

### News

#### The Lofstedt Report: Reclaiming Health and Safety for All

Following his review of health and safety legislation, Professor Löfstedt has concluded that there is no case for radically altering current health and safety legislation. It is generally felt that the existing regulatory requirements are broadly right, and that regulation has a role to play in preventing injury and ill health in the workplace.

In his report, Professor Löfstedt suggests that, in general, the problem lies less with the regulations themselves, and more with the way they are interpreted and applied.

Professor Löfstedt has made 19 recommendations aimed at reducing the burden of unnecessary regulation on businesses. The Government has accepted his recommendations.

The recommendations aim to help businesses reclaim ownership of the management of health and safety.

All of the recommendations should be delivered **by April 2015** but in some cases, earlier target dates have been set.

#### *Key Recommendations*

- exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others
- that HSE should review all its ACoPs. The initial phase of the review should be completed by June 2012 so businesses have certainty about what is planned and when changes can be anticipated
- that HSE undertakes a programme of sector-specific consolidations to be completed by April 2015
- that legislation is changed to give HSE the authority to direct all local authority health and safety inspection and enforcement activity, in order to ensure that it is consistent and targeted towards the most risky workplaces
- that the original intention of the pre-action protocol standard disclosure list is clarified and restated and that regulatory provisions that impose strict liability should be reviewed by June 2013 and either qualified with 'reasonably practicable' where strict liability is not absolutely necessary or amended to prevent civil liability from attaching to a breach of those provisions.

Some legal obligations have been identified that appear to have resulted in unnecessary costs to business whilst offering little benefit. These should be revoked, amended or clarified, subject to consultation. It is recommended that the following regulations should be revoked:

- the Notification of Tower Cranes Regulations 2010 and the Notification of Conventional Tower Cranes (Amendment) Regulations 2010 – because the Impact Assessment was not able to identify any quantifiable benefits to health and safety outcomes
- the Celluloid and Cinematograph Film Act 1922 (Exemptions) Regulations 1980 and the Celluloid and Cinematograph Film Act 1922 (Repeals and Modifications) Regulations 1974 that are no longer needed to control health and safety risks
- the Construction (Head Protection) Regulations 1989 that duplicate responsibilities set out in the later Personal Protective Equipment at Work Regulations 1992.

It is recommended that the following regulations should be amended, clarified or reviewed:

- the Health and Safety (First Aid) Regulations 1981 should be amended to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel.

This requirement seems to have little justification provided the training meets a certain standard

- the Construction (Design and Management) Regulations 2007 and the associated ACoP evaluation should be completed by April 2012 to ensure there is a clearer expression of duties, a reduction of bureaucracy and appropriate guidance for small projects
- the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) and its associated guidance should be amended by the end of 2013 to provide clarity for businesses on how to comply with the requirements
- the requirement for portable appliance testing should be further clarified (including thorough changes to the wording of the Electricity at Work Regulations 1989 if necessary) by April 2012 to stop over-compliance and ensure that these messages reach all appropriate stakeholder groups
- the Work at Height Regulations 2005 and the associated guidance should be reviewed by April 2013 to ensure that they do not lead to people going beyond what is either proportionate or beyond what the legislation was originally intended to cover.

### Further Recommendations

#### *Clarifying regulatory requirements*

In addition to the sector-specific consolidation exercise, it is recommended that:

- HSE commissions research by January 2012 to help decide if the core set of health and safety regulations could be consolidated in such a way that would provide clarity and savings for businesses
- HSE should redesign the information on its website to distinguish between the regulations that impose specific duties on businesses and those that define 'administrative requirements' or revoke/amend earlier regulations
- HSE should also continue to help businesses understand what is 'reasonably practicable' for specific activities where the evidence demonstrates that they need further advice to comply with the law in a proportionate way.

#### *Application of regulatory requirements*

In addition to giving HSE the authority to direct local authority health and safety inspection and enforcement activity, it is also recommended that:

- HSE should also be the Primary Authority for multi-site national organisations
- all those involved should work together with the aim of commencing health and safety prosecutions within three years of an incident occurring.

