

Chapter 17

Miscellaneous topics

February 1996

Protecting the public

Every year there are approximately 12,400 accidental deaths in the UK. The extent of serious injury is less well quantified but estimates put the number of cases requiring hospital treatment in the region of seven million.

Among the largest single causes of fatalities are motor vehicle traffic accidents, falls, fire, drownings, choking on food, and acute poisonings.

What is not clear however is how many of these fatalities are associated with work related hazards. The figures we do have suggest that in the period 1981 - 1993/94 an annual average of 122 fatalities to members of the public were reported to the HSE. Similarly in the period 1987/88 - 1993/94, an average of 11,807 serious injuries to the public were reported.

The clear intention of the Robens Report of 1972 was that health and safety law should extend protection from work related risks to members of the public. This intention was expressed clearly in Section 3 of the *HSW Act* of 1974.

But, other than guidance which repeats the wording of Section 3(1), little further guidance on this aspect of health and safety law is available from the HSC or the HSE.

On the other hand Regulation 3 of the *Management of Health and Safety at Work* (MHSW) Regulations and their associated Approved Code of Practice (ACoP) make it clear that the employer's duty to carry out suitable and sufficient risk assessment extends to ... "risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking ... for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under relevant statutory provisions." There is a similar duty on the self employed.

As far as the 'tolerability' of risk is concerned, HSE has indicated that minimum standards of protection for members of the public should be at least ten times better than that for employees.

Furthermore, there is a duty on employers and the self employed, under the *Reporting of Injuries Diseases and Dangerous Occurrences Regulations* (RIDDOR), to report to enforcing authorities accidents which result in fatal and specified serious injury (or conditions) to members of the public. Existing guidance makes it clear that the scope of 'work relatedness' in this context is very wide, encompassing situations as diverse as:

- a patient in a nursing home who tripped and fell over an obstruction such as an electrical cable lying across a floor in the home;
- a member of the public who, whilst visiting a factory, was overcome by fumes which escaped accidentally from a process being carried on there.

The guidance also makes it clear that accidents involving vehicles on the public highway are not reportable except where death or specified major injuries or conditions are connected with: "exposure to any substance being conveyed by road; vehicle loading and unloading activities such as those engaged in by refuse collectors, brewery delivery workers, furniture removers, etc; and certain construction, demolition, alteration, repair or maintenance activities on or alongside public roads."

Under proposals published recently for revisions to RIDDOR, the HSC propose to simplify the reporting duty on employers with regard to injuries to members of the public.

However, in considering strategies to protect the public from work related harm, besides the adequacy of specific control measures there is the more fundamental question of whether or not organisations have in place health and safety management systems which are capable of identifying and assessing risks and putting appropriate people and procedures in place to ensure that such measures are implemented and continue to be effective.

The general question, therefore, concerning the overall competence of an organisation to manage its affairs safely has become an important starting point in assessing the adequacy of protection of people (including the public) from the hazards of work activity.

All this raises a number of important questions including:

- (1) What is the true extent in the UK of work related harm to members of the public?
- (2) What is the true extent of application of Section 3 of the *HSW Act* and Regulation 3 of the *MHSW Regulations* to the elimination/control of work related risks to the public?
- (3) What are the limits of application of Section 3? (ie to what things do they not apply?)
- (4) Is the law and guidance on risk assessment adequate to cover its application to members of the public?
- (5) What is the extent of under-reporting of accidents etc affecting the public? What are the main reasons for underreporting? Will the new RIDDOR proposals help?
- (6) How does HSE decide on Section 3 guidance and/or enforcement priorities?
- (7) To what additional levels of protection are the public entitled?

RoSPA believes it is important for these - and other - questions to be answered and that there is considerable scope to enhance the impact of legislation on preventing work related harm to the public. Do readers agree?

September 1997

Safety fundamentals **(or the real world of health and safety)**

Part of RoSPA's role is to give advice over the phone on many different subjects and from a wider variety of callers. Often such calls give a fascinating insight into the real world of health and safety at work (as opposed to the one inhabited by more than a few theorists and policy makers)!

For instance, I recently received an enquiry as to whether it was legal for the owners of a residential care home to require their staff, who were care assistants, to pay for their own manual handling training. (As readers will know, this work involves a good deal of 'people handling' and back injury is all too common).

The care home was apparently registered with and inspected by the local authority social services department. As employers, the care home had just been made aware of the extent of their duties under health and safety law, including their duty to assess manual handling risks and to provide appropriate training for staff involved. However, they felt that, if employees wanted protection from handling injuries, it was reasonable that they should pay for the training involved themselves (because, after all, '.. it would add to the skills they could take to another employer'). They thought it reasonable that staff should have the cost of their training docked from their wages.

(They had probably not yet heard of HSE's current campaign slogan 'Good Health is Good Business' and one might speculate whether it would have made any difference to their views even if they had)!

I was quickly able to advise that the EC Health and Safety Framework Directive Article 6.5 states that "Measures related to safety, hygiene and health at work may in no circumstances involve the workers in financial cost" and further that Article 12.4 states that "Training .. may not be at the workers' expense" and that it must be during working hours.

Had they been properly advised, these particular care home employers would have known that Section 9 of the UK *Health and Safety at Work* (HSW) Act, which has been law since 1975 and which implements these articles in Britain, says that "No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions".

Thus it specifically forbids employers from levying charges for health and safety training required under the HSW Act or subsidiary regulations or indeed other items such as personal protective equipment (PPE) - although it is common for employers and employees to share payment in cases where the PPE actually becomes the latter's property.

Requirements to provide health and safety training are contained both in the general duties of the HSW Act and the *Management of Health and Safety at Work* (MHSW) Regulations (Reg 11) and in other specific regulations. (This is now very usefully explained in the HSE's free guidance note 'A Guide to Information Instruction and

Training' [IND(G) 235L], which sets out current general and specific health and safety training duties in a single table.)

The starting point obviously is the general assessment duty in the MHSW Regulations (Reg 3) and the more specific assessment duty in Regulation 11. The latter requires employers to make an assessment of an employee's capabilities and training when deciding what extra training is needed for health and safety purposes. Training has to be given on recruitment, on being exposed to new or increased hazards, on being transferred or being given new responsibilities or on the introduction of new technologies or equipment or following a change in the system(s) of work.

All that might seem very clear in terms of general principles but what it means in practice is that it is subject to a good deal of interpretation and there are lots of potential loop holes. For example, the nature, level and extent of training in dealing with specific hazards has to be related to the employer's assessment of risk which of course is invariably site specific. Also, training has only to be provided for employees as opposed to the self employed or contractors, although in practice many self employed people have an employment status equivalent to employees.

A further point worth noting is that the prohibition on charging for training and other kinds of health and safety provision applies only from the point when employees actually start working under a contract of employment. In theory, therefore, there is nothing to prevent an employer from demanding that candidates for employment (or contracts, if they are nominally self employed) have certain skills essential for health and safety purposes before they start work. It is obviously desirable that candidates for particular jobs should have an appropriate level of general health and safety knowledge. Rarely 'however' is this specified in job advertisements.

On the other hand, where a job candidate was being expected to pay themselves for a particular item of essential health and safety training for a specific job before being accepted for employment (especially where they might be employed casually or on a short term contract), this would clearly be opposed to the intention of both the Directive and the UK Parliament as expressed in Section 9 of the HSW Act.

The obvious remedy in these cases is for staff affected to seek advice from the relevant health and safety enforcing authority (HSE or Local Authorities depending on jurisdiction). The Social Services as regulator and/or client should also be asking questions and using their influence. No information is currently available on whether any cases of this sort have been taken to Industrial Tribunals. But where such practices can be identified, it is important that such action is taken in order to clarify the law and discourage such practices in future.

Both employers and employees have a shared interest in seeing that health and safety law is properly observed, both to ensure a 'level playing field' for business and to create a safe employment regime for all people at work. In this context it is worth remembering the words of Winston Churchill - then a Liberal - introducing early employment legislation before the First World War who said 'The worst employer will always be undercut by the very worst employer!'

September 2001

What really keeps us safe in life?

What is it that really keeps us safe in life? Is it conscious and conscientious adherence to written rules and detailed codes or is it something else? To safety professionals who tend to be seen by others (and, sometimes themselves) as walking safety rule books, such a question is bound to seem quite iconoclastic. After all, if people would only follow the rules, there wouldn't be any accidents.

