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FOREWORD

This publication has been commissioned by the Health & Safety Committee of Congress. It is intended to be a companion volume to the “Safety Representatives Resource Book” published by the Health & Safety Authority in 2015.

That book was also originated by Congress who felt there was a need to provide a resource to assist Safety Representatives in their role and also serve to support training courses in this area. The book has been distributed to affiliated unions of Congress and is also available online from both ICTU and the HSA. The book has been widely praised and makes a significant contribution to creating a culture of health and safety in Irish workplaces.

The Committee has always been of the view that health & safety is fundamentally a trade union issue and this companion volume seeks to elaborate why this is the case, explains the importance of why trade unions need to be actively engaged with the issue in all of our workplaces and outlines how it can be an important tool in the organising strategy of unions.

While intended to be a further support to Safety Representatives and to union officials involved with health & safety issues, it also presents challenges to trade unions which need to be addressed if we are to remain an effective voice in promoting safe workplaces.

The Committee is deeply appreciative of the generous time and immense knowledge brought to bear by Francis Devine (Musicians’ Union of Ireland) in producing this work and the contribution made by the working group of Sylvester Cronin (SIPTU), Marian Geoghegan (IBOA), Sean Heading (TEEU), Pat Kenny (CWU) and Dessie Robinson (Impact).

Frank Vaughan
Irish Congress of Trade Unions
SAFETY, HEALTH & WELFARE AT WORK – A TRADE UNION ISSUE

Many employers – and indeed, many ‘health and safety professionals’ – insist that safety, health and welfare at work is not a trade union or industrial relations issue. This is nonsense. It is akin to saying that wages and conditions, workplace equality, pensions, or disciplinary matters are not workplace issues. But then, within contemporary, anti-trade union employments, this is also being said.

If safety, health and welfare are not trade union issues, how can employers explain the continuing incidence of workplace accidents that lead to death or injury; exposure to preventable hazards that cause ‘accidents in slow motion’ – illness, infection and disability; or moves to intensify workloads or lengthen hours?

Few workers – and even fewer trade union activists – have experienced workplaces where management in authority have unilaterally underwritten all production planning, management of the work environment, or job organisation with the fullest consideration of workers’ safety, health and welfare at work.

If they had done so, there would be less need for the extensive implementation of international, European or domestic protection legislation. *(Reference Safety Representatives Resource Book, Section 2)*

International surveys conclusively demonstrate that employments that exclude trade unions from involvement in safety, health and welfare, have higher instances of accidents, fatalities and occupational disease.

Interestingly, such enterprises benefit significantly from trade union assistance as evidence strongly suggests that organised workplaces are safer workplaces. Equally, over 70% of workers list a safe work environment even above pay when asked to state their priorities within their jobs.

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<th>SAFETY REPRESENTATIVES ELECTED THROUGH THEIR TRADE UNIONS HAVE BEEN PROVEN TO MAKE A DIFFERENCE BY</th>
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<td>Reducing workplace accidents and injuries</td>
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<td>Reducing levels of ill health caused by work</td>
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<td>Generating confidence among workers in the workplace health and safety structures</td>
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<td>Promoting a more positive safety culture within the organisation</td>
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<td>And saving the enterprise – and therefore the economy – millions of euro</td>
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The emergence of a strong health and safety consciousness is a relatively modern development. Until the late twentieth century workers were still encouraged to accept concepts like ‘careless worker’ as the prime cause of accidents. Expressions such as ‘occupational hazard’, ‘occupational diseases’ or ‘dangerous occupations’ were accepted and unchallenged. Many occupational diseases or conditions bore the names of those industries where they most commonly afflicted workers – Boilermakers’ Ear, Farmer’s or Miner’s Lung, Mad Hatter’s Disease, or Housemaid’s Knee.

Many workers thus simply accepted this and expected that, if they worked in that industry, they would, to a greater or lesser degree, fall victim to accident, disease or worse.

From the early nineteenth century, however, visionary reformers set about seeking to introduce Parliamentary legislation. From the first Mines Act and Factories Act of 1842, restrictions were placed on the employment of children and women, some limitation on daily and weekly hours worked, and the application of some primitive standards regarding ventilation, white-washing of walls, and general hygiene. These acts were not very effectively policed, especially in Ireland, as there were few Factory Inspectors. Prosecutions were rare and very ineffective as a deterrent to poor safety standards or encouragement of better ones.

In 1922, Saorstát Éireann inherited British factory legislation and, apart from some specific Statutory Instruments prescribing standards for things like spraying cellulose, it was not until the Factories Act, 1955 and Office Premises Act, 1958, that specific Irish legislation was enacted. Although they laid down many statutory basic standards, the Factories Acts were not very effective and, in any case, only covered about one fifth of workplaces defined as ‘factories’. There was again inadequate enforcement and there were few prosecutions. But trade unions themselves were not blameless.

Although the 1955 Act provided for voluntary Safety Committees, by the time of the Safety in Industry Act, 1980, less than 2% of workplaces that could have had Safety Committees did so. Indeed, trade unions, particularly among unskilled workers, still regarded unsafe work situations as an opportunity to improve take home pay through the negotiation of ‘dirty money’ or, worse, ‘danger money’.

Safety consciousness among trade unions was poor. There were, in some sectors, cavalier or ‘macho’ attitudes to safety summed up by workers saying ‘you won’t catch me' wearing protective gear: such behaviour was regarded as ‘cissy’ or unmanly. Unions did try to improve matters but, in general terms, appreciation of safety, health and welfare at work was low throughout society. Concepts like hazard identification and risk assessment were for a future age.

Legislation was updated by the Safety in Industry Act, 1980, but this still applied to only a fifth of workplaces and was seen as an interim, albeit a significantly improving piece of legislation. The first significant survey of Irish workplace safety and health came with publication of the Report of the Commission of Inquiry on Safety Health and Welfare at Work, the Barrington Commission, in 1983, an exercise in which trade unions played a considerable and increasingly positive role.

After the publication of the ‘Report of the Commission of Inquiry on Safety Health and Welfare at Work’ 1983 (more popularly referred to as the ‘Barrington Commission Report’) trade unions pushed even greater for occupational safety and health (OSH) legislation to cover 100% of workers and workplaces. The opportunity was seized upon during the negotiations leading up to the ‘Programme for National Recovery’ (PNR) in 1987, when trade unions won the commitment to have OSH legislation to cover 100% of workers and workplaces. On 1st November 1989 the Safety, Health and Welfare at Work Act 1989 was enacted.
Enactment of the Safety, Health and Welfare at Work Act, 1989, for the first time extended protective legislation to all workplaces and was based on ‘enabling’ employer and employee to identify hazards, assess risks and work out appropriate arrangements and practices to promote a safe and healthy work environment. It is this legislation – strongly influenced by EU Directives on Safety & Health – that was updated by the Safety, Health & Welfare at Work Act, 2005 and its subsequent Regulations. It obliged employers to construct Safety Statements and gave greater rights to Safety Representatives.

QUESTIONS FOR TRADE UNIONS
Assessing the impact of legislation from 1989 is difficult. Irish employments are still significantly affected by workplace accidents, death, injury and disease. Who is to blame? While prime responsibility, legally, morally and practically, rests with employers, workers cannot eschew all responsibility and neither can their trade unions.