#### *Improving the understanding of risk*

In order to stimulate a wider debate about risk in society and how it should be regulated, Professor Löfstedt recommends the following:

- the House of Lords be invited to set up a Select Committee on risk or establish a sub-committee of the Science and Technology Committee to consider how to engage society in a discussion about risk
- in parallel, the Government asks the Chief Scientific Adviser to convene an expert group aimed at addressing the same challenge. The outcomes of such work need to be disseminated widely across Parliament, policy makers, academics and the public.

### *Europe*

Professor Löfstedt also recommends that the Government works more closely with the European Commission and others to ensure that both new and existing EU health and safety legislation is risk-based and evidence-based. As well as working with the EU on specific regulatory proposals or amendments. Löfstedt recommends:

- all proposed Directives and regulations (and amendments to them) that have a perceived cost to society of more than 100 million Euros should go through an automatic regulatory impact assessment
- those who are responsible for developing the Impact Assessments should be different from those who have drafted the Directives or regulations
- a stronger peer review is introduced through a stronger, more independent EU Impact Assessment Board, or that a separate, independent, powerful regulatory oversight body is established, modelled on the US Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB). This body should sit within the Secretariat general and would need to be properly resourced.

In addition:

- a European Parliamentary Committee is established to look at risk-based policy making that could assist EU regulators and policymakers to regulate on the basis of risk and scientific evidence
- the UK Government works with the Commission to introduce greater clarity and raise awareness around social partner agreements, and to ensure that Impact Assessments are produced for agreements before they are adopted as a Directive.

Undertaken by Professor Löfstedt of Kings College London, the study was ordered by the coalition earlier this year as part of a package of changes to the health and safety system to support the growth agenda and cut red tape.

### **Fire Service to Open-up Daily Incident Data Online**

A Yorkshire fire service is to give members of the public detailed information on its daily activities as part of a commitment to transparency.

South Yorkshire Fire and Rescue has begun publishing daily updates on its website about the emergency incidents attended by firefighters.

Information will include the number of each type of incident attended during the preceding day, details of fires which have affected life or property and a breakdown of the amount of time spent attending 999 calls and false alarms.

Head of communication, Steve Chu said: "We are a public service and people see our fire engines travelling throughout the county on a daily basis. It is important that the public is able to access information about what we have been doing, and the incidents we have attended.

"The number of emergency incidents in South Yorkshire has halved since 2003 and we hope that continues to be reflected in the future. We understand that our current proposals to change frontline services are of interest to many people, so we have also broken down the amount of time spent at emergency incidents and false alarms by fire appliance, to give people some more perspective when commenting during the consultation period."

### **Include RTA Statistics under RIDDOR**

IOSH is urging the Government to incorporate work-related road traffic accidents into official statistics. The call came on World Day of Remembrance for Road Traffic Victims (20 November 2011).

IOSH wants to see work-related RTAs recorded and recognised under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995).

Richard Jones, head of policy and public affairs at IOSH, said: "Each and every death or serious injury on the road is a cause of deep regret. Nationally, we need to do more to improve our management of work-related road risk and prevent accidents. Employers have a moral and legal responsibility to look after their employees every mile of their business trips.

"If the Government insisted work-related road traffic accidents were reported as part of RIDDOR, employers would know more detail about accidents that commonly take place. As a result of knowing more, companies will be able to act on the causes of the accidents and work to reduce them."

It's estimated that 1.3 million people across the world lost their lives on the roads this year, and millions more were injured. Statistics show that in the UK alone one-in-three company drivers has an accident each year, and up to a third of UK RTAs are work-related.

Richard added: "Work-related accidents make up a large percentage of the total number of RTAs in the UK – this doesn't need to be the case.

"Some of the most common causes of work-related RTAs are distraction, fatigue and time pressure. Where possible, employers should be encouraging employees to drive less by using technology instead of travelling to meetings, or offering the use of public transport, pairing up with other team members or even staying overnight. Employers expecting employees to drive as part of their job need to assess driver ability, provide good training and be flexible when it comes to travel times."

### **Waste Sector Sickness**

Employees in the waste and recycling industry take nearly twice as many days off due to sickness in comparison to staff in other sectors, it has been found.

Each worker in the sector takes 12.3 days off each year as a result of sickness, according to data collected by the Health and Safety Laboratory (HSL), which has been reported by LetsRecycle.com.

Steven Naylor, senior scientist at HSL, said: "Rates of absences are traditionally higher in the public sector compared to the private sector. Only 20 per cent of the absences that workers take are due to work related problems."