This attitude reminds me a little of my late father who, one morning in the early 60s heard on the radio of a new form of industrial action to be taken by railway staff, naively 'working-to-rule'. From under his shaving foam he exclaimed: 'But how will it further their cause? If they simply follow the rules, surely all that will happen is that the railways will run faultlessly?'

What he didn't realise was that compliance with the rules was a necessary but a far from sufficient condition for the effective operation of such a complex system. Most of the knowledge of what to do - and what not to do - was locked up in the heads of railway workers without whose creative co-operation the trains could not operate as they were supposed to. Hence the effectiveness of the 'work-to-rule' tactic.

Sometimes the rules don't work or people tend to make their own interpretations of what is required to keep things moving (or to stop themselves going mad in the process). In fact, my own prejudice (but I cannot prove it) is that this is what most people do most of the time. But does it make them fundamentally unsafe?

I was reminded of this question recently by a TV programme, featuring the acerbic motoring journalist, Quentin Wilson, who was looking at people taking their driving tests. Needless to say, during the programme, Quentin, an accomplished driver of over 25 years' experience, failed his test at the hands of the Deputy Chief Examiner at the DSA. Does this mean he is a dangerous driver? I suspect not. In fact, if one were to select at random a sample of say 100 motorists with a 25 year accident free record, and ask them to re-sit their test with no preparation, I would be willing to bet that a sizeable proportion would fail. Would this mean they were all bad drivers? No, simply that the rules they were following in practice to keep themselves (and others) safe were not the same rules as set out in the test. And it is certainly the case that many people at work and elsewhere manage very successfully to survive without mishap, not by following safety rules to the letter but by adopting patterns of safe behaviour that 'work for them'.

Think of any class of safety significant work and ask yourself, what proportion of the workers involved could recite all the key safety rules as prescribed in the written risk assessment with which they must be provided by law? How many could explain even the essential safety principles? Yet what proportion could be observed practising wholly unacceptable behaviour?

The fact that experienced people (and organisations) who do not know the formal safety rules manage to survive without having accidents is not explicable in the main simply as a result of chance. They must be doing something 'right'. What I want to suggest is that safety professionals need to pay closer attention to people's (and

organisations') natural and organic safety behaviour if we are to be able to build on 'what works' and create even more effective approaches to safety.

One of the things we must challenge is the meaningless mantra (trotted out at almost every safety gathering) that 98 per cent of accidents are caused by human error. Since accidents by definition represent human failure to prevent the unplanned, it would be very strange if this were not the case! The underlying implication is that error leading to accidents is invariably the result of flagrant - if not wilful - rule breaking.

This then leads on - not to closer study of why people act as they do - but the inevitable 'If only we could inculcate proper compliance with the rules' and then on further to the call for more behaviour observations, more counselling, followed by more observations and so on. In fact this is a recipe for which considerable success is claimed and one which continues to make a lot of money for consultants that specialise in the 'behavioural safety' field.

Yet the crude 'behaviourists' are not having it all their own way. Indeed, one of the effects to emerge from recent railway safety failures is that, as a society, we are beginning to establish a much richer understanding of human error and in a wider context. It is not that anything essentially new is being said; simply that established understandings in the academic domain are finding their way out on to the streets.

One initiative, which may help in this latter respect, is a new briefing document, *Managing Human Error* to be published by the Parliamentary Office of Science and Technology (POST) [www.parliament.uk/post/home/htm./](http://www.parliament.uk/post/home/htm/) At the risk of oversimplifying one of its central messages, it concludes that 'to err is human' and stresses that systems need to be error sensitive.

If individuals are complex beings whose behaviour cannot be modified successfully through the imposition of arbitrary rules and instructions, it must be the case that businesses (even small ones), are rich, complex entities, whose organic reality should not be confused with the simple models we use to prescribe the ideal forms of behaviour. Useful as they are, management system models such as HSG65 are only abstract constructions. They are not the complex reality of an actual organisation. Thus when all the requirements for HSG65 compliance are in place and other performance indicators show no improvement, we diagnose the gap as 'a lack of safety culture'. We then do 'safety climate surveys' to understand 'hearts and minds'.

But the success of any strategy to reduce risk and improve safety depends critically on our ability to understand both the safety strengths as well as the safety weaknesses of what is going on in the real world. Rather than simply studying why accidents happen, we need to spend as much time studying why they do not.

Rather than developing even more leaflets aimed at small firms to get them to be safer, should we not be going out and studying those SMEs that are actually managing to control risks, finding out how they do it?

Instead of endlessly extolling the benefits of yet more kinetic handling training, should we not be going out and looking at what it is that enables long term 'survivors'

working in sectors such as the NHS and agriculture to avoid punishing bouts of lower back pain?

If we cannot eliminate risks or make things more benign, then before we start filling the world with yet more instructions we need to understand what it is people will do naturally to avoid accidents. In short, we need to develop safety rules, which 'fit life' and not try to make 'life fit the rules'.

August 2004**Safety 24/7**

Safety like peace should be indivisible yet all too often in practice it is highly compartmentalised. **For example**, we tend to think about health and safety at work separately from product safety. Until recently **work safety** was still seen as quite separate from road safety. And safety in the workplace was (and still is in many cases) seen as something quite separate from issues such as home safety or safety in sports and leisure activities or community safety generally.

One of the privileges that comes from being an ex-officio member of the RoSPA Awards Panel is that I get a series of unique and highly informative insights into what 'higher performers' in health and safety are doing to enhance their approaches to prevention. Traditionally awards entrants, particularly those entering at the sector level, have sought to focus in their submissions on their health and safety management systems and culture and improvements in their incident/accident and ill health records. In recent years however many sector contenders have stressed their '24/7' approach to safety, often highlighting activities intended to safeguard not only employees but also their families and dependants. The Panel therefore see many excellent examples of innovative approaches which organisations are taking to improve safety outside the traditional boundaries of OS&H. This is not just in areas such as managing occupational road risk (now very much part of the OS&H mainstream) but in areas such as preventing DIY accidents to employees as well as projects designed to raise awareness of safety issues in schools and in the wider community. Among the most well known companies in this regard are Dupont (whose focus on 24/7 safety is a by-word in industry).

A further recent interesting example can be seen in initiatives which several companies entering the Awards have taken to promote safer motorcycling for their employees, for example, by inviting local Bikesafe (visit www.bikesafe.co.uk) and other advanced motorcycling bodies onto their sites to deliver awareness raising (and in some cases training) to their employees who are motorcyclists. Examples include: Toyota (which formed a small club to promote safer motorcycling); and FMC Technologies of Dunfermline (this year's Sir George Earle Trophy winner). In fact, so encouraged have RoSPA been by this that we hope later in the year (and in partnership with 'Bikesafe' nationally and other road safety bodies) to convene a seminar to see how this approach can be rolled out further across the country.

Of course, using the workplace to deliver messages designed to safeguard employees is not limited to safety but has long been recognised as a powerful way to address health and lifestyle issues too. This approach is well illustrated, for example, in Scotland's Health at Work Awards (visit www.shaw.uk.com).

The advantages to employers of a 24/7 approach to safety are fairly clear. If companies can get their employees to focus on reducing risks outside work, this will reduce the risk of loss of key personnel following injury due to accidents when **they** are working in their gardens or on home improvements, when they are taking part in sports and leisure activities or, in the case of motorcycling accidents, when **they** may be riding motorcycles or scooters to work or during their leisure time. Focusing on safety outside work can not only mean key personnel will remain uninjured and at

work, it will also reduce the risk of such accidents impacting negatively on workforce morale. Nothing, for example, can hit a small, closely knit team as hard as the unexpected serious injury (or even death) of team member in an accident outside work. Also, serious injury to employees' relatives and dependants can be just as damaging to morale and often adversely affect an employee's attendance and performance as if they had sustained the injury themselves. **And there is little point in trying to prevent back injury or deafness at work if employees then go home and engage in dangerous manual handling practices or listen to ridiculously loud music.**

These represent powerful humanitarian and business reasons for businesses **to focus on** the safety of their staff and their families outside the workplace. But there is perhaps a more fundamental reason why organisations should take an active interest in this area and that is the need to ensure what one might term 'continuity of safety culture'. The employee who follows one approach to safety at work and disregards sensible precautions in other contexts is less likely to have bought fully into the safety ethos which their employer needs them to embrace in order to achieve continuous improvement in safety performance in the business.