Some questions for trade unions are
• how effective are our safety, health and welfare policies?
• what priority and resources are dedicated to promoting safety consciousness among our members?
• what assistance is given to members seeking to improve their work environments?
• how effectively does the union monitor workplace health and safety and the effectiveness of protective legislation?
• how effectively do the union co-ordinate the activities of Safety Representatives and Safety Committees?
• are safety and health issues discussed at all trade union meetings?
• is safety, health and welfare at work a campaigning or organising issue?
• does your union have a National Health & Safety Officer and/or a National Health & Safety Committee to monitor your union’s management of safety and health for its members; develop campaigns around health and safety demands; oversee training and information provision to Safety Representatives and members?

An obvious barrier has been that some trade unions, their Executives and Organisers/Officials have not perceived health and safety to be important. This attitude must change.

When trade unions do become more active and engaged, however, many employers and some safety practitioners are quick to insist that safety, health and welfare is not a trade union issue. What could their motives be for such an assertion?

SAFETY & HEALTH IS AN ORGANISING ISSUE
Not only are safety, health and welfare trade union issues but they can be central to organising, a major concern for all trade unions as they seek to extend trade union membership among non-union employments.

Whilst the legal rights for workers to elect a Safety Representative, have a Safety Committee and enter into a Joint Safety & Health Agreement with an employer have not yet been fully outlined here, remember that, when organising

1 As trade union Representatives – and notwithstanding the ‘illusory’ constitutional right to be a member of a trade union – you have no given or legal rights to be recognised by an employer.

Whereas;

2 Safety Representatives(s) have the right
• to be selected
• to carry out workplace inspections
• to make representations to employer
to have those representations responded to

3 Safety Representatives are protected in law against dismissal or penalisation, when making representations on OSH issues.

4 Safety and health legislation provides, if necessary, for appeals against the dismissal or penalisation of Safety Representatives to the Workplace Relations Commission and Labour Court.

5 Whereas an employer may refuse to enter any form of exchange with a trade union and certainly not to come to any form of collective agreement, workers may seek a Joint Safety & Health Agreement with their employer.

6 Workers when surveyed have expressed serious concerns about their safety and health. There will be few employments where improvements to safety and health cannot be made. A Safety Representative can help to deliver these improvements, demonstrating the value of the trade union as a resource and support.

WHEN FIRST ATTEMPTING TO ORGANISE AN EMPLOYMENT

When first attempting to organise an employment, it can be easy to neglect safety and health issues, especially when jobs are at risk, there is dissatisfaction about wage levels, hours of work or other contractual arrangements, or dissatisfaction with oppressive management practices. In all such cases, it might prove very difficult to successfully raise these issues – even through the lengthy Industrial Relations Act procedures.

Progress on safety and health can be made immediately

Organisers should remember to

• identify safety, health and welfare issues when ‘mapping’ the workplace. (This could be achieved through the use of surveys when engaging with the potential or even existing membership)

• encourage workers to identify hazards and involve them in discussing potential solutions

• identify and/or encourage workers to put themselves forward as Safety Representatives

• seek to form a Safety Committee

• present management with proposals for a Joint Health & Safety Committee

• identify safety and health as a trade union issue

• demonstrate that the trade union is a supportive resource in achieving improved safety and health

• seek training for Safety Representatives

• support appointed Safety Representatives with contact, information, reassurance and demonstrable interest in their work. In this way, Safety Representatives will gain self-confidence, experience of workplace representation and the courage or loss of fear in meeting with management

• identify an agenda of demands for improving safety & health and communicate this agenda through the targeted section/employment involving the workforce in their issue

• success in progressing safety and health issues will develop confidence in the trade union to achieve success in other areas

• dialogue with management through safety and health structures – even with no recognised trade union role – will contribute to confidence building between management and workers and their chosen trade union which should impact on previously unquestioned anti-worker representation attitudes

• it can be demonstrated that improved safety and health will contribute to better morale, higher productivity and reduced or avoided costs through less accidents, injury or illness, and reduced insurance premiums

• generally, good safety and health results in higher productivity
SAFETY & HEALTH MAY BE THE ORGANISING ISSUE

On occasion, a safety and health issue may be the issue that has motivated previously unorganised workers to seek to join a trade union. For example, after a bad accident or fatality or after a major dangerous occurrence or incident such as a chemical spillage or fire, workers may have decided that enough is enough and seek to join a trade union.

If this is the case, all of the advice given above applies in terms of identifying the problems, appointing a Safety Representative and Safety Committee, and drawing up a Joint Safety & Health Agreement.

In addition, however, immediate action may be necessary to remove the cause(s) of the accident or dangerous practice. Organisers should give priority to this, the trade union involvement through guidance, information and support providing the organising dividend while protecting workers in future and improving their working environment.

SAFETY & HEALTH & trade union ORGANISERS

If you are a trade union Organiser or a trade union member seeking to organise your employment, how would you answer the following questions?

• what previous experience have I had in representing safety and health issues?
• is this experience of value now?
• am I sufficiently well informed about the rights of Safety Representatives and Safety Committees?
• do I understand what a Joint Safety & Health Committee is?
• are safety and health issues of immediate concern to workers in the employment and, if so, what are they and what strategy should be developed to respond to them?
• if no one mentions safety and health issues, does this mean they do not exist or have workers lacked the capacity to identify such issues and raise them?

• am I satisfied that in beginning the task of organising the workers into the union I have taken fullest consideration of the safety and health issues?
• am I satisfied that I have successfully established the positions of Safety Representative(s) and Safety Committee and am supplying trade union information, encouragement and support?

What follows will hopefully assist trade union Organisers who have not previously considered safety and health as an organising issue or who feel less than well informed about the rights and functions of Safety Representation.

Remember,
an organised employment will have effective safety representatives, active safety committee and joint safety & health agreement.

SAFETY & HEALTH IS A TRADE UNION ISSUE

Before examining what might be done within workplaces, a broad summary of a trade union approach to health and safety is worth considering. These ideas and values should underlie all activity by Safety Representatives, Safety Committees or, indeed, ordinary trade union members.

A TRADE UNION AGENDA FOR HEALTH, SAFETY & WELFARE WILL SEEK TO

• address hidden health hazards and work organisation, as well as the more obvious safety risks like noise, exposure to harmful chemical or biological agents, stress, violence and bullying
• remove all hazards at source by adapting the workplace to workers rather than forcing workers to adapt to the work
• welcome partnership approaches that recognise the independent, legitimate interests and rights of Safety Representatives
• ensure that all unionised workplaces elect Safety Representatives and a Safety Committee and provide them with support, guidance and encouragement
• adopt an equal opportunities approach and awareness, giving particular thought to part-time, agency or temporary workers; women as well as men; the young, older, handicapped or disabled; immigrants; and those visiting the premises delivering goods, carrying out contracts or as clients and customers
• involve, inform and educate members to support a workers’ agenda for identifying and tackling workplace hazards
• work closely with the union(s) to prevent Safety Representatives from becoming isolated
• use the law but do not rely upon it
• recognise that a healthy and safe work environment has been proven to be a more efficient, attractive and rewarding environment in which to work for all parties

Safety Representatives in each workplace are given the right, on giving reasonable notice to their employer, to inspect the place of work and immediately if there is an accident, dangerous occurrence or imminent danger or risk to safety and to investigate accidents and dangerous occurrences.

All workers should ensure that, at minimum, a Safety Representative is selected.

In larger employments, it may be appropriate that more than one Safety Representative is elected. Here the key phrase is ‘if the employer agrees’. This underlines the importance of the Joint Health & Safety Agreement which can address such issues.

