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1 BACKGROUND

This guidance note has been devised to provide information for senior managers on the role and functions of union appointed safety representatives. The guidance note will focus on the Safety Representatives and Safety Committees Regulations; as amended by the Management of Health and Safety at Work Regulations; and the Approved Code of Practice (ACoP) issued by the Health and Safety Commission (HSC).

2 INTRODUCTION

Regulations were made under the Health and Safety at Work Etc Act 1974 which enabled recognised trade unions to appoint safety representatives to represent employees in the workplace. The Regulations and ACoP provide the legal framework for employers and trade unions to reach agreement on the arrangements to ensure the effective implementation of the Act within the workplace.

The HSC and the Health and Safety Executive (HSE) make it clear that employers, trade unions and safety representatives should 'make full and proper use of the existing industrial relations machinery to reach the degree of agreement necessary to achieve the purpose of the Regulations and in order to resolve any differences'.

The following question and answer section identifies the most relevant information on safety representatives for senior staff. Copies of the Regulations and ACoPs are available from the University Health and Safety Unit and should be consulted where necessary.

Q1 Who appoints safety representatives?

Safety representatives are appointed by a recognised trade union. Trade unions are obliged to provide the names of the persons appointed as safety representatives and the group or groups of employees they represent. The nominees should have been employed by the University for at least two years or have two years experience in a similar environment. A employee will cease to be a safety representative when one of the following takes place:

- the appointment is terminated by the union;
- the safety representative ceases to be employed at the workplace (unless appointed to more than one workplace and is still employed at one of them);
- he/she resigns.
Q2 How many safety representatives can be appointed?

There is no specific numerical standard included in the Regulations or the ACoP. A trade union can appoint as many safety representatives as it wishes and the employer cannot refuse to recognise them. However trade unions take a responsible view in these circumstances and appointments are made only where necessary. Trade union nominations for safety representatives are sent to the Human Resources Division and not departments.

The Human Resources Division maintains a list of safety representatives appointed by each of the recognised trade unions. Copies of this list will be forwarded to Faculties and Divisions.

Q3 Have the regulations identified any specific subjects where consultation with a safety representatives is mandatory?

Yes. An employer is obliged to consult safety representatives on health and safety matters to enable the safety representative and the employees he/she represents to co-operate with the employer and check the effectiveness of such procedures and other measures taken by the employer.

The 'employer' in this context can vary dependant on the issue. If it is a policy matter that affects the University as a whole then the Human Resources Director and University Health and Safety Adviser will act as the employer. A Faculty matter would require the Dean/Pro Vice-Chancellor to act as the employer. Departmental/ Divisional Health and Safety issues would require the involvement of the respective Head of Department.

Consultation is seen as a much wider concept than the mere provision of information. The employer must allow the safety representative an opportunity to express their views and then to take account of any response. Employers are obliged to 'consult in good time' on the following issues:

- introduction of any measure in the workplace which may substantially affect the health and safety of employees whom the safety representative represents, e.g. laboratory or workshop refurbishment, introduction of new machinery, changes in systems of work;

- arrangements for nominating a designated competent person to assist the employer, and a competent person for dealing with evacuation procedures, e.g. Dean, Faculty Secretary, nominated Head of Department;

- health and safety information that is required to be given to employees under a statutory provision, e.g. COSHH;

- planning and organisation of any health and safety training that is required to be provided for employees under a relevant statutory provision, e.g. COSHH, radiation, risk assessment, training, manual handling, etc;

- the health and safety consequences for employees of the introduction of new technologies in the workplace; e.g. new machinery, computers etc.
Q4 What functions do safety representatives perform?

A safety representative has specific functions and these are listed overleaf. Please note that a safety representative has 'functions' and not duties. Therefore whilst acting as a safety representative an employee does not incur any civil or criminal liability for any act or omission in respect of their performance of functions under the Regulations.

Each appointed safety representatives has the following functions:

- investigate potential hazards and dangerous occurrences at the workplace;
- investigate complaints by employees he/she represents concerning their health, safety and welfare;
- make representations to the employer on the above;
- make representations to the employer on general matters relating to health, safety and welfare;
- carry out inspections;
- represent employees he/she were appointed to represent with HSE Inspectors and any other enforcing authority;
- to receive information from HSE Inspectors;
- attend safety committee/meetings.

Q5 What time off from work is permitted for safety representatives to perform their functions?