This of course can also raise some fairly fundamental questions about employees' freedom of action in their own time. Companies which require their workers to report injuries which they have sustained due to home accidents, for example, or who require them to be fit for work by not engaging in excessive drinking or staying up late doing hobbies or DIY, may quite justifiably be seen as trying to govern their employees' behaviour to a quite unacceptable degree. **Many are likely to see this as the 'nanny employer' aping the allegedly 'nanny state'**. That is why it is so important that 24/7 safety programmes are not seen as an imposition by the company but are genuinely owned and controlled by staff themselves. You cannot 'do' safety to people, only with them. But if the company gets the approach right, it is yet another way in which it can show that it cares and that it is prepared to make time and space to promote employee welfare. In this sense 24/7 safety programmes and activities can provide a practical and visible demonstration of corporate social responsibility and they also provide many useful opportunities for developing links with safety organisations in the community (fire safety, road safety, home safe and so on) which of course in turn can often result in positive publicity, for example, via coverage of events and initiatives in local media.

Of course, it makes little sense to launch out into a major 24/7 safety programme if you have not got the basics of health and safety management already in place within the business. As one jaundiced health educator once observed to me about ill thought out workplace health promotion programmes, *'it's no use feeding your employees salad instead of chips at lunch time if you then expose them to carcinogens all afternoon!'*

But the logic of working to keep employees safe while not at work is undeniably compelling. Looking again at the risks of motorcycling, this is increasingly an expensive weekend leisure pursuit (as opposed to **means of daily** transport), especially for male 'thirty somethings' on powerful sports bikes, most of whom are in full time employment (otherwise they would not be able to afford them!). Most of them will have key roles in their organisations. Not only should their employers **be**

wanting them to be riding safely when away from the workplace but when such people are at work they are much more likely to respond positively to management and peer pressure to participate in schemes like 'Bikesafe' which, if they encountered outside, they might well choose to dismiss as a waste of time.

There are many other positive examples of good practice, whether it is finding ways of focussing on safety in the home (e.g. preventing falls of older people) or sending staff out to talk about safety and risk to kids and teachers in schools (both priority areas for RoSPA) or developing links with community groups or sponsoring local safety related campaigns and facilities.

Perhaps what is lacking in this area is some way in which the huge diversity of activity which is promoted under the 24/7 safety banner can be brought together. I hesitate to suggest yet another website but, building on the success of RoSPA's GoPOP site ('Going Public on Performance' – visit www.gopop.org.uk), there might be value in constructing another portal through which hotlinks to pages on companies' sites about 24/7 initiatives could be linked together. Certainly there is massive scope to get organisations involved who have yet to see the relevance of this kind of work and experience from those cases that we come across in RoSPA shows that there is great enthusiasm among safety professionals, safety reps and employees themselves for expanding the safety agenda at work so that it can reach out and protect people more widely.

Readers' views would be welcome.

September 2004

On Mature reflection

Those readers of this column who have been following statements by DWP Secretary of State, Andrew Smith, and others about the retirement age may have wondered whether there are any implications for health and safety associated with people continuing to work on into their seventies and even their eighties. Certainly Britain has an ageing population. There are clearly powerful economic arguments for encouraging people to remain in work beyond the statutory retirement age. The cost to tax payers of maintaining an increasing number of older people is clearly enormous and growing. Anything that can be done to reduce this cost makes sense to the Treasury and to politicians. But is it necessarily the best option? The Government says that it is not going to force people to work beyond the present retirement ages for men and women but clearly cynics might argue, once new patterns have been set, what was once optional might become less so as time goes on.

For many the sudden and dramatic rupture that occurs with the world of work once the retirement age is reached is quite traumatic and even dysfunctional. Many older people value the opportunity to go on working, if only part-time, for personal, economic and social reasons. Also, businesses lose access to vital expertise if and when experienced people are retired prematurely. How often do we hear about the impact on business of the loss of corporate memory when people are retired early? On occasions this can be particularly acute when safety lessons, which have been built up over decades and embedded in the memories of key individuals, are suddenly lost when they retire. Railways come to mind here.

Several commentators in the broadsheets have pointed out that the present Government seems more committed to the work ethic and the alleged improving power of work than the most ardent of the Victorian reformers. Certainly work does help to give people self-respect, income, hopefully independence and a network of social contact, which is vital to their psychological well-being. These are strong arguments in favour, for example, of the Government's plans to promote rehabilitation and to get some of the three quarters of a million people deemed unfit for work for various reasons back into employment. But there is another side to the over positive culture of work which has been built up in recent years. People are working longer hours than ever before in the cause of maintaining competitiveness. There is a major stress epidemic and a massive burden of musculo-skeletal problems arising from over-work and badly designed work. In short, work wears people out; their minds as well as their bodies. But perhaps more significantly it robs them of the time and above all the energy they need to be able to invest in their relationships, in their personal development and in their numerous contributions to society outside the workplace. Work has a price tag attached. That is why so many workers quite legitimately seek early retirement, wanting to make maximum use of the latter part of their lives, particularly when they are still relatively fit and healthy. Critics might suggest that, while many of the relatively well off may support Andrew Smith's approach and choose to work on beyond retirement, it is poorer older people (many of whom already experience greater health and other disadvantages) who will find that they are obliged to continue to work in order to maintain their incomes at a realistic level.

And perhaps we need to challenge the one of the other great myths that has emerged alongside the post-modern work ethic, namely the promotion of eternal youth. This is pushed on every side as not only a desirable state but compulsory, with age-related boundaries, be they intellectual, sexual, aesthetic, athletic and so on, being forced back at both ends of life so that youngsters have foreshortened childhoods and old people are no longer allowed to grow old gracefully.

What therefore does all this mean to the health and safety professional? Should we not also be contributing more to the current debate?

Certainly there are concerns that ageing can increase risk. Older people may not be as strong or have the same powers of endurance as younger employees. This may have implications for safe manual handling, for example, or work which requires sustained effort or high peaks of sudden exertion. Older people's cognitive powers can decline (including not only eyesight but attention span, interpretation of information and reaction times) their sense of balance may not be quite what it was and they can be more prone to sleepiness at certain times of day. There has been concern over many years, for example, about the apparent problem of agricultural tractor accidents involving older workers who have driven such equipment all their lives but suddenly make quite elementary mistakes with disastrous consequences. In many instances it is suggested they have not realised the extent of deterioration in their abilities which has crept up on them without their being aware of it. Also, many frail older people may be less able to withstand both the physical and psychological effects of major accidental trauma and may make slower and less complete recovery than younger accident victims. (This can affect the way the severity of risks is estimated.)

Also, of course, ageing may have implications for managing occupational road risk. There is clear evidence that road accident frequency increases in later years. The law requires that drivers over seventy have to get medical confirmation that they are still fit to drive, and they have to reapply for their licence every three years thereafter.

And beyond safety there are occupational health and ergonomic issues too. For example, work which is normally done standing may need to be adapted so older people can sit down for some or all of the time. Means of access or machinery controls designed for super fit 'thirty somethings' may not be appropriate for most people in their late sixties or early seventies. Older people may have personal health needs which require to be taken into account. Patterns of working time may need to be adapted. The control of certain hazards to health may need to be stricter, for example control of noise at work to protect older people who may already have significant hearing loss and who need to safeguard even more carefully that which remains. This principle can apply to many other health deficits too.

From an alternative perspective, I have on occasions heard cynics suggest that older people at work may not need to be so well protected as younger employees, for example, from chemical carcinogens with long latency - or ionising radiation - because they are unlikely to live long enough for the associated cancers to express themselves.

That anyone would adopt such a callous approach seems pretty implausible. The much more obvious danger is not that older workers will find themselves the victims

of inadequate protection but of discrimination based on over-cautious and risk-averse approaches by employers and their advisers, fuelled possibly by advice from their insurers and others. Too often we hear that something quite innocuous has been prevented ‘..because of health and safety’. How long will it be before less-than-professional safety advisers start to say that older workers must be retired because their employers cannot meet the requirements of health and safety law to protect them or that they may be exposing themselves to an unacceptable risk of common law claims following accidents or health damage experienced by older employees? Indeed this kind of discrimination may already be happening on a much wider scale than we realise. There have already been some uncomfortable (and, for the mostly part, unnecessary) frictions between the Health and Safety and Disability Discrimination agendas. Will this now be repeated as new legislation to outlaw age discrimination is introduced? It is worth perhaps bearing in mind that new technology (including IT & power systems) is revolutionising the workplace, encouraging an increasingly sedentary lifestyle. You no longer have to be physically fit to operate machinery or contribute in a typical office environment. Relevant knowledge, enthusiasm, reliability and a mature and constructive attitude will arguably become more important differentiators in the employment marketplace, increasing the relative value of more experienced members of staff.