In the legislation there is nothing regarding how Safety Representatives should be elected. In unionised employments, this should be done through agreed Union/Works Committee structures. Note that in the HSA’s published document on ‘Safety Representatives and Safety Consultation Guidelines’ states (page 8) the following:

“Detailed arrangements are left to the employees in the individual organisation, where particular circumstances can be taken into account. To select a Safety Representative, employees may use the normal process for selecting employee representatives within their organisation or they may ballot all employees. If a selection process does not already exist, one will have to be devised. The Safety Representative chosen must be available to represent all employees”.

Failure to appoint or maintain a Safety Representative indicates workers’ limited interest in safety and health and sends an unfortunate message to any employer who has little concern for safety and health.

Questions regarding the selection process and period of office of a Safety Representative will be addressed later.

SAFETY REPRESENTATIVES & SAFETY CONSULTATION: LEGAL ENTITLEMENTS


Section 25: Safety Representatives

Selection of Safety Representatives

The Act states that employees may select a Safety Representative in each workplace - or more than one, if the employer agrees.
WORKPLACE INSPECTIONS & MEETING WITH HSA INSPECTORS

Safety Representatives may:
- after giving notice to the employer, investigate complaints relating to health and safety
- make representations to HSA Inspectors
- consult and liaise with other Safety Representatives in the undertaking concerned, whether or not they work in the same place of work or in different places under the control of the same employer.

They also have the right to accompany HSA Inspectors carrying out inspections (except following an accident, although in such circumstances an Inspector has discretion to allow a Safety Representative to accompany him/her), make representations to employers and to HSA inspectors.

Employers and Safety Representatives shall agree, having regard to the nature and extent of the hazards of the place of work, on the frequency of inspections and employers are bound to consider representations made by Safety Representatives. The frequency and duration of inspections by Safety Representatives is very usefully clarified in the HSA’s published ‘Safety Representatives and Safety Consultation Guidelines’ in annex 1.

Employers are obliged to consider any representations made.

The composition of Safety Committees is addressed in Schedule 4 of the Act and outlined later on

It is important that workers seek the election of a Safety Committee.
Minuted decisions of a Safety Committee can form a valuable record of discussion of workplace hazards and agreed decisions as to how these hazards would be eliminated, substituted or controlled through engineering, work design or provision of personal protective equipment, etc.

Such minutes may be of great use in the investigation of accidents, patterns of near accidents or illness, and in analysing the effectiveness of existing safety and health policies within the workplace.

Section 26: Consultation and participation of employees, Safety Committees

Employers are required to consult with their employees for the purpose of making and maintaining arrangements to co-operate on health and safety matters. Employees may appoint a Safety Committee, which may make representations and engage in consultation on behalf of the workers it represents.

Employees engaged in consultation shall be given, without loss of remuneration, the time necessary, both to gain the knowledge and training necessary, to perform their functions and to discharge their functions.

Employers are obliged to consider any representations made.

Safety Representatives should establish the practise of investigating all complaints – on a regular basis – and of making workplace inspections.

Securing these entitlements in practice can be problematic, again underlining the value of a Joint Safety & Health Agreement.
PROTECTION AGAINST DISMISSAL & PENALISATION

Sections 27: Protection against dismissal and penalisation

Employers are prohibited from penalising (defined as dismissal, demotion, transfer, imposition of duties, coercion/intimidation) or threatening to penalise employees who are performing any duty, exercising rights or who make complaints relating to health and safety, or who give evidence in enforcement proceedings.

These protections are important rights to defend Safety Representatives against unjustified disciplinary action.

The case of any Safety Representative who is subject to discipline in the course of performing their duties, should be referred immediately to the trade union and raised with management. Procedures should be contained in the Joint Safety & Health Agreement.

Section 28: Complaints to Workplace Relations Commission

Under the Workplace Relations Act 2015, the Adjudication Service (formerly the Rights Commissioner Service) now operates as part of the Workplace Relations Commission. An employee who claims he/she is being penalised, because of his/her involvement in safety and health activities, e.g. raising an OSH issue, making representations to Safety Representative or HSA, etc, may make a complaint to the service, which having given the parties an opportunity to be heard, can give a decision, including requiring an employer to pay compensation of such amount as is just and equitable. Complaints must be made within six months of the event giving rise to the complaint. Complaints must be ‘presented’ in writing.

Section 29: Appeals and enforcement of Workplace Relations Commission (WRC) decisions.

A party who disagrees with a WRC decision may appeal to the Labour Court. Appeals must be initiated within six weeks of the WRC Adjudicator’s decision being communicated.

Decisions may be appealed from the WRC to the Labour Court within six weeks of the WRC Recommendation being communicated.

If there is a pattern of disciplinary action being taken against Safety Representatives – including action for apparently non-related matters such as attendance, lateness or work performance – careful consideration should be given to examine whether this action by management is consistent with their treatment of every other worker or whether it is being taken merely to put pressure on the Safety Representative to inhibit them from carrying out their function effectively.

ROLE & FUNCTION OF A SAFETY REPRESENTATIVE

Having established the legal functions of Safety Representatives, how can they carry out their work in practice?

Safety Representatives can play vital roles in the achievement of healthy and safe working environments and, as such, should be viewed as an asset by management in their task of identifying, assessing and eliminating or controlling workplace hazards. Furthermore in the Barrington Commission Report it clearly states that Safety Representatives are entitled to information concerning industrial hazards and to be INVOLVED in decisions which affect their working environment.

Safety Representatives, uniquely, can
• draw upon the workforce’s views about hazards at work and maybe how they can best be controlled
• forward information about the practical – rather than theoretical – way in which equipment actually works, monitor equipment reliability and the impact on individuals of work design and operation
• mobilise workers’ concerns about hazards
• engage in a shared dialogue with employers and safety professionals about risk management approaches

The day-to-day activities of a Safety Representative will vary according to
• your workplace
• hazards in your workplace
• your members’ attitude towards safety and health
• management’s attitude towards safety and health

Some basic tasks for all Safety Representatives, however, include
• identifying and finding out about health and safety problems in your workplace
• checking that your employer is complying with health and safety requirements, not least against the practices and standards outlined in the Safety Statement
• investigating hazards and devising strategies for their elimination, substitution or control;
• investigate members’ complaints or questions regarding their working environment
• working closely with fellow workers and Trade Union Representatives
• following up on reported problems and making sure that something gets done, e.g. get commitment on timelines and monitor progress, including through Safety Committee

SHOULD THE UNION REPRESENTATIVE OR SHOP STEWARD ALSO BE THE SAFETY REPRESENTATIVE?

In an ideal world, Union Representatives should arguably not simultaneously be Safety Representatives. Union Representatives have enough to do dealing with industrial relations matters in the employment.

However, if there are difficulties in establishing the position of Safety Representative or if ordinary workers with no previous experience of holding a Representative role are too timid or concerned to go forward as Safety Representatives, then it is better that the Union Representative or Shop Steward should take on the Safety Representative task than not to have one at all.

In such circumstances, the Union Representative/Shop Steward might seek another worker to assume their Union Representative/Shop Steward responsibilities. This will be a clear indication to the workforce that the Safety Representative position demands full attention.

In circumstances where the Union Representative/Shop Steward has to act as Safety Representative, they should
• seek to identify and encourage other workers who display an interest in and commitment to safety and health
• encourage such worker(s) to accompany the Safety Representative during some tasks
• seek assistance in identifying workplace hazards or carrying out inspections
• seek training for potential Safety Representatives
SHOULD SAFETY REPRESENTATIVES BE ELECTED THROUGH THE UNION?

In unionised employments, Safety Representatives should be elected through the union structures. However all employees are entitled to be involved and to be considered to be the Safety Representative.

In single union employments, elections or selection processes for choosing Safety Representatives can more readily be organised by the Works/Section Committee.