An employer is obliged to permit time off with pay during the employee’s working hours to enable the safety representative to:

- perform the functions listed above;
- represent employees for which he/she was appointed in consultations with the employer on health and safety matters;
- undergoing training as a safety representative.

However you must consult with the Human Resources Director or the Personnel Manager before granting time off to a safety representative.

Q6 Are there any obligations placed on safety representatives?

Safety representatives are required by the Regulations and the ACoP to take reasonable steps to keep informed of the legal requirements relating to health
and safety, especially the legislation that affects the employees they represent.

A safety representative should be in the position to understand the relevant hazards of the workplace and any control measures that are required to minimise risk and be aware of the employers safety policy and encourage cooperation between their employer and employees on health and safety matters.

Finally a safety representative should bring to the employers attention, normally in writing any unsafe or unhealthy conditions or working practices.

A safety representative may, in the first instance, inform the employer verbally especially where the identified risk requires such an approach.

Q7 What information is presently available on safety representatives?

Information to senior staff on the functions of safety representatives are presently contained in two documents. Firstly the University Health and Safety Manual which identifies the organisation and arrangements for health and safety and also includes 'Whose Responsibility is it Anyway?' a practical guide for senior members of staff.

Q8 What arrangements are in place to consult with safety representatives?

The University Health and Safety Committee membership includes a nominated safety representative from each recognised trade union. The Committee is the principal means of consulting on University health and safety policy matters with appointed safety representatives.

The Local Site Health and Safety Panels provide the main mechanism for consulting on local health and safety issues and each trade union is represented by a nominated safety representative.

Q9 As a 'Key' senior member identified in the University Health and Safety Policy, is there any particular action I need to take?

Yes. You should ensure that the following action has taken place:

1) obtain the names of union appointed safety representatives and the group or groups of employees they represent in your areas of control from the Human Resources Division;

2) if you chair a Local Site Health and Safety Panel, request that each recognised union to be represented by a safety representative;
3) provide information to safety representatives on fire drills and include them in post fire drill discussions;

4) provide information to safety representatives on the health and safety management system for your site e.g. who is in control when you are off campus/site.

Q10 As a senior member of staff under what circumstances would I be expected to consult with a safety representative?

The following are examples of where consultation with a safety representative should take place:

1) if you are making material changes to the work environment of an area under your control e.g. refurbishment, new systems or equipment that could affect the health and safety of employees consult the appropriate safety representatives. This can be achieved by discussing relevant information at a meeting with the safety representative. 'Relevant information' could be plans or a description of the work but must include details of the precautions and control measures intended to protect staff, students and lawful visitors;

2) if your department has a consultative committee where health and safety is discussed ensure that safety representatives, if there are any, have access to these meetings;

3) consult with safety representatives on health and safety consequences of any new technologies, machinery or equipment you are intending to introduce into the workplace.

Q11 What action do I need to take if I receive a memorandum or formal report from a safety representative?

You must reply to the safety representative within a reasonable time period. There are three options to consider when in receipt of correspondence from a safety representative which contains allegations of a health and safety hazard:

1) if you are unsure of what action to take reply in writing stating you will be investigating the concerns of the safety representative and will reply in due course. At this point consult the University Health and Safety Unit for further advice;

2) where you are satisfied that no remedial action needs to be taken due to the effectiveness of the present control measures or that the allegations contained in the report are unfounded inform the safety representative in writing of your decision and the reasons for reaching such a conclusion;

3) accept that the report from the safety representative has some validity and appropriate remedial action is required to ensure the health and safety of
employees. Reply to the safety representative that you are to instigate remedial action.

Q12 Is it a fact that safety representative are permitted to undertake formal inspections of the workplace?

The appointed safety representative is entitled to inspect the workplace once in every period of three months. Safety representatives are obliged to provide reasonable notice in writing to the employer of their intention to inspect. Ensure that you receive such notice.

Further inspections may be undertaken if there has been a substantial change in the work environment or new information has been published by the HSC or HSE relevant to the hazards of the workplace since the last inspection. In addition a safety representative has the right to inspect following a serious accident, dangerous occurrence or where a notifiable disease has been contracted.

The HSC sees advantages in formal inspections being carried out jointly by the employer (or employer's representative) and safety representatives. This does not prevent safety representatives carrying out independent investigations or having private discussions with employees.

Therefore there is a distinct advantage in including a safety representative, where one exists in the departmental safety inspection regime. This would have the advantage of combining the duties of senior staff to ensure safe systems are monitored with the inspection function of safety representatives. (This partnership approach to health and safety is actively encouraged by the