Of course the key to tackling potential health and safety problems associated with ageing is to take account of relevant factors in the process of risk assessment - and not with a view to seeing where older workers may need to be excluded but to identify potential problems and to see what adjustments can be made to meet their health and safety needs. This needs to be done not just in a generic way but take account of the circumstances and health needs of each individual; another powerful argument for employers to have access to adequate occupational health services and advice. We need to remember that people age at different rates, some remaining extremely active into their nineties even, and that their expectations and capacities vary enormously too. And nothing can accelerate decline in this sense quite as dramatically as the over-protective blandishments of younger peers.

Clearly then we need to work towards a risk and evidence based approach. Much more research appears to have been done on this issue in Australia and in France, for example, than in the UK, although there are signs that HSE are now beginning to focus on this area. Hopefully this work can draw on insights from the sociology of ageing and views from older people themselves as well as expertise in areas such as medicine and psychology. We all get older and we all have only one life to live. My personal view is that we need to rethink our approach to ageing, particularly in western societies, challenging it in some respects, valuing it more highly as well but also growing more accepting of its inevitability. The workforce will get older and this will pose challenges for everyone on the employment scene, not just health and safety professionals. We need to ensure that our approach is sensitive, rationale, flexible and, above all, tailored to meet the needs of individuals.

Readers’ comments would be welcome.

January 2006

Parting Shots

Raising global OSH standards

► **Records show** that every year since 1945 more people have died globally from work-related accidents and diseases than have been killed in wars. RoSPA's occupational safety adviser, **Roger Bibbings**, argues that there is a lot more that UK bodies could do to raise health and safety management standards on a global scale.

Lord Hunt, Minister with responsibility for health and safety at work at the Department for Work and Pensions, stresses quite rightly that in the UK we have an approach to health and safety that leads the world. Our safety record at work and on the road is almost unrivalled. There may still be many gaps in work-related accident prevention in the UK and we still have some way to go on occupational health, but compared with working conditions in emerging industrial nations we have something we can really be proud of and which we can share with other countries.

In an increasingly globalised economy, arguably the real challenge to be confronted is how to improve safety and health at work, particularly in those countries where standards of protection at work are often very poor or non-existent.

While much of the argument about 'sustainability' and global economic development has focused on issues such as the environment, global warming and political rights, the protection of workers and people affected by work activities from the hazards of work on a global level has largely been overlooked. It is a sad but poorly publicised fact that around the world every year since 1945 more people have died from work-

related accidents and diseases than have been killed in wars!

There are a variety of international agencies which seek to promote better worker protection globally but their impact is still quite limited. UK bodies such as the Health and Safety Executive, RoSPA, IOSH etc do already play an influential, but largely unpublicised role, in assisting international bodies such as the International Labour Office (ILO) in Geneva and the International Association of Labour Inspectors (IALI), but there is still much more that the UK could do to help raise standards of health and safety management globally, particularly in India, China and Pacific Rim countries.

Five years ago, RoSPA raised this issue with the Department for International Development (DfID), proposing that health and safety at work be made a much stronger feature of UK-sponsored development projects. We argued the case (unsuccessfully as it turned out) against the stereotypically negative view that health and safety was a regulatory constraint, suggesting that instead it should be seen as a positive influence and something which we in Britain could be proud of and which we could help to spread throughout the world.

RoSPA has continued to argue that the Health and Safety Commission and Executive

(HSC/E) need to be funded to look beyond Britain to see how they can play a much more powerful role internationally. HSC/E have a 'vision' which is "to see health and safety as a cornerstone of a civilised society" and, with that, "to achieve a record of workplace health and safety that leads the world".

While there is still a good deal of work to do in the UK, gaining recognition of health and safety as a "cornerstone of a civilised society" has arguably an important international as well as domestic dimension for bodies like HSE, for example, through their participation in efforts to promote health and safety in developing countries. In this sense, developing an approach to health and safety "...which leads the world" has two inter-related meanings here!

Last year, the Prime Minister made a speech to the Institute for Public Policy Research (IPPR) in which he urged the UK to abandon 'compensation culture', in favour of what he called 'common sense culture' (see: www.number-10.gov.uk/output/Page7563.asp) His main theme was that current approaches to risk in the UK and EU were seeking to eliminate all risk and this was having disastrous results for Britain in an increasingly competitive world. At one point he said: "We lose out in business to India and China, who are prepared to accept the risks." (Whether it was all risks or only small risks that the Indians and Chinese were prepared

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to take was not made clear.)

RoSPA is very supportive of the PM's call for 'sensible safety', there certainly seems to be too many reports of badly advised organisations and individuals going 'over the top' in the name of health and safety (but of course we never hear about the millions of well balanced safety decisions that are made everyday. Successful prevention is never news!).

The point about India and China, however, is that their approach to risk taking and to occupational health and safety (not to mention road safety), far from being an advantage to them economically, is actually a huge source of inefficiency. (Accidents impose massive business and social costs and represent a huge drain on resources.)

More worryingly, the huge toll of work-related accidents and disease in the Chinese economy (it's mining safety record is appalling and an absolute scandal) is a human tragedy of massive proportions.

Accidents in developing countries affect the poor disproportionately and in turn (in the absence of welfare benefits, compensation and rehabilitation) are also a huge contributor to poverty. The impact of accidents on productive capacity, on families and on developing societies is huge and yet rarely, if ever, does talk of better safety figure in debates about 'sustainability'.

Human right

Health and safety at work should be the starting point in deciding whether economic development is sustainable. If it is not sustainable for the worker, what chance is there that it will be sustainable for consumers, for communities, for nation states or indeed the planet? Better safety needs to be seen as a development enabler and not a restraint on development, and it certainly should not be seen as a luxury to be afforded only when economic performance has improved.

Effective protection from the risks of work needs also to be seen as a key strand within the overall human rights agenda. (What more basic right is there than the right to earn one's living in safety?) But there are also powerful economic reasons for the UK and other EU Member States to be campaigning the case for higher minimum health and safety standards, as this would create a level playing field in terms of international competition.

For example, little was heard in last autumn's row over the oversupply of textile goods from China about the need for the EU to seek adoption and implementation of common worldwide health and safety standards. This contrasts with the major emphasis

that was placed on creating common European H&S standards (far from realised in practice however!) in the run up to open market in the EU in the early 1990s.

Then the talk was all about preventing 'social dumping' but now what is the price advantage attached to many imported goods in terms of accidental injuries and work-related health damage such as occupational deafness, respiratory disease, musculoskeletal disorders, cancer from dyestuffs etc, suffered by workers?

Some commentators in both the 'fair trade' and 'free trade' camps seem to suggest on occasions that trying to impose the developed world's work safety expectations and standards on developing countries is either a form of neo-colonialism or a covert form of protectionism.

Yet when one looks into the matter in more depth it is clearly a myth that developing economies cannot afford decent health and safety standards and that they can only reach their goal of future prosperity by travelling along a road paved with the bones of the victims of accidents and diseases which they could not afford to prevent.

The hard won lessons about how to protect the workforce which were learned in the course of two hundred years of industrialisation in Europe, are available today to the whole world via the Internet at the click of a mouse. And, in the vast majority of cases, the costs of what are often relatively simple protective measures are well within budget of most enterprises, even those in Africa, India and China. What is lacking arguably is respect for human rights and the political will to put in place civilised working conditions.

RoSPA is now in its 89th year and we want to find ever more relevant areas in which we can continue to play an influential role in helping to reduce accidents and ill health at work. We are also focused, of course, on improving safety on the road, in the home, in water and leisure activities and through safety education in schools.

Every country must establish its own safety priorities and solutions, but there is no doubt that RoSPA and other key players in health and safety in the UK should be playing a much more effective role in helping colleagues in developing economies to learn from what we have achieved in this country. We should also be helping such countries to learn from one another and from the experience of the wide range of experts with whom we maintain contact across the whole safety and ill health prevention field.

For example, through our contacts in a

variety of international fora we meet and work closely with safety experts from around the world. We train many delegates from overseas and are pleased to have delegates from a wide range of countries at our various congresses.