Elections or reviews of Safety Representative’s performance can be held at the Works/Section AGM.

The Safety Representatives should report, at least quarterly, to the Works/Section Committee to ensure that:

• safety and health become central workplace issues
• issues raised by the Safety Representative(s) are understood by the Works/Section Committee and progress made or otherwise
• the potential industrial relations consequences of any safety and health issues raised by the Safety Representative(s) can be understood by the Works/Section Committee and, if necessary, a joint strategy agreed
• should any industrial action be required to ultimately enforce a safety and health solution – notice of not working unsafe practices, the need for improved safety gear etc. – then the Works/Section Committee can give notice of implementing any such action
• If the Safety Representative is not a member of your union, the Safety Representative should still be invited to attend your union meetings – perhaps on a quarterly basis to maintain focus on safety

and health issues or when either your Union Committee or the Safety Representative feels that circumstances warrant meeting

• The performance of Safety Representatives – even if elected/appointed for a three year term of office – should be subject to annual review. Such review guarantees that all parties to the Safety Representative’s election/appointment can react if the performance is considered unsatisfactory

HOW CAN SAFETY REPRESENTATIVES GAIN MEMBERS’ SUPPORT?

Safety Representatives should make themselves known to the workforce by

• regularly engaging with work colleagues, either when carrying out workplace inspections, through consultations or socially in the canteen, etc.
• be seen to be available and accessible;
• be a good listener
• if need be, treat matters in confidence;
• fully discuss issues with members before raising them with management or the Safety Committee, maybe sometimes, as appropriate, carry out surveys or petitions;
• if need be, advise that you need to talk to others in the work station/area who may be similarly affected; check matters against legislation or other standards, the Safety Statement or safe work practice documentation; or, possibly, attempt to gain technical data – for example on noise or dust levels – before you can finally decide on an appropriate course of action
• keep members fully informed on what’s happening – while you await technical data, a meeting with management or Safety Committee meeting
• always go back to worker(s) who raised concern(s) and let them know of progress/or results
• advise members what you feel they should do if things appear immediately hazardous and inform your Union Representative of this course of action
• give the member the right to appeal to another Safety Representative or the union
• make full use of Union notice boards, information sheets and meetings to publicise union achievements
• avoid confusing members with technical jargon
• do not become isolated
• encourage members who show an interest in or aptitude for safety and health to become further involved
• always thank members for their interest and concern and acknowledge their courage in raising their safety and health concerns with you

The best way to gain members’ support and belief in Safety Representation is, of course, to deliver change and improvements. Make sure the trade union involvement in any success is fully understood.

NEGOTIATING A JOINT HEALTH & SAFETY AGREEMENT IS STRONGLY RECOMMENDED IN ALL UNIONISED EMPLOYMENTS

For employments where the employer refuses to recognise employee’s rights to join or be represented by a trade union, negotiating a JH&SA becomes a basic and essential organising task.

MODEL JOINT SAFETY & HEALTH AGREEMENT

What might be contained in a Joint Safety & Health Agreement? Before considering what might be included in such an agreement, it is necessary to comprehend what workers’ legal entitlements are regarding electing Safety Representatives or establishing a Safety Committee.

Appendix 1 provides a checklist for a Joint Safety & Health Agreement.

WHY SHOULD SAFETY REPRESENTATIVES CARRY OUT WORKPLACE INSPECTIONS

One of the main functions of a Safety Representative is to carry out OSH inspections in the workplace and there is a right to do so which is enshrined in the legislation.

Among the many reasons why Safety Representatives should carry out workplace inspections are:
• a systematic way of approaching the job of Safety Representative
• a way of becoming familiar with the entire workplace, particularly those areas where the Safety Representative may never have previously had access to
• a structured and detailed way of identifying workplace hazards
• a message to employer and employees that the Safety Representative function is a
serious one
• an indication that the Safety Representative’s presence and, simultaneously the trade union profile, is demonstrably ‘serious about safety’
• opportunities for all employees to discuss their health and safety concerns or to point out things they consider put them at risk;
• a means to identify the more obscure or hidden hazards
• a method of checking that relevant legal or technical standards and/or the company’s own agreed safety procedures are being complied with
• a way of promoting good or best practice rather than minimum compliance
• a check that management have carried out agreed improvements
• a pressure on employers to resolve problems
• a way of achieving the most up-to-date standards and best practice
• a way of getting buy-in from the general workforce for the function, activities, support, etc. of the Safety Representative(s)

CHECKLIST FOR WORKPLACE INSPECTIONS

A general inspection
A regular, say quarterly, general inspection, should be systematic

Safety Representatives should design an inspection sheet to reflect the number of different departments or work situations in the employment. For example, your workplace may be an office with a reception area, private offices and general office but also have a machine room, store(s), boiler or heating system room, canteen, inward and outward transport, and reception. A factory might have offices, production lines, stock and materials rooms, boiler house, gas or chemical storage, etc.

For each area, your checklist needs to include the following:
• plant and machinery, guarding and control
• the system of work and how it is managed
• use of articles, substances and materials
• storage of articles, substances and materials
• transport and handling of articles, substances and materials
• information, instruction training and supervision
• physical condition of buildings, offices, work rooms etc.
• movement of people and machinery around the workplace
• fire precautions and systems
• physical environment – heat, lighting, dust, fumes, air quality
• stress or pressure arising from staff shortages, heavy work demands or physical factors like noise
• supply and use of personal protective equipment (PPE)
• welfare facilities – toilets, washroom, rest rooms, canteen

Specific Inspections
The same principles apply to specific inspections, although the depth of the inspection will be in greater depth. Subjects for inspection can include:
• fire
• electrical
• chemical
• manual handling
• document
• health and safety training
• stress, bullying, violence, work-life balance

Planning & Organising Inspections
Safety Representatives should discuss with
other workers – and the Union Section/Works Committee – when it would be best to carry out a workplace inspection. For example, certain problems – like a build of fumes or dust – might only occur under certain conditions – time of day or year, when certain processes are being carried out and so on.

When possible, collective work with other Safety Representatives is best and/or with a worker from the area actually being inspected. Experienced workers will see, hear, smell or know of things that inexperienced eyes – new to that workplace – may not be aware of.

1 **Drawing Up An Inspection Plan**

**Think about**
- the time and day of the inspection
- notifying the employer and organising time off
- letting members/staff know when it is going to happen [although some inspections may be best when no notice is given]
- what will you look out for?
- who will you speak to?
- what route will you take around the workplace?
- how much time will you need to carry out the inspection and then write up the report?