His comments come after the Institution of Occupational Safety and Health (IOSH) stated that accident rates can be reduced by a third if firms invest in health and safety measures.

The group underlined that there are also clear economic benefits provided with health and safety policies.

## Prosecution

### Second Fine for Firm in Maintenance Case

A North Yorkshire company has been fined after a supervisor suffered severe injuries to his hand.

The man, who does not want to be named, had his right hand crushed with two fingers severed when he attempted to clean an air slide under a large machine used for mixing animal feed.

Northallerton Magistrates' Court was told that the incident happened on 10 August 2010 at A.One Feed Supplements Ltd of North Hill, Dishforth Airfield, Thirsk.

The court heard that the man had been told by a production worker at the start of his shift that the air slide was not operating, a regular problem owing to a build-up of sticky feed deposits on the slide and runners.

The supervisor went to inspect the machine and decided to clean the slide. After climbing a set of moveable steps, he reached up to undertake the work and was injured as his hand came into contact with dangerous moving parts of the machine.

After the hearing HSE Inspector Paul Newton said the injured supervisor had lost two fingers of his dominant hand, suffered nerve damage to the rest of his hand and would have to live with a disability for the rest of his life. He has not returned to work.

He added:

"The risk from contact with moving parts of machinery is well known in industry and should have been more so to this company as it was prosecuted in 2007 when another employee was injured undertaking maintenance on an energised machine.

**"In this case the company failed to make sure that measures were in place to prevent the movement of dangerous parts of the machine before any worker got too close – within the known danger zone.**

**"The supervisor, despite having some two months' training at the firm, was not adequately trained in how to clean the air slide or how to safely isolate the machine.**

"Maintenance-related incidents are of particular concern as employees are often required to work without usual safeguards in place – thus putting added emphasis on relying on a safe system of work. A. One Feed did not have adequate information or instructions and because of that, a man has suffered a lifelong disability."

A. One Feed Supplements Ltd, North Hill, Dishforth Airfield, Thirsk, pleaded guilty to an offence under the Provision and Use of Work Equipment Regulations 1998 and was fined £15,000 with costs of £2,594.30.

### Landlord's 'Complete Disregard for Safety'

#### **A Walsall landlord has been sentenced for failing to provide a gas safety certificate.**

The Health and Safety Executive (HSE) prosecuted Khalid Hussain following a complaint from a tenant and her partner, who rent a house at Raleigh Street, Walsall from him.

Walsall Magistrates' Court heard that the boiler was only replaced in October this year despite having broken down in January 2011. Mr Hussain also did not have a landlord's gas safety certificate for the appliances in the property until last month, despite being issued with an Improvement Notice from HSE in March requiring him to provide the certificate by 6 May 2011.

The court also heard that when the new boiler was installed last month, a gas engineer condemned the cooker in the property as dangerous and isolated it.

Speaking after the hearing, HSE inspector Pam Folsom said:

"Mr Hussain has shown complete disregard for the safety and welfare of his tenants. He left them with no central heating during one of the coldest winters in recent memory.

"Landlords must ensure all gas appliances are checked for safety at least once a year and provide a gas safety certificate for the property to show tenants that this has been done.

"Even after HSE issued an Improvement Notice six months ago, Mr Hussain only produced a landlord's gas safety certificate in October.

"Poorly maintained gas appliances can cause carbon monoxide poisoning, which can kill and can also cause serious long-term health problems. Symptoms of carbon monoxide poisoning include nausea, dizziness, tiredness, vomiting, collapse and loss of consciousness.

"HSE will not hesitate to prosecute landlords who fail in their duty of care to tenants in this way."

Mr Hussain, of Pargeter Street, Walsall, pleaded guilty to breaching Section 33(1)(g) of the Health and Safety at Work etc Act 1974 and Regulation 36(3)(a) of the Gas Safety (Installation and Use) Regulations 1998 and was fined £2,000 and ordered to pay £3,000 costs

## Guidance

### Managing Influenza Winter 2011/12

*[Wales]*

This guidance, published by Public Health Wales, covers the infection prevention and control management of seasonal influenza in healthcare settings.