Moving forward

Looking at the global health and safety scene there are obviously many areas of current activity to be taken into account. There is the excellent work of bodies such as the ILO, IALI and WHO; there is the potentially much greater role that might be played by EU H&S institutions; there is the H&S role of the international trades union movement; there are very many trans-national companies committed to better H&S standards; there are numerous bodies focused on international development and alleviation of poverty (but who lack expertise in OS&H); there are really positive examples of unilateral H&S aid from particular nations (the Scandinavians, for example); and there is the international work of numerous professional bodies, academics etc.

How much more effective one wonders, might all these efforts be if they were joined in a broad alliance with strong support from leading industrial countries? Such a thought might seem totally naive and may not be fully cognisant of everything that is happening in this sphere at present. But it represents a goal which RoSPA believes must be incorporated within wider efforts to secure economic development and social justice.

We need to promote a wide-ranging discussion to help scope possible interventions in the area of safety and health in developing economies. What should bodies like RoSPA be doing to get H&S higher up the international development agenda? For example, should we be amongst other things:

- Lobbying and partnering with government and NGOs to integrate health and safety risk management into their various aid and development programmes?
- Campaigning for a stronger focus in trade initiatives on safety and health?
- Providing information and expertise?
- Training key professionals in developing countries?

Whatever we decide we might do, it is clear that new efforts on these lines would need substantial extra resources, as well as expertise and the guidance of experienced people of vision with position power and influence able to make a real impact.

Reactions to the issues and ideas raised in this article should be sent to: rbibbings@rospa.com



Safety education

► **The Revitalising Health and Safety strategy** launched by the Health and Safety Commission and the government in 2000 contained a number of action points which focused on the need to include a “more extensive coverage of risk concepts and health and safety skills” at every level of the curriculum. RoSPA’s occupational safety adviser, **Roger Bibbings**, examines what progress has been made in putting these points into action.

One of the key themes raised strongly in 2000 by respondents to the Health and Safety Commission’s (HSC) consultation on ideas for ‘revitalising’ health and safety was the need to invest in safety and risk education.

Although it was not raised specifically in the *Revitalising Health and Safety* (RHS) consultation document itself (which looked at what was needed generally to lift health and safety awareness and performance in the UK), many people who commented took the view that part of the solution had to be a stronger and more joined up approach to teaching safety and risk management – from the earliest stages and on through undergraduate and professional education.

In fact, 65% of respondents specifically mentioned that more should be done in schools, with a third of these suggesting greater coverage in the National Curriculum.

Recognising the strength of feeling on this issue, the RHS plan contained an important action point (number 33 of 44) which stated: “The revised National Curricula in England (from September 2000) and Wales (from August 2000) will include more extensive coverage of risk concepts and health and safety skills at every level.”

It continued: “One significant change will be the approach to health and safety. Instead of treating this topic as a matter of following rules, pupils will, where appropriate, be taught to understand hazards and risks and how they should be managed. This better reflects the nature of society where we all face a multitude of risks and need to know how to cope.”

RHS went on to stress that health and safety would receive more focus in personal, social and health education in schools, as well as in work experience programmes.

A further action point (34) committed HSC and the government to ensure that risk management was embedded in the undergraduate and continuing education of safety significant professionals such as engineers and architects, although curiously it omitted any specific reference to the training of business professionals such as senior managers.

To implement action point 33, HSE put a small amount of staff and financial resource in place to carry out research and to begin to evaluate a variety of school-based safety education. Work was also done through the professional engineering institutions to try to improve approaches to risk education in their particular fields of education.

Progress

After five years it is perhaps time to take stock. Clearly progress has been made, but worryingly the clear focus on risk education that was contained in RHS has not been maintained in the HSC’s latest strategy statement – *A strategy for workplace health and safety in Great Britain to 2010 and beyond* (www.hse.gov.uk/aboutus/hsc/strategy.htm).

Most obviously over the last five years there has been continuing focus in schools on traditional safety education for children as a spiral thread in the curriculum with much practical attention given to themes such as road safety, safety in sports, outdoor activities, school trips, science, art, craft, design technology etc.

There has also been an apparent growth in concern by teachers about their liability in the event of injuries to pupils, for example, on school trips and so on. At the same time there has also been an overhaul of the approach to safety in work experience and the development by the Learning and Skills Council (LSC) of the ‘*safe learner framework*’ designed to ensure safe and supportive learning environments for over six million learners in England and Wales who are involved in LSC funded schemes.

The government are extremely concerned about ‘inappropriate risk aversion’, that is people avoiding otherwise manageable (or even trivial) risks because they fear being sued or prosecuted in the event of accidental injuries. Although the government accept that there is no hard evidence to suggest a rise in claims or settlements for personal injury claims, it feels there is a common perception that Britain is living in a ‘claims culture’. The evidence base for this, however, is unclear.

Yet in the moves to combat ‘risk aversion’ little reference has been made by Ministers to the need for a coordinated national approach to improving risk literacy as a long-term social goal, although this did emerge as a theme in a web debate on ‘*sensible safety*’ which the HSC initiated recently at the government’s invitation.

Curiously, in campaigning the case for so called ‘sensible safety’ the HSC/E have not given as much prominence as they might have done to HSE’s key publication on risk – *Reducing Risk Protecting People* (R2P2) (www.hse.gov.uk/risk/theory/r2p2.htm), ►

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perhaps because they feel this may be too technical for a lay audience and not relevant to current social concerns about risk.

More worryingly, the small amount of internal HSE resource devoted to safety and risk education has now been moved elsewhere and the focus has swung onto building safety concepts into vocational education. The latter is clearly very important but arguably is no substitute for empowering young people by equipping them with the understanding and skills necessary to make their own judgements about safety issues.

Research by the Health and Safety Laboratory (HSL) (report numbers ERG/03/03, ERG/03/04 and ERG/03/19) has shown broadly that, while progress has been made in improving safety education in schools, the focus is still very much on teaching safe practice rather than helping young people to understand risk. Teachers themselves have a poor appreciation of key risk concepts (such as hazard, risk tolerability etc) and there appears to be a dearth of useful guidance and good teaching materials.

The HSL research, however, underscores the value of a 'whole school safety – teaching safely, teaching safety' approach – using good health and safety management in schools as the platform for promoting a powerful educational approach to risk.

At the same time there has been an exciting growth in experiential learning schemes such as LASER projects (Learning About Safety by Experiencing Risk), (see: www.rospace.com/safetyschool/laser/overview.htm).

A three-year LASER project funded by the Department of Health began at RoSPA in April 1999 with the ultimate aim of establishing good practice guidelines for interactive safety education schemes for children such as 'Crucial Crew' or 'Junior Citizen'. LASER schemes have proliferated throughout the UK since 1986 when the first 'Junior Citizen' programme was established in London. Such initiatives now attract some of the greatest efforts in accident prevention education for 9-11 year old children.

Further up the education ladder, coverage of safety and risk concepts has been incorporated to a greater extent than hitherto into the training of architects and engineers. (An interesting example is the 'Liverpool Engineer' (www.liv.ac.uk/engdept/pros_ugrad/) approach to building risk management concepts into undergraduate courses.)

What is less clear, however, is if and how risk is being covered in business education, not only in relation to health and safety but in the context of Turnbull etc. Some interesting work is underway, for example, to create an innovative 'elective' as part of the

MBA programme at Edinburgh Business School, but generally little has changed since RoSPA/Aston University research in 1999 showed little interest in this subject in leading business schools (www.hse.gov.uk/research/journals/mrn12.htm).

And there are undoubtedly many other quite significant developments which deserve mention.

One key question, however, remains, namely what is required to create a renewed, national and coordinated strategy for safety and risk literacy?

Some of the ingredients for such a strategy might include:

- a new national, web-based alliance of risk educators, researchers, promoters etc. united around a common 'mission statement';
- new consortia of pioneering and pathfinder risk education projects;
- a new focus on the teaching of risk in the training of teachers and lecturers;
- establishment of a risk education research forum to share and compare findings and identify unmet research needs;
- development of better resources for key groups, from school students, to teachers, to managers, media professionals etc;
- re-establishment of ILGRA (Interdepartmental Liaison Group on Risk Assessment see: www.hse.gov.uk/aboutus/meetings/ilgra/). This was an informal committee of senior policy makers on risk issues;
- continuing focus on risk education in vocational qualifications and training;
- a new version of R2P2 and a reaffirmation by Ministers of the ALARP ('as low as reasonably practicable') triangle, risk tolerability etc as key concepts in UK policy making;
- a new focus on risk education as part of 24/7 safety by employers; and
- a clear national policy lead to be given to HSC/E.