2 **Get Hold of the Relevant Information**

[this should include]
- the last inspection report and, in particular, any outstanding items
- Safety Committee minutes
- floor plans and workplace layout which can be used to map risks and potential hazards
- fire precautions plan and the fire risk assessment
- all relevant general and specific risk assessments
- legal and other relevant standards
- information from the HSA
- information provided by the trade union
- hazard date sheets for substances
- safe working practices and rules
- list of required personal protective equipment (PPE)
- training records

3 **Organise Checklists**

- collect and prepare checklists to aid your inspection
- review and amend your checklists where necessary
- develop new checklists for factors not previously recorded

4 **Involve Your Members**

- notify members in advance that the inspection is taking place
- emphasise the importance of the inspection and their potential contribution to it
- find out if there is anything that they particularly want you to look at
- discuss matters with members before, during and after the inspection
- ask them for their suggested solutions

5 **During the Inspection**

- be positive and business-like in your approach – you are not there as a workmate or friend but performing an important role as Safety Representative
- be prepared to go back and check things again if you need to
- tick-off your checklists – never rely on memory after the event
- keep additional notes if needs be – date and time these notes
- ask questions
- talk to people generally about issues as they arise or seek explanation of things with which you may be unfamiliar
- discuss problems as you go
• if you are taking notes on a pad or tablet, make sure your battery is fully charged, and have hard copy lists and pens as back up

Remember that following any inspection, Safety Representatives should keep the following in mind

<table>
<thead>
<tr>
<th>HAZARDS IDENTIFICATION &amp; RISK ASSESSMENT STRATEGY</th>
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</thead>
<tbody>
<tr>
<td>Identify</td>
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<tr>
<td>Assess</td>
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<td>Eliminate</td>
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<tr>
<td>Substitute</td>
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<tr>
<td>Control</td>
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</table>

| Engineering / Work Design or Organisation / Personal Protective Equipment |

CHECKLIST FOR INVESTIGATING A COMPLAINT

In addition to general workplace inspections, Safety Representatives may be presented with specific complaints from workers.

This might occur

• after a near accident or accident
• where workers feel there has been a deterioration in existing standards
• after the introduction of a new work system, product, machine or substance
• after a change in substance or materials supplier
• a change in product design or order

For Safety Representatives investigating a complaint, the following points should be considered.

1 Consult the member initially in private
   This prevents interference by any other worker, any danger of exaggeration or ‘playing to the gallery’ or, conversely, withholding or under-playing detail through intimidation

Safety Representatives who are seen to carry out regular workplace inspections will

Generate a higher level of safety consciousness among workers

Contribute to the earliest identification of hazards

Contribute to improved levels of safety and health compliance and practice

Save the company the costs of accidents, ill health, absence, insurance, etc.

Generate belief in the safety representative as a mechanism for improving safety and health standards
2 If there is more than one complainant, perhaps after an initial hearing of their case, separate the complainants and consult them individually.

3 Bring pen and paper and be seen to be taking notes. This inspires confidence that you are giving the complainant all your attention, diligently noting their case and keeping a record. There is less likelihood of exaggeration if notes are taken. If need be, ask the complainant to witness your notes.

4 Ask the ‘W’ questions and check list that you have them all answered.
   - **What happened?** sequence and circumstances of events
   - **When did it happen?** time and date of events(s)
   - **Who was involved?** names and positions of those involved as participants or witnesses
   - **Where did it happen?** what was the location of the incident
   - **Why did it happen?** this is a different sort of question to the previous four questions

   Answers to what, when, who and where should be factual and verifiable. Asking why something happened is asking for opinion or interpretation. This may be very important but it is not necessarily a factual answer.

5 Verify details given if possible. It may not always be possible to verify a complainant’s story – if they were alone when an incident occurred for example – but if there were witnesses, the story should be cross-checked. A complainant who may be less than truthful may often modify their account when they realise it is going to be checked against others’ versions.

6 Agree with the complainant what course of action you are proposing to follow and what you want them to do in the interim. Often, you may wish the complainant to literally do nothing – they should not discuss the complaint with anyone, raise it with employer/management or any other persons.

7 In matters of safety and health, however, it may be very important to offer the complainant some safety advice and immediately contact the employer, Safety Manager or other appropriate management person to ensure that a potential unsafe work practice does not continue or that other forms of action be taken to eliminate a hazard or risk in order that no one else be subject to risk or suffer injury, ill health or worse.

   **Any action may not be immediate, however, you may have to**
   - inspect the site of the complaint
   - check the legal position
   - seek technical advice regarding the identified hazard before arriving at a decision as to what the appropriate action might be

8 Always let the complainant know when you will come back to them with the result of your representation on their behalf.

9 Keep a record of the complaint with dates and times of each stage – your record might look something like this –
   - notification of complaint, date and time
   - consultations with complainant(s), date and time
   - inspection of site, date and time
   - hazard identification and risk assessment, date and time
   - representation to Safety Manager, employer or senior management, date and time and name(s)
   - notification to Safety Committee or other Safety Representatives, date and time
   - management action or commitment to remove or control hazard or protect individual(s) concerned, date and time;
   - review of new, safe work practice, date and time
   - agreement with complainant that matter resolved satisfactorily, date and time
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<tbody>
<tr>
<td>1</td>
<td>Have you fully identified the alleged problem?</td>
<td>YES</td>
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<td></td>
<td>• consulted employee(s) concerned</td>
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<td></td>
<td>• noted the times, duration or nature of problem</td>
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<td></td>
<td>• invited the Safety Manager or Supervisory staff to observe and comment on the complaint(s)</td>
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<td></td>
<td>• noted any relevant readings or measurements?</td>
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<td>2</td>
<td>Have you registered the complaint in writing?</td>
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<td>3</td>
<td>Have all safety structures in the employment – Safety Manager, Safety Representatives, Safety Committee – failed to resolve a safety issue to employees’ satisfaction?</td>
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<td>4</td>
<td>Have unresolved issues been referred to the HSA?</td>
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<td>5</td>
<td>Has referral to the HSA resolved matters?</td>
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<tr>
<td>6</td>
<td>If HSA referral has failed to resolve matters, it is likely that no statutory infringement has taken place – for example, a stressfully noisy or odorous workplace where noise is within statutory limits or fumes are, whilst unpleasant, non-toxic. In these circumstances, have you developed a strategy for the removal of the hazard?</td>
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<td>7</td>
<td>Have you fully briefed the union/unions through the Union/Works Committee?</td>
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<td>8</td>
<td>Has a joint strategy been agreed?</td>
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<td>9</td>
<td>Have you advised complainant employees of what to do pending a final acceptable solution?</td>
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<td>10</td>
<td>Any other relevant information</td>
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INVESTIGATING AN ACCIDENT

Depending on the seriousness of the accident, there may be legal and other obstacles placed to prevent a Safety Representative from investigating it.

Having due regard to the legalities of the situation, the Safety Representative should investigate the accident.

CHECKLIST FOR INVESTIGATING AN ACCIDENT

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<tbody>
<tr>
<td>1</td>
<td>Attend the scene as quickly as possible after the accident</td>
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<td>2</td>
<td>Ensure that any necessary alarm is sounded, emergency procedure implemented and that First Aid is made available to any victim(s)</td>
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<td>3</td>
<td>Ensure that nothing is touched or removed unless this is vital to effect rescue or control the offending hazard</td>
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<td>4</td>
<td>Sketch or photograph the accident scene. If this is not permitted by the employer, arrange for them to take such photographs</td>
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<tr>
<td>5</td>
<td>Carefully note • date and time • those present, names and positions • general conditions – lighting, temperature, presence of fumes or other substances • description of accident scene</td>
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<tr>
<td>6</td>
<td>If possible, interview victim(s) in private</td>
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<td>7</td>
<td>Interview any Supervisory Management present</td>
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<td>8</td>
<td>Make a preliminary inspection against a hazards checklist</td>
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<td>9</td>
<td>Insure that any necessary measurements are taken – distances, atmospheric or substance samples</td>
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<tr>
<td>10</td>
<td>Check safety procedures were operative and functional</td>
<td></td>
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<tr>
<td>11</td>
<td>Check manufacturers or producers’ safe working practice guidelines or hazard data sheets</td>
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<tr>
<td>12</td>
<td>Keep a written record and make sure that an Accident Report is filed with the necessary authority</td>
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<tr>
<td>13</td>
<td>If necessary, notify the HSA</td>
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<tr>
<td>14</td>
<td>Be available when HSA Inspector comes to investigate accident</td>
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<tr>
<td>15</td>
<td>Report accident to Safety Committee and look for any pattern or repetition of accidents</td>
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<tr>
<td>16</td>
<td>Assess accident and examine whether any of the following are necessary – • implementation of new safe working system • refined work organisation or engineering to eliminate hazard • improved safety training • provision of new personal protective equipment</td>
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</table>
FOR SAFETY REPRESENTATIVES
INVESTIGATING AN ACCIDENT,
THE FOLLOWING POINTS SHOULD BE CONSIDERED

