% of workers were apparently relaxed enough to wait a day or longer before replying to an e-mail, according to the study of 200 people carried out at Glasgow and Paisley universities.

"E-mail is the thing that now causes the most problems in our working lives," said lead researcher Karen Renaud. "It's an amazing tool but it's got out of hand."

Experts suggest a simple stress-beating strategy: check your e-mail less often. The advice is to set aside two or three dedicated e-mail reading times each day.

**Network Comment** – new technology is excellent for taking the strain from many aspects of our working and home lives, however it can soon dominate and create higher stress levels than before.

Once we relied on letters and they took a day or more to answer? Then we had Facsimile and by its nature that meant it demanded an early reply, so same day?

Emails seem to send even more urgent signals, and with portable access to our emails by Blackberry and Mobile Phones with WAP, we are almost at work 24 hours a day.

Indeed a quick glance around the railway carriage each morning will show you just how many are working longer hours as a result of the new technologies.

It is in our own hands to find a solution, as well as to show employers that we remain responsible workers even if we don't reply immediately with HIGH Priority flags on our messages!