RoSPA has drawn up its own 'vision' for safety and risk education which aims to promote safety awareness and risk literacy relevant to all levels in society, from nursery school to the education of safety significant professionals, the media and key political decision makers (see: www.rospace.com).

Means of achieving this vision include: a clear focus in all education processes on the development of risk management through an understanding of risk assessment; a continuing commitment to research into how young people and adults learn about safety and risk; a clear commitment by the government, backed by adequate resources; an integrated approach to safety and risk across the curriculum in England, Wales,

Scotland and Northern Ireland.

How might RoSPA help drive the risk education policy agenda in this direction?

The task is massive but it is worth remembering that RoSPA's National Safety Education Committee exists to create a national focus for long-term change, bringing together experts and representatives of key stakeholders and arguably it represents an excellent forum through which to help coordinate a more cohesive national strategy.

There are many problems to be faced in winning support at higher levels of government for a strategic approach.

- Firstly, Ministers and policy advisers themselves may not have a sufficiently well developed understanding of key risk concepts and their importance to skills and citizenship.
- Secondly, at national government level no one owns 'safety' – it is a responsibility embedded in many agendas. It is not the single focus of any Minister. Even HSC/E only engage with safety in relation to work-related risk and not other areas such as road safety or important public health issues.
- Thirdly, many specific safety regimes are still rule (not risk) based, although increasingly young people especially are expected to be able to make complex safety judgements, be those related to sexual health, personal safety, risk taking in leisure pursuits, and increasingly they are expected to be able to cope adequately in the face of numerous kinds of uncertainty.
- Fourthly, risk education is a long-term investment where full results may not be visible for a generation, although undoubtedly some short-term quick wins may be demonstrable.
- Fifthly, there are still some fairly big gaps in the evidence base about what works, although to postpone action until all 'known unknowns' are resolved risks 'paralysis by analysis'.
- Sixthly, teachers who feel under pressure to deliver in a wide variety of areas, may not fully understand all the gaps in their knowledge and may resent what they might perceive as imposed solutions.

The key to tackling these obstacles undoubtedly might lie in finding a specific and critical project or campaign which focuses all the dilemmas and challenges in one area. What that critical challenge is remains unclear but clearly it is part of RoSPA's role to maintain the pressure for development and change. If we do not do this it is not at all clear who else will?

Comments to: rbibbings@rospace.com

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Word search

► **Why 'occupational' safety and health?** In a world filled with jargon and acronyms, RoSPA's occupational safety adviser, **Roger Bibbings**, examines the history of the term 'occupational' and discusses how relevant its use is in the OSH field today.

It is sometimes suggested to us in RoSPA that the term 'occupational', when used to describe safety and ill health prevention in and around work, is not all that clear. Some people have even said to us in the past that it sounds very much as if we are experts in therapeutic basket weaving! Those coming from outside the field who say this may indeed have a point which we as OS&H professionals can't see.

Language is important. Every community in life develops its own terminology, jargon and acronyms, which it is then very surprised that other people do not understand. Equally, specialist communities can get very angry when you start to use common English words – to which they have attached a special meaning to in their field – in other contexts. I have noticed, for example, that the field of social care seems to be awash with terminology which, if you do not use it correctly, immediately identifies you as being 'not one of us'.

As a bit of pedant, I must say that recently I very much enjoyed reading John Humphrys' *Lost for words* (www.timesonline.co.uk/article/0,,2092-1325184,00.html) and I love the BBC4 show *Never mind the full stops* (www.bbc.co.uk/bbcfour/features/fullstops). I have a particular objection to turning nouns into verbs, for example, in social care they have 'statementing' and, worse still, 'statemented'.

Before going further, of course I should say we in safety need first to 'take the beam out of our own eye' as it were. The language around safety such as 'hazard', 'risk', 'danger', 'assessment' etc is used in a very defined way. Some years ago the doughty John Rimington (builder and defender of HSE during the challenging years of Mrs T) produced a consultative document on terminology used in safety and risk regulation.

It never really moved us that far forward though.

One of the problems at the time was that, quite apart from linguistic confusion in the UK, our officials in Brussels and Luxembourg were always at loggerheads with the French in negotiations when struggling with the wording of EU directives.

Their opposite numbers from Paris were never very clear about the equivalence of their word 'risque' with the Anglo Saxon, 'risk'. In French this word sits somewhere between hazard and probability of harm and reflects more honestly perhaps the confusion which most people this side of the channel still have about these ideas.

But to return to the term 'occupational', one of the reasons it has stuck in the health and safety lexicon is that it is part of so many titles: the 'Institution of **Occupational** Safety and Health', the 'Society of **Occupational** Medicine'; the 'British **Occupational** Hygiene Society' and so on.

History

Before the *Robens Report* of 1972 the dominant term was 'industrial safety'. (IOSH was originally the 'Institution of Industrial Safety Officers' which came out of RoSPA.) In that era we had the report of the Joint Industrial Safety Council of 1956 (which in fact contains all the essential ideas for managing health and safety at work that are contained in HSE's *Successful Health and Safety Management* (1991) and BSI's later *Health and Safety Management Systems* – from which in turn OHSAS 18001 is derived (that term 'occupational' getting in again!).

And going back in time and sitting alongside 'industrial safety' we had 'The Diseases of Occupations' from one of the great pioneers of 'occupational' medicine, Donald Hunter (preceded by other pioneers such as

Sir Thomas Legge).

The *Health and Safety at Work Act* of 1974 widened the scope of the employer's duty of care and went beyond the detailed technical regulations that were listed in Redgrave's (one of the earlier chief inspectors of factories) *Health and Safety in Factories*. (Incidentally both Redgrave's and Hunter's 'bibles' are still in print.)

Post '74 the subject now embraced in effect all employment and all economic activity (although more specific safety law such as aviation, maritime, food and safety of medicines etc, remained in place).

One very important thing which the *Health and Safety at Work Act* did of course, was to extend the employer's duty of care to ensure protection of the public from work-related risks. Arguably in the last six years HSE has sought to limit its address of enforcement of duties under *Section 3* of the Act (the duty of employers to protect the public) and has instead paddled its strategic canoe up the creek of 'worker health and safety'.

In 2004 however, notifiable work-related accidents actually claimed the lives of more members of the public than those of employees and the self-employed. [Again, Rimington used to say that worker safety was a dead volcano whereas safety of the public was the bubbling Krakatoa! – HSE has lost railways. We've just had the first report on Buncefield and Tony Blair has put nuclear power generation back on the agenda. I rest my case!]

Interestingly however, the Health and Safety Commission and Executive (HSC/E) have never really embraced 'occupational' in their overall branding. In certain specialist fields the term had wide use in terminology such as 'Occupational Exposure Limits' (which sat under the tougher but more

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limited list of Maximum Exposure Limits) but of course these have now been merged into WELs (Workplace Exposure Limits).

Also, when considering options for changing OS&H terminology what is clear is that the HSC agenda has shifted in recent years very much more towards health.

Whereas we used to say all the time that 'health' was the poor cousin in the 'health and safety' couplet, now we are in danger of the reverse being the case. On the other hand, if HSE accepted the massive logic of bringing work-related road safety – or 'Managing Occupational (that word again) Road Risk' – into the list of priorities, that imbalance might be corrected.

Nevertheless what has to be recognised is that in a 21st century service-based economy, HSC/E's 'health' agenda is less to do with the Legge/Hunter world of gross industrial poisonings and is much more to do with the 'pain and strain' agenda associated with MSDs (musculoskeletal disorders) and stress. Again we have jargon creeping in.

MSDs are what the person on the top of the Clapham omnibus would understand as backache, frozen shoulder and wrist pains. On the other hand, everyone thinks they understand the meaning of stress whereas from a professional standpoint it is particularly hard to define.

More recently HSC has put a lot of effort into connecting with the government's agenda of promoting rehabilitation and reducing days lost due to sickness (whether work-related or not) to combat the effects of social exclusion and to help save money for UK Business and HM Treasury. Arguably this is actually quite a long way outside their terms of reference and core business but it is still a worthwhile cause. It has led however to even more arcane terminology such as HSE's 'Fit3' programme ('Fit for work, Fit for life, Fit for the future') which has a particularly strange feel redolent of much New Labour pastiche.