1 Are there any matters that require urgent action by management?

2 Have you notified management, Safety Committee and the union of your suggestions in writing?

3 Have you forwarded your Accident Report to other Safety Representatives, Safety Committee, management and union?

4 If there is an HSA investigation, were you told when the HSA Inspector was on the premises?

5 Were you given opportunity to present your report to the HSA Inspector if s/he wishes?

6 Are there any legal matters that might arise from
  • a prosecution by the HSA
  • a compensation claim by the victim(s)
  • a civil action against supplier, manufacturer or contractor
  • a disciplinary case against any worker

7 Remember, as Safety Representative your only obligation and commitment is to safety and health in the workplace.
Your investigation must be based on a recording of the facts from a safety and health perspective. Any disciplinary matters that might arise are proper to the Trade Union Representatives and industrial relations procedures within the workplace.

MAKING SAFETY REPRESENTATIONS TO MANAGEMENT

Remember that, as a Safety Representative, you have the right to make representations to your employer and that the employer must consider these representations.

So how do you make such representations?
Representation is not negotiation.

Health and safety issues should not be subject to negotiation – something is either
• safe or unsafe
• hazardous or non-hazardous
• in compliance with the law and safe working practices as contained in the Safety Statement or not

That said, on occasion there may be differences of opinion between the employer and the Safety Representative as to the time frame over which something will be corrected, the nature and type of personal protective equipment to be supplied, etc. In these circumstances, the Safety Representative may require some negotiating skills and, just as importantly, the clear support of her/his fellow workers as expressed through the trade union Section/Works Committee.

PRIOR TO MAKING REPRESENTATIONS

Prepare your case
• have you all the relevant facts?
• have you checked the facts against any statutory standards to see is there a breach of such standards?
• have you checked the facts against the hazard data sheet, manufacturers’ spec or safe work system contained in the Safety Statement to see is there any breach of such standards?
• have you been fully able to establish the facts or is some workplace monitoring required of, for example, noise, dust or fume levels?
• have you full information regarding the regularity, time(s), date(s) and circumstances of the alleged unsafe work practice or hazard occurrence?
• have you got witness statements from those affected?
• have you recorded your first registration of any complaint with the Supervisor or local management?
• have you sent copies of any complaint to the trade union Committee for their information?

Once you are satisfied that you are fully briefed and have all supportive date required, you must decide
• what exactly are you looking for?
• what is it that you want management to do?
• within what time frame do you want remedial action to be taken?
• what will you do if management reject your case?

MEETING MANAGEMENT
Once you have secured your meeting with management, consider the following points
• will you be accompanied by a fellow Safety Representative?
• having someone with you will be useful as a witness to events, a support and, if necessary, a second opinion on how things are progressing
• if you are accompanied, are the second or other persons fully briefed as to their role, what you wish them to do – in most cases nothing – and, if they are to speak, what it is they are to say?
• be polite, courteous and firm – there is nothing to be gained by aggression or impoliteness and, should an employer be aggressive, remain calm. You are there carrying out your legal functions as Safety Representative
• do not feel inferior – you are carrying out your legal functions as Safety Representative
• if management introduce new information that might alter your understanding of things, do not be afraid to call for a recess or adjournment to consider this new information
• come to an agreement – even if that agreement is that you are not in agreement
• take notes

AGREERING THINGS WITH MANAGEMENT
In many cases, a conclusion that a situation presents hazards should be agreed on the basis of the facts presented. If agreement emerges
• record the agreement in writing by a joint statement, a written statement from the employer that will be sent to you and other Safety Representatives and the Safety Committee
• if management is reluctant to do this, write to management with your understanding of the matters agreed, date the correspondence and copy it to the Safety Manager, other Safety Representatives, Safety Committee and trade union Section/Works Committee
• note the time frame within which management say they will correct matters
• what are management suggesting that workers who remain exposed to a recognised hazard should do before matters are fully corrected?
• what is it agreed that you, as Safety Representative, will say to the workers affected and the employees generally?
• thank management for their time and concern

IN THE EVENT OF NO AGREEMENT
In the event of management rejecting the Safety Representative’s case or refusing to agree to any further action
• what will you tell management you will do next?
• should the matter be referred to the Safety Committee?
• should a Special Safety Committee meeting be called?
• will you refer the matter to the HSA and ask them to carry out an inspection?
• will you advise those affected to do or not to do certain things while the untreated hazard remains – you may advise worker(s) of Section 13(1) i.e. An employee shall, while at work—
    (a) comply with the relevant statutory provisions, as appropriate, and take reasonable care to protect his or her safety, health and welfare
• will you advise the trade union Section/Works Committee of what they might do to support workers taking action to protect their health and safety?
• record any disagreement and the reasons management give, if any, for not taking remedial action
• date any disagreement
• remain calm and polite and indicate that you are concluding that management are not recognising the hazard or prepared to take remedial action

WHO ARE YOU MAKING REPRESENTATIONS TO?
If one of the problems is that the manager to whom Safety Representatives are directed to make their representations cannot make a decision or who always says that they will have to consult higher level management, then the issue may be that Safety Representations are being made to the wrong person. Safety Representatives have the legal right to make representations to their employer and do not have to be fobbed-off with making those who cannot make decisions.

This matter should be addressed in the Joint Safety & Health Agreement.

VALUE OF SAFETY REPRESENTATION

SUCCESSFUL SAFETY REPRESENTATION ACHIEVES MUCH –

- it impacts positively on improving the workplace environment
- it prevents accidents and ill health
- it saves the employer money through reducing lost time, improving morale and curtailing insurance and other accident-related costs;
  - it improves efficiency
- it demonstrates the importance of effective Safety Representatives
- it demonstrates the value of the trade union as a supportive resource for Safety Representatives
- it develops workplace representation skills among Safety Representatives and workers generally
- it demonstrates the effectiveness of partnership approaches to workplace problems
SAFETY & HEALTH AS A DISCIPLINARY OR INDUSTRIAL RELATIONS ISSUE

There will be occasions when workers are disciplined for matters relating to safety and health.

*This might occur when*

- a worker refuses to comply with safe work practices or to wear personal protective equipment (PPE)
- a worker is accused of indulging in horseplay or anti-social behaviour that places fellow workers at risk
- a worker is accused of negligence in causing an accident, near accident, spillage or other dangerous occurrence

In most cases, matters are appropriate to the Union Representative or Shop Steward and the existing disciplinary and industrial relations procedures within the employment.

However, if the rush to discipline or defend against discipline obscures underlying safety and health issues, then the Safety Representative has a role.

For example, if the refusal to wear personal protective equipment is because it is defective or inadequate, uncomfortable or causing discomfort, or introducing new hazards – goggles obscuring vision, masks inhibiting breathing or ear defenders obscuring danger signals – then the solution may lie in better choice of personal protective equipment rather than discipline.

