

Letter to Branches

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General Secretary: Billy Hayes (www.billyhayes.co.uk)

No. 912/07

Ref: EX4

Date: 12 October 2007

To: **All Postal Branches**

Dear Colleagues

Safety Representatives' Rights

(a) SRSC Regulations review (CD207)

In a meeting in June the Health and Safety Commission (HSC) decided that there should be no change in the current Safety Representatives and Safety Committees Regulations or approved code of practice. This was despite overwhelming support from all sectors for such changes. The last consultation process on CD 207 'Improving worker involvement-Improving health and safety' took place from April to September 2005. 443 written responses were made from employers, trade unions and safety representatives. The HSC/E then took another 18 months to come to this negative conclusion.

The CWU has expressed extreme anger and disappointment that the HSC chose to ignore the evidence and refuse to take steps to improve the SRSC Regulations despite 91% of respondents agreeing there should be a duty on employers to consult safety reps on risk assessment and 96% saying there should be a duty to respond to representations from safety reps. The HSC, supported by the H&S Minister still feels no change in the law is necessary. This is frankly incredible. The results of the consultation were that the majority of respondents agreed with the small changes proposed and even 49% of employers and their organisations supported a new legal duty on employers to consult safety reps on risk assessment and 72% agreed there should be a new legal duty to respond to representations from safety reps.

The TUC UHSS Committee decided that the TUC and affiliated Unions should continue to campaign for an extension of safety representatives' rights. The TUC has expressed the need for specific examples of where a person had been killed, injured, or made ill as a result of a safety representative not being consulted on risk assessments, or a safety representative raising an issue with an employer and the employer not responding. The TUC will then submit such evidence to the government. See LTBs 816/06 and 550/07 which reported on this previously. The Health, Safety & Environment Department would welcome any case study examples that Safety Representatives would wish to submit to the TUC.

The National Health, Safety & Environment Officer met the new Health and Safety Minister Lord McKenzie to express the extreme disappointment of the CWU that the HSE recommendations and HSC decision to settle for "no change" had chosen to ignore the evidence by refusing to take steps to improve Safety Representatives rights and health and safety at work. To conclude that there should be no change in Safety Reps law is incredible and against the weight of evidence. The point was made to the minister that there was never going to be any possibility of getting a 100% consensus on Safety Reps rights issues as the Employers Organisations oppose just about everything by way of positive changes and strengthening of health and safety legislation and of course had the

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same logic applied in 1974 and 1977 both the Health and Safety At Work Act and the Safety Representatives and Safety Committees Regulations would never have been introduced.

The meeting with the Minister was followed up with correspondence and a copy of the Minister's reply is attached.

Safety Reps rightly feel let down and betrayed by the Labour Government as the HSE, HSC and Minister appear to be putting far more weight on the views of employers and their organisations than on those of safety reps and trade unions. The HSE/HSC pays lip service to the value of safety reps and to worker involvement, but when it comes to making minor legal changes, which arguably merely implement the spirit of the existing Health and Safety Work Act and Management of Health and Safety At Work Regulations, they support the minority business and employers lobby against change! This outcome is an appalling travesty of the facts and damages their credibility.

(b) "Brown Book guidance to the SRSC Regulations

The only positive thing to be salvaged out of this sorry episode is that following on from the SRSC Regs review consultation, the subsequent pressure exerted on the HSC/HSE and Government by the Unions, the HSC and H&S Minister Lord McKenzie have agreed to revise the "Brown Book guidance to the SRSC Regulations and a further consultation exercise is awaited. The Minister, HSC and HSE continue to emphasise to the TUC, CWU and other Unions that they place great importance on Safety Reps and worker involvement as proving to be a significant in reducing accidents and generally improving health and safety in the workplace.

(c) HSE & LA Inspectors Topic Pack Guidance on Worker Involvement and Safety Reps

In July The HSE issued new guidance to HSE Inspectors entitled "Topic Pack on Worker Consultation and Involvement". The topic pack was issued in response to TUC and Trade Union pressure including CWU in respect of the need for greater support for Safety Reps and Enforcement of the SRSC Regulations. The Topic pack was designed to help staff in HSE and Local Authorities to understand what's meant by "worker involvement", understand the legal requirements to inform and consult workers, along with the policy position on enforcing those requirements, determine when discussion of worker involvement is appropriate and to promote the benefits of involving workers. See LTB 777/07 which reported details of the Topic Pack.