The underlying HSE 'health and work' agenda is actually very positive and is all about helping businesses to manage the ill health which people bring with them to work, as opposed to just sending them home undamaged at the end of the day. This concept has now been refocused in the government's multi-stranded 'Caring for our Future' agenda which addresses the health and 'well-being' of people of working age.

The term 'well-being' used in this context is really quite useful and is drawn from the slightly more all-encompassing definition of 'occupational' health used for many years by the UN's ILO (International Labour Org-

anisation) and the WHO (World Health Organisation). From a RoSPA standpoint it is particularly useful because it fits with our idea of '24/7' safety (Americana which some people dislike but we're sticking with it) – which is all about using the workplace as a platform to promote the safety of staff when they are not at work.

In fact, accidents outside work may account for up to a fifth of all days lost to the UK economy! We have still had to argue this point hard, however, with those civil servants who see safety as something separate from health. Accidents are bad for health (sometimes they kill you!) and thus safety has to be a big part of wider public health strategy.

But to return to this old fashioned term 'occupational'; if one were totally cynical it could be said that one of the main reasons it persists is simply because of the bureaucrat's inherent love of acronyms. (We in RoSPA are quite good at generating new ones as many of our readers and supporters will know and some of them like 'MORR' we have actually trademarked as our own intellectual property.)

Meaning

Vowels are outnumbered roughly five to one in the alphabet, which means that if you are an inventor of acronyms, you hang on to any word in your lexicon which begins in a, e, i, o, u. It may seem slightly frivolous perhaps but one of the reasons 'occupational' persists in OS&H is that to dump it would make life so much harder for those who need to find acronyms for lengthy terms used in our field.

But to return to the serious point here which is about communication and conveying clear meaning of what we are all about. There is very good case for a re-examination of the way the term 'occupational' is used, particularly in the context of the current debate about 'sensible safety'.

This latter term is wider in scope than work-related safety but is also perhaps rather too defensive in tone. It has been developed as a riposte to the urban myth fuelled by the *Daily Mail* (their 'Health and Safety Killjoys' slogan) and the likes of Jeremy Clarkson (or the somewhat more sophisticated Simon Jenkins) that '...elf and safety' is out of control and producing a hopelessly risk averse society with disastrous consequences for economy, education and personal liberty.

'Industrial safety' is clearly nineteenth century. 'Occupational' safety and health implies mainly job or task related precautions. 'Workplace' safety doesn't really capture the *Section 3* dimension nor indeed the highly itinerant nature of 21st Century working life.

'Work-Related Safety and Health' is better perhaps but clearly is a quite a mouthful. 'Well-being at work' can encompass safety but is worker focused. 'Health and Accident Risk Management' makes a frivolous acronym (HARM) but at least it speaks of a discipline that is wide in scope and based on risk rather than blind rule following.

A further problem is that, at the level of business (as opposed to the subject as a whole or HSC/E national policy governance), functional responsibility for 'health and safety' gets co-located with environment (so we have the delightful acronym SHE – safety, health and environment); or quality (QUENSH – quality, environment safety and health); or even security and fire which are simply too many letters for even the most inventive 'acronymist' (used just to prove that it is our freedom to innovate that ensures English is a constantly evolving language!).

If we move on from 'occupational' - which perhaps we need to, which term (or terms) might we use to better describe what we do and stand for? Readers' views welcome, email: ribbings@rospa.com



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Parting Shots

Message tone

► **RoSPA's** occupational safety adviser, **Roger Bibbings**, discusses the practical steps the safety community can take to adjust the tone of its key messages and help change the way people see safety.

The most fundamental of our values in RoSPA is the value we place on human life and well being. Our mission is 'to save lives and reduce injuries'. We want risks to people's safety to be managed effectively, particularly those risks which are created for them by others. We want people to be empowered to make effective choices about how to manage the risks they create for themselves in their own lives, whether at work, at home, at school, on the road or in recreational and leisure pursuits.

To what extent are we being hampered in pursuit of these objectives by failure to get the tone of our key messages right?

In recent years, the case for improving safety has received a less sympathetic hearing in certain parts of the press. Accusations abound of a 'nanny state' dictating what we can and cannot do; of out-of-control health and safety specialists requiring ridiculous levels of precaution to deal with minimal levels of risk; of daft safety rules which limit personal liberty; or of safety experts creating a culture of excessive risk aversion which limits opportunities and imposes massive costs.

When researched objectively, there is little hard evidence to substantiate most of these accusations (although sadly on occasions some less-than-professional advisers are giving bad advice and these cases then tend to get blown up out of all proportion to their true significance).

Most safety regulation it turns out is fair

and balanced, and most safety measures are valued by the people they are designed to protect or on whom they place duties. There is no real evidence that we British are becoming a nation of wimps.

On the other hand it would be wrong to dismiss mutterings about over-the-top safety as just the silliness of the 'red tops' – clearly there is concern out there. There is concern that safety is being over-done. There is also concern that the bad press safety is now getting will damage political prospects for further improving prevention.

Balance

During the last year I have been sitting, together with people from various national bodies, on a working group of a committee set up in the Department of Constitutional Affairs on 'Risk Management and Affordable Insurance'. One of the ideas to emerge, is a co-ordinated plan to persuade a wide range of stakeholders to communicate a series of balanced messages about risk, risk management and people's rights to compensation, particularly when they have been hurt due to the negligence of others.

HSE has made a start with its 'sensible safety' campaign but the whole subject needs a much more concerted communications push.

But there are perhaps more critical factors underlying all this than simply the need to get the facts across. It is perhaps more a question of understanding better how people feel deep down about risks and safety in contemporary Britain, and how

these feelings are situated in the wide stream of continuing social and cultural change.

For example, as a society we are becoming much less deferential. Max Hastings wrote an interesting piece in *The Guardian* recently about how this trend may have contributed to a greater willingness than hitherto for ordinary citizens to blame those in authority (who previously they would have regarded as being 'above them' and thus beyond reproach), for errors which have clearly led to harm.

Also, in a society which increasingly values individual choice rather than collectivism, having to follow rules imposed externally on everyone is perceived as being antithetical to freedom and people's right to decide for themselves.

This alleged negativity of feeling towards safety is often expressed in relation to work safety – although survey evidence shows very strong support for H&S law and standards among both employees and employers.

In one sense the fact that some people complain that safety at work has gone too far might simply be a reflection of how successful the health and safety community has been in raising its profile over the last thirty years.

In 1974 when the *HSW Act* came in, health and safety was seen as something limited to machinery guarding in factories or preventing explosions in mines. Now the duty to assess risk in the workplace is all pervasive. Inevitably some people get it wrong and this produces a predictable backlash.

At the same time many others are still

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'under-hitting' on safety and thus failing to stop accidents. And there is still usually a major public outcry (that 'something should be done') when high profile disasters occur.

There is also the problem of safety success. Serious work-related accidents (or accidents of all kinds) are now quite rare, certainly when one compares their frequency in the UK with that in many emerging economies where they are still part of everyone's daily experience.

In advanced economies safety judgements, particularly those that underline design and operating systems, are now so built in to our world that we are not even aware they are there.

As result, accidents that would otherwise happen are prevented silently through high standards of initial integrity and assured, faultless operation. As a result, it is all too easy for those who do not think very deeply about these things to believe that we now live in a totally benign world where any emphasis on safety and accident prevention is out-of-date – a left-over from the dark days of the industrial revolution.

Persuasion

But these things aside, safety professionals do need to think much harder and more creatively about how we sell the case for safety to key audiences, including to those such as commentators in the media who help to shape and mould public opinion.

One of the problems we face in the work sphere is that, in contrast to earlier health and safety law which was very prescriptive, modern safety legislation is much more goal-based and requires people to use risk assessment to decide what level of action is appropriate to control particular risks.

This in turn produces a peculiar sort of ambivalence. On one hand, quite rightly, people want to be free to make up their own minds about how they respond to their duty to control risks. Yet, at the same time, especially when they lack technical competence, they can feel very nervous and exposed. Many feel as if they are being set up to fail.

They are thus tempted to ask the regulators or safety people 'to tell them exactly what they want them to do'. They can then resent the answers they sometimes receive, especially when common sense shows they are clearly inappropriate.

And deregulation doesn't really help. Even if statutory duties are relaxed and more reliance is placed on 'good guidance', this still leaves duty holders exposed to the uncertainties that can arise in avoiding

liability in civil litigation. (No sooner has the regulator backed off than his/her place is filled by a specialist adviser who, with professional liability in mind, tends to give 'gold plated' advice.)