That said, if a worker is simply refusing to wear approved and acceptable personal protective equipment for reasons of ‘not wanting to appear soft’ or ‘I just don’t like it’, then such actions can be considered unacceptable and the worker will leave themselves open to injury or ill health and, if need be, discipline.
<table>
<thead>
<tr>
<th></th>
<th>CHECKLIST FOR DISCIPLINARY MATTER RELATED TO SAFETY &amp; HEALTH</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Has an employee been disciplined for</td>
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<tr>
<td></td>
<td>• an alleged breach of safety regulation or safe work practice?</td>
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<td></td>
<td>• carelessness or negligence?</td>
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<td></td>
<td>• as a result of a near accident, accident, spillage or other dangerous occurrence?</td>
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<td>2</td>
<td>Who issued the discipline and was it done in accordance with established industrial relations procedures?</td>
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<tr>
<td>3</td>
<td>Have you informed the Shop Steward and/or Union Representative?</td>
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<tr>
<td>4</td>
<td>Have you agreed what aspects of the case will henceforth be dealt with by the Safety Representative and by the Shop Steward/Union Representative?</td>
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<tr>
<td>5</td>
<td>If you, as Safety Representative, believe that the a near accident, accident, spillage or other dangerous occurrence was the result not of neglect, indiscipline or wilful bad behaviour but by a failure of the safety system - procedure, equipment, personal protective equipment – or work pressure forcing employees to ignore safe work practice – have you carried out an investigation to establish that this might be so?</td>
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<tr>
<td>6</td>
<td>If you believe that the matter may be a safety rather than industrial relations or disciplinary matter, have you informed management and Shop Steward/Union Representative?</td>
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<td>7</td>
<td>If you are proven to be correct, have the defects in the safety system been eradicated or dealt with?</td>
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<tr>
<td>8</td>
<td>If you are proven to be correct, has the threat of discipline been removed from the employee concerned? Has this been ratified by the Shop Steward and/or Union Representative?</td>
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<tr>
<td>9</td>
<td>Has the matter been subsequently analysed by the Joint Safety &amp; Health Committee?</td>
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<tr>
<td>10</td>
<td>Are you satisfied that the safety and health issues have not been unnecessarily obscured or ignored by the disciplinary and industrial relations responses?</td>
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</table>
OTHER INDUSTRIAL RELATIONS ISSUES THAT MIGHT HAVE HEALTH & SAFETY IMPLICATIONS

Just as some safety and health issues may have industrial relations implications – new safer work practices might, for example, impact on staffing levels or earnings potential and require investigation by the union – so many ‘normal’ trade union issues may have safety and health consequences.

Examples of trade union issues that may have safety and health implications are –
• poor staffing levels
• non-replacement of staff or non-recruitment of extra staff when demand rises
• poor work organisation or design
• overtime, long hours or tough shift systems
• low pay
• bonus or payment by results schemes
• disciplinary procedures
• sexual harassment or bullying
• sick pay schemes
• maternity and paternity rights
• discrimination
• time off to carry out domestic responsibilities such as Carer’s Leave
• work-life balance.

The involvement of Safety Representative(s) in the Union/Works Committee – on a quarterly basis or when need arises – will allow for the exchange of views and synchronisation of safety and health and industrial relations strategies.

CHECKLIST FOR THE SAFETY & HEALTH OF ORGANISERS

When carrying out the task of organising new employments and/or extending trade union organisation within already partially organised employments, Organisers can be exposed to risk.

Attempting to hand out recruitment materials at workplace entrances or meeting with potential members have, on many occasions, been met with aggressive behaviour by employers. This aggression can be offered by those workers strongly warned against joining a trade union, or security staff seeking to prevent contact between Organisers and potential members.

All organising can be stressful. Organisers have a deep sense of responsibility to those they are seeking to organise and can become very concerned at the risks individuals must take when they decide to join a trade union. This has often been met with dismissal or other punishments and this can then turn into antagonism to the Organiser who is blamed for inviting the workers to join the union in the first place.

Not all organising attempts are successful and, in any case, processing matters through existing Industrial Relations (Amendment) Act 2015 procedures can be a very lengthy and time-consuming process.

So, when organising new members, Organisers should remember
• you will not win every battle. Do not feel a failure or that you have let anyone down if the employer’s anti-union power proves too strong
• if you are satisfied that you have done everything to keep new members informed, that you have been available to them when they have required reassurance or support, and that everything that could have been done to assist them retain/exercise their constitutional right to join a trade union has been done, be satisfied that you have done a good job and could do no more
when attending a workplace to disseminate information, let others know where you will be and between what times; keep your mobile phone charged and open; always be accompanied; act in a moderate and unchallenging manner, whatever the provocation.

MAKING SAFETY & HEALTH A TRADE UNION ISSUE

Having examined the legal functions of the Safety Representative and Safety Committee, what do trade union members need to remember in order to make safety and health a central issue for their workplace and for their union?

SAFETY REPRESENTATIVES:
A HEALTH & SAFETY AUDIT CHECKLIST

1. Are all workplaces/locations/shifts covered by a Safety Representative?
2. Are all union members and workers generally fully involved and informed?
3. Do elected Safety Representatives adequately reflect the composition of the workforce – gender, part-time and temporary workers, immigrant workers, agency workers, etc?
4. Do all workers have contact details for all Safety Representatives?
5. Do all Safety Representatives have adequate time off for training?
6. Do all Safety Representatives have adequate facilities to carry out their role effectively – access to photocopying, notice boards, internet, etc?
7. Are there effective arrangements for Safety Representatives to conduct regular workplace inspections?
8. Are there effective arrangements for reporting hazards?
9. Are all hazards reported to management in writing?
10. Do management reply and take necessary action?
11. Are Safety Representatives notified when accidents, near accidents or ill health occur?
12. Are there effective arrangements in place to enable Safety Representatives to investigate accidents, near accidents and ill health?
13. Do Safety Representatives make sure management consult them in ‘good time’?
14. Do Safety Representatives regularly meet together to share their experiences and coordinate their activities?
15. Is there a Safety Committee in place?
16. Is the Safety Committee representative of the workplace and does it meet regularly?
17. Is the Safety Committee an effective tool in monitoring workplace safety and health?
18. Is there liaison between the Section/Works Committee and Safety Committee through the Safety Representatives?
19. Is there a Joint Health & Safety Agreement in place?
20. If not, is the union seeking to construct a Joint Health & Safety Agreement with management?
21. Is the employer fully compliant with all their legal obligations?
22. Is safety consciousness high among fellow employees?
23. Is workplace safety and health effectively linked to other parts of the union? This might include the Works or Section Committee; Branch Organiser and/or Committee; Sectoral Committee; and/or national union policy.
24. Do Safety Representatives have workplace internet access to contact their union and other useful sources by e-mail or website?

25. Does the union provide regular, good quality information to its Safety Representatives?

26. Is there a system to keep relevant health and safety information up-to-date?

27. Does the union provide information to ordinary members to improve and maintain their safety awareness?

28. Does the union discuss safety and health issues beyond the workplace and, if necessary, campaign for improvements?

29. Is there anything else that could be done to improve health and safety within your workplace?
Appendix 1: Model Joint Safety & Health Agreement

1. Terms of Reference
This Joint Safety & Health Agreement (JS&HA) has been agreed between Humdrum Engineering (Ireland) PLC and the Irish Workers’ Union (IWU) and Commercial Workers’ Union of Ireland (CWUI).

Having been agreed, this JS&HA was registered with the Health & Safety Authority (HSA) on 10 June, 2016.

This agreement can only be altered by agreement of both parties or, if matters cannot be resolved between the two parties, by reference to the HSA.

2. Safety Statement
The Humdrum Engineering Safety Statement – as complied and revised on 31 January, 2016 – outlines all responsibilities of Senior and Line Managers, and identifies specific duties for responsible for aspects of safety, health and welfare within the company.