However the TUC UHSS Committee considered the Topic Pack for Inspectors and although it's better than nothing all, the Trade Unions have criticised it as being relatively weak. Further discussions on this are being pursued with the HSC/E on the issue of enforcement.

(d) Meeting with H&S Minister

The National H&S Officer met the H&S Minister Lord McKenzie on 18 June and on 4 September where Safety Reps Rights, Enforcement of the Regulations and Consultation Guidance was discussed. Subsequently correspondence has been exchanged and the Minister has agreed to come to a meeting at CWU HQ on 22 November to meet the Officer the NEC HS&E Committee, T&FSE HS&E Committee and Safety Reps, representing the 10 Regional H&S Forums. Invitations will be issued in due course.

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Yours Sincerely

Dave Joyce
National Health, Safety & Environment Officer



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From the Parliamentary
Under Secretary of State
for Work and Pensions

Dave Joyce
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30 JUL 2007

Dave Joyce

EX 1

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25th June 2007

Thank you for your letter of 20 June following the DWP Vocational Rehabilitation Conference where we talked about a number of important issues.

I look forward to visiting the Mount Pleasant Royal Mail Occupational Health Services Rehabilitation Centre. I am particularly interested in the approach to tackling musculoskeletal injuries and stress related illnesses. You will know from the Rehabilitation Stakeholder event that these are the priorities for the Vocational Rehabilitation Task Group.

You raise this issue of financing the Rehabilitation Centres. I know that my predecessor, Lord Hunt, wrote to you 12 October 2006 explaining that the Department was unable to provide funding for individual employers' rehabilitation schemes.

I can understand your viewpoint on the loss of government contracts with Royal Mail. However, it must be reasonable that all government departments seek best value for taxpayers' money.

On rights for Safety Representatives, I would like to assure you that the Government is committed to improving worker involvement, and firmly believes that Safety Representatives have an important role to play in reducing risks and protecting people at work. This is why the Health and Safety Commission (HSC) consulted on a number of approaches that could improve worker involvement, including the two potential legal changes to extend the rights of safety representatives (a duty to consult safety representatives on risk assessments and duty to respond to safety representatives).

I appreciate that trade unionists who responded to the consultation felt angry and bewildered when the Commission decided not to recommend regulatory change in this area. Although trade unionists who responded to the consultation argued fiercely for change, HSC had to weigh their views against other responses from employers' representative bodies that were equally strong in their opposition to change.

I know you will appreciate that HSC cannot make changes without broad stakeholder agreement and the lack of consensus between the social partners on this issue meant that no progress could be made on any regulatory changes. I understand how Unions and Safety Representatives may find it difficult to accept the decision given the level of support expressed by respondents to the consultation exercise, but I am sure you also recognise that a consultation exercise is not a vote, with the greatest number of replies in favour of a certain option taking precedence. HSC must base its decisions on sound evidence. In this case, the Consultative Document asked for evidence that the health and safety benefits of making changes to the regulations would outweigh their costs. I am advised there was no evidence to support this point. Accordingly, the Commission decided that it would not be appropriate to recommend changes to the law in this area.

However, HSC has said that it would like to see good practice extended. I endorse that view, and I support the Commission's approach. This includes revitalising guidance on worker involvement and strengthening its promotion by inspectors within HSE and local authorities. HSE is currently working on developing the new guidance in consultation with relevant partners, including trade unions.

As you have indicated that you will write to me separately on the matter of enforcing the Safety Representatives and Safety Committee Regulations 1977, I will write back to you upon receipt of your further letter.

I do hope that the work the HSE is doing following the consultation exercise will be recognised and welcomed by trade unions. All parties must continue to work together to achieve progress on the areas where we do all agree, namely improved guidance and improved worker involvement.

Yours sincerely
B.M.

Bill McKenzie