The guidance is intended to supersede previous guidance including that which was given for the 2009/10 H1N1 influenza pandemic and 2010/11 H1N1 'second wave'. Cases of seasonal influenza will arise and need routine management every year, whereas pandemic strains are extremely rare and require unusual and necessarily extra-cautious precautions. It is noted that, if a pre-pandemic or pandemic phase occurs, this guidance itself may be superseded. This guidance represents the best currently available evidence.

#### Key Messages:

- vaccination of healthcare workers with direct patient contact and people 65 years and over or in high risk groups is the most important measure in preventing seasonal influenza infection
- standard precautions must be maintained at all times in all healthcare settings including when managing known or suspected cases of influenza
- hand hygiene is a very important defence against acquisition of influenza
- reinforce respiratory hygiene/cough etiquette with all patients
- in addition, droplet precautions are required for all cases of known or suspected influenza, until either the diagnosis has been excluded or the patient is no longer deemed infectious (see below for applying droplet precautions in different healthcare settings).

Precautions for specific healthcare settings are presented, covering:

- GP surgeries/other ambulatory/domiciliary/outpatient settings
- A&E/Admissions Unit
- in-patient Hospital Units
- Critical Care Settings (level 2 and 3 care).

### Measuring Lead in Paint

This WHO document provides a brief overview of analytical methods available for measuring lead in paint. It is primarily aimed at informing environmental health personnel and policy-makers who are not laboratory specialists but who may need to develop plans for lead paint testing and abatement programmes. This document lists well-established analytical methods for measuring lead in paint, briefly describes some of their characteristics, including their advantages and disadvantages, and highlights considerations for selecting the most appropriate method for various requirements and contexts. The document does not aim to provide an exhaustive description of analytical methods and protocols or to make specific recommendations regarding methodologies or specific instruments.

Human exposure to lead is estimated to account for 143,000 deaths every year and 0.6% of the global burden of disease. Lead is a cumulative toxicant that affects multiple body systems, including the neuro-logical, haematological, gastrointestinal, cardiovascular and renal systems. Children are particularly vulnerable to the neurotoxic effects of lead, and even low levels of exposure can cause serious and, in some cases, irreversible neurological damage. Childhood lead exposure is estimated to contribute to about 600,000 new cases of children with intellectual disabilities every year.

Despite recent reductions in the use of lead in petrol (gasoline), plumbing and solder, significant sources of exposure to lead still remain, including lead-based paint. Lead-based paint has been used, and is still in use in some countries, to paint the interiors and exteriors of homes and other buildings and to paint toys, furniture, playground equipment and other articles with which children can come into contact. Lead-based paint can be found in virtually every country. It is still available and in use in many parts of the world; even in countries where it has been banned for specific uses, leaded paint can be found in older houses and articles.

There are three main approaches for determining the lead content in paint:

- test the paint for lead in situ using a chemical test kit
- measure the amount of lead in paint in situ using a portable X-ray fluorescence (XRF) device
- collect a paint sample and measure its lead content in a laboratory using various analytical techniques.

## Reports

### Fit Note – GPs have Mixed Views

The Department of Work and Pensions has released new research into the fit note.

The findings come from qualitative research with GPs to examine their views on the fit note. The report provides information about how the fit note has influenced GPs' certification practice, and GPs' views on their role in sickness certification. It is part of a wider programme of research to evaluate the fit note, including research with employers.

Key findings of the research include:

- the fit note has become a consultation tool that GPs use to initiate and guide negotiations with patients about returning to or commencing work. GPs use the fit note to justify why they have initiated discussion about work and to prompt them through the process of questioning patients about their work-related capabilities
- GPs perceive that the fit note is most effective for patients with conditions such as ME/chronic fatigue syndrome, mild-to-moderate mental health conditions, and musculoskeletal conditions
- GPs are less confident in using particular options on the fit note, like the amended duties and workplace adaptations tick boxes. Some reported difficulty in understanding and distinguishing between the four return-to-work tick boxes and confusion over date fields
- barriers to the successful use of the fit note include GPs' confidence in dealing with conflict and their perception that it could damage their relationship with their patients. GPs are also less likely to drive for a return to work if they perceive the patient's job to contribute to their health condition
- many GPs believe that motivating their patients to return to work is an integral part of their role and that the fit note has helped them to do this. It has also helped some GPs to adopt a stricter role with their patients.