The Safety Statement also identifies each employee’s responsibilities and outlines safe work practices and procedures to be followed.

Nothing in this JS&HA shall over-ride those responsibilities and practices outlined in the Safety Statement unless, through the investigations and actions of the JS&HA, it is agreed that the Safety Statement requires review and upgraded practices and systems agreed.

The JS&HA may, therefore, make recommendations to Senior Management regarding necessary amendments to the Safety Statement. In the absence of agreement, either side may refer such matter to the HSA.

3. Composition of the JS&HA Committee
A JS&HA Committee composition should be agreed with the employer bearing in mind that the Act provides that –

A Safety Committee shall be not less than three persons and not exceed one for every twenty employees to a maximum of ten. The employer is entitled to nominate 1-3 persons to the Committee and the employees 3-7, according to the size of the Committee and as illustrated in the table below.

<table>
<thead>
<tr>
<th>Committee of</th>
<th>Employer</th>
<th>Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>5 - 8</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>9 - 10</td>
<td>3</td>
<td>7</td>
</tr>
</tbody>
</table>

The Safety Representative is entitled to be one of the employees’ Committee nominees.

A Safety Committee –
• shall assist the employer and employees in relation to the relevant statutory provisions
• a quorum for a Safety Committee shall not be less than three with at least one representative of the employer and employees
• Anyone ceasing to be employed in the employment concerned shall cease to be a member of the Safety Committee
• The employer shall be entitled to attend personally or nominate someone
• The employer shall attend the first Safety Committee and shall present, or as soon as practicable, the Committee with the Safety Statement
• The Safety Committee shall consider representations from employees

The employer shall agree with the Safety Committee –
• facilities for holding meetings
• the frequency, duration and times of meetings

Safety Committee meetings shall be held within normal working hours and without loss of remuneration.

Meetings, other than in emergency, shall
• not be more frequent than every three months
• not be longer than one hour
• must have a quorum
• times of meetings shall be compatible with the efficient operation of the workplace

4. Safety Representatives
In order to undertake their responsibilities effectively, it is agreed that Safety Representatives will be provided with the
• Safety Statement
• hazard data sheets, safe work practice guidelines and other necessary safety guidelines
• office space and equipment and filing cabinet
• access to telephone and computer, including internet access and e-mail
• photocopying or duplicating facilities
• a meeting room to conduct consultations or hold small informal meetings
• notice board(s)
• access to technical equipment when requested, for example a light or noise meter
• camera
• technical advice

5. Time Off & Education & Training
In order to undertake their responsibilities effectively, it is agreed that Safety Representatives will be granted reasonable time off from normal work duties without loss of remuneration to attend OSH training courses organised by their Trade Union.

The amount of time of will be agreed between the company and the trade unions but will take into consideration the following circumstances –
• the need to train Safety Representatives as soon as possible after their appointment and after any major changes in legislation or workplace design, organisation or substance utilisation
• the capacity of Safety Representatives to carry regular workplace inspections
• the need for Safety Representatives to respond to requests – from either management or employee – to investigate a complaint or perceived hazardous situation;
• the need to consult employees with safety complaints or those involved in near accident, accidents or work-related ill health
• the need to undertake compile reports, conduct correspondence, contact various agencies or engage in research.

In emergency situations such as accident occurring when the Safety Representative is off shift, arrangements will be agreed for time off in lieu to compensate the Safety Representative for undertaking her/his duties outside their normal working hours, not least to protect their own safety and health at work.

It is agreed that Safety Representatives will be granted time off with no loss of remuneration to attend safety and health training courses
• approved by the trade unions and fully accredited by the HSA
• leading to QQI or other nationally certified qualifications such as a Certificate or Diploma or membership of the Institute of Occupational Safety and Health (IOSH)
• specialist courses on particular hazards as agreed with the employer
• in-house training programmes on safety, health and welfare
• refresher courses

6. Safety Representation
A Safety Representative may request an opportunity to make Safety Representations with employer/management at any time. Management will respond to a Safety Representative’s request for an opportunity to make safety representations as soon as practicable. A Safety Representative making Safety Representations may be accompanied by a second Safety Representative or colleague employee.

Safety Representations will be made to the manager responsible for safety and health in the area of the workplace affected.

If this does not produce an agreed outcome, then the matter will be referred to the Safety Manager or most Senior Manager with Responsibility for Health and Safety.

Matters agreed between management and the Safety Representative will be communicated to management, the workforce and the Safety Committee.

The Safety Statement will, if necessary, be amended in the light of any Safety Representation and the amended safe practice communicated to the management, Safety Representative and employers.

In the event of agreement not being reached, discussions will be arranged between the Safety Representative(s) and Senior Management.
If this still fails to produce an outcome acceptable to both sides, then matters can be referred by the Safety Representative to the HSA for inspection and decision.

If, as a result of Safety Representation, significant changes in work practice or design are recommended, matters may be referred to the trade union Section/Works Committee to examine any industrial relations consequences.

Safety Representative will be given time off without loss of remuneration in order for them to make safety representations.

7. Health & Safety Inspectors
Except in the case of an accident, to accommodate the Safety Representative’s right to accompany a Health & Safety Inspector on their inspections, it is agreed that

- Safety Representatives will be told immediately that a Health & Safety Inspector arrives on the premises
- Safety Representatives can raise any matter of concern and direct the Health & Safety Inspector to any part of the workplace
- Safety Representatives will be fully briefed on the contents of a Health & Safety Inspector’s report and fully involved in consideration of whatever may be required of the employer in order to comply with a Health & Safety Inspectors’ recommendations for improving the work environment

In the case of accidents, the Safety Representative will be made aware that a Health & Safety Inspector is on the premises and engaged in inspecting the accident scene and circumstances.

The Health & Safety Inspector will, in turn, be told that the Safety Representative is available for interview and that her/his report of their own investigation can be made available.

8. Fire & Insurance Inspectors
Following the principle of the value of Safety Representative’s right to accompany a Health & Safety Inspector on their inspections, it is agreed that these same entitlements will apply to workplace inspections by

- Insurance company inspectors
- Fire Safety inspectors

In the case of accidents, the Safety Representative will be made aware that an insurance inspector is on the premises and engaged in inspecting the accident scene and circumstances.

The insurance inspector will, in turn, be told that the Safety Representative is available for interview and that her/his report of their own investigation can be made available.

9. Discipline of Safety Representatives
Where, in the employees’ view, any Safety Representative who is subject to dismissal or penalisation for actions carried out in their role of Safety Representative, it is agreed that

- matters will be immediately notified to the Safety Representative’s trade union
- matters will be immediately notified to the Safety Committee
employees will have the right, if necessary, to nominate a substitute Safety Representative to act in lieu of any Safety Representative dismissed or penalised and removed from duties

every opportunity will be given to the Safety Representative’s trade union to fully investigate any allegation(s) made against the Safety Representative

the Safety Representative will have the right to be fully represented by her/his trade union at any discussion of their case with management

the trade union reserves the right to pursue any case through normal industrial relations procedures

if matters cannot be resolved within the employment, it is agreed that matters will be referred to the Workplace Relations Commission, the Safety Representative again have full rights of trade union representation at any hearing

if matters are not settled by the Workplace Relations Commission, the case may be appealed – within six weeks of the Workplace Relations Commission’s recommendation – to the Labour Court

10. Any Other Items
Either the employer or employee may suggest that other items be discussed, agreed and included in this Joint Safety & Health Agreement.