People have got to be persuaded to buy in to the idea of safety and accident prevention and that means that we, as a profession, have always got to be going back to basics to make sure we got 'the offer' right. Are we targeting the right people, about the right issues, in the right way? Have we really got and are we delivering not just what people need but what they actually want?

Freedom and choice lie at the heart of the problem here. Of course you cannot be free to choose which side of the road you drive on or whether or not you take measures to control the exposure of your employees to toxic substances. But, on the principle that enthusiastic consent is far more effective than grudgingly compliance, the delivery of effective safety in society must rest primarily on choice rather than compulsion. (Compulsion may be necessary to tackle the hopelessly reckless or the obdurate.) In most spheres, however, safety does tend to come across to people as a 'must do' whether you like it or not.

Action

In practical terms therefore what steps can the safety community take to adjust the tone of its key messages and help change the way people see safety? Here are some suggestions:

- Firstly, **always ask and listen**. What do people think and feel about risks? What do they think should be done about them?
- Secondly, continue to **explain the benefits of safety and accident prevention**, especially the benefits of a proportionate and balanced approach to managing risks. (Even where significant risks are accepted because of cer-

tain benefits, the latter are likely to be severely diminished if people have accidents which could have been prevented quite easily.)

- Thirdly, **simplify as much as possible**. Cut the jargon and treasure the English language. If you cannot explain complex ideas using simple words, it's a sure sign you do not understand them fully yourself!
 - Fourthly, **empower people to choose**. Those who create and are exposed to risks are usually the best placed to decide how risky things really are and how safe they need to be made – recognising of course that the scope for freedom of choice around safety is much greater in the private sphere such as the home or in leisure activities than it is in public (and thus more disciplined) domains such as the workplace, the road or in education.
 - Fifthly, **help and advise**. Do not impose your view. Provide information, tools, signposting and assistance.
 - Sixthly, **congratulate and celebrate**. Success in safety is largely invisible. The diligence and consistency required to ensure risks are assessed and controlled is, for the most part, unremarkable. Results are measured as continuity of the normal condition, hardly headline grabbing stuff! Ensure those who act safely are identified and thanked.
 - Seventhly, **re-educate before resorting to punishment**. Always invite the non-compliant to take stock. Get the miscreant to want to change.
- Viewed in this way, changing the tone around 'safety' has perhaps as much to do with re-examining some of our own basic assumptions, for example, about rights and responsibilities, as it does with simply changing our style. Advocacy as opposed to autocracy should be our watchword. But it's not easy.

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Parting Shots

Suffer little children...?

➤ **The situation in relation to child employment** is changing, both in relation to its place in education and the way it is regulated. RoSPA's occupational safety adviser, **Roger Bibbings**, explains why the time is right for the introduction of a single health and safety assessment framework for all young people at work.

Recently, I attended a very interesting seminar convened by the National Society for the Prevention of Cruelty to Children (NSPCC) to consider the next steps in the reform of the law which is supposed to govern the employment of children aged between 13 and the minimum school leaving age (MSLA) of 16.

Far more children, particularly at Key Stage Four (14-16), are involved in part-time work outside school hours than is generally realised. Some estimates put the proportion as high as 60%. By law such employment is only supposed to be in work activities such as retail or newspaper delivery and not industrial type work. In theory, children should not start work before seven in the morning and should not work after eight at night. (This applies even in the school holidays.)

Employers have to apply for a permit from their local authority (LA) to employ children below the MSLA, but the process of issuing permits just does not work.

Firstly, most employers are not even aware of the requirement to secure a permit.

Secondly, if employers did apply to their LA for a permit, there would not be enough local authority staff – for example, education welfare officers (EWOs) to carry out the background work.

Also, model bye-laws governing child employment have been adapted by local authorities so extensively that there are numerous variations in requirements and this can cause problems for those such as the film industry who may have permits at studio level from one LA, but have to apply all over again to other LAs when they take child actors out on location.

There are international legal obligations to control child labour and current legislation in the UK goes back a long way to the 1930s and before, but there seems to be a good deal of uncertainty about what exactly the law should be seeking to achieve in this area:

- is it to prevent exploitation of children as a source of cheap labour?
- is it to prevent their exposure to substantial hazards?
- is it to ensure they are not overworked and so have enough energy for school?

It is generally accepted that a certain

amount of worked-for-income by children at some stage is a good thing; to help build their confidence and self-reliance, to foster disciplines such as turning up on time and to learn about the link between work and income. Indeed, so important are these and other key aspects of work that 'work experience' is now a key feature of education, with over 600,000 children in England and Wales now on work experience programmes.

What seems a little ironic, however, is that rarely is there any link in practice between the income earning work that most of these children will do in their spare time and their involvement in work experience placements organised by schools as part of the curriculum.

On the other hand, unlike much of the part-time work which children do, these placements allow children to be involved in work under controlled conditions in factories, motor vehicle repair workshops and construction areas where otherwise they would be prohibited by child employment legislation from engaging.

Thus, one of the main questions to arise from the NSPCC seminar was that, given the increasing agenda regarding work-related



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learning, especially with 14-19 Diplomas on the way, isn't it time that more consideration be given to accrediting some or all of children's part-time employment in this process?

Another issue that was raised at the seminar concerned the checks that are, from October 2009, to be carried out by the Independent Safeguarding Authority (www.isa.gov.org.uk) on the suitability of adults to work with young people. These checks are required where the adult's main work activity involves working with children in places such as schools, activity centres etc. Should these checks be extended to employers and their staff taking on children on work experience programmes or indeed to employers (and their staff) offering part-time employment to children?

One view was that anyone with a past history that would make them unsuitable for working with children should be prohibited from providing work of any kind for young people (or working alongside them). On the other hand, it was recognised that the increase in the level of checking involved would be massive and that this could well kill off part-time work for children below the MSLA. The risks need to be seen in proportion.

Many other points were raised at the seminar: what happens when the MSLA goes up to 18? what about the views of children themselves? should we be extending the workplace rights and the expectations which adults have of the workplace to children, for example, issuing children with NI numbers or guaranteeing them minimum rates of pay?

Clarification

It was generally accepted that the risks associated with child employment need to be clarified so that any new regulations are flexible and appropriate – not heavy handed and that their scope needs to encompass not just mainstream health and safety issues, but also 'safeguarding' them against the risk of exploitation.

There was a strong feeling that the current permit system was not working well and may well be beyond repair. It was unclear whether further investment in this system would actually deliver clear benefits and keep children safe. On the other hand, the ability of the authorities to keep track of individual children through some system of notification was still considered as important.

An alternative model of 'employer registration' was suggested but there were concerns that response to this by employers might be no more effective than present arrangements.

Similarly, a full blown accreditation system, while desirable, would be quite impracticable

and could actually discourage employers from employing children altogether. In the short-term it was agreed that a better approach would be to seek the application of a more uniform set of bye-laws by all local authorities.

One of the main points I tried to press was the need to have a single health and safety assessment framework for all young people at work. At present we have at least three systems:

- First of all (in theory at least) we have review of the employers' risk assessments by EWOs etc as part of 'permitting'. But this doesn't really work. Also, do EWOs all have the right training to evaluate these assessments?
- Secondly, for school students on work experience we have health and safety assessments of the employer by staff employed by local Education Business Partnerships (visit: www.nebpn.org) backed by Health and Safety Executive (HSE) guidance (see: www.hse.gov.uk/youngpeople/workexperience). The guidance is simple and straightforward but again, questions can be asked about the level of competence needed to apply it appropriately.
- And then after 16, where there are funded training placements, the Learning and Skills Council's 'Safe Learner Framework' assessment process (www.safelearner.info) carried out by staff in colleges or training companies etc.

Essentially all three are seeking to ascertain the same thing, namely whether the young person will be employed in 'a safe and supportive working environment'. In this sense those assessing the capacity of the employer in this area need to address not only things like hazards and risk levels (and ensure that young people are not exposed to hazards with which they cannot cope because they lack experience and trained judgement, which are beyond their physical and psychological capacity to manage or to which they may be especially vulnerable), but key questions such as information, training and above all supervision. For example, the results of several investigations into accidents involving young people suggest that they may be particularly vulnerable because of over-enthusiasm and eagerness to help out when they do not fully understand the risks involved.

So, not only should young people be protected from substantial risks to their health or safety (for example, they should not be asked to work with dangerous machinery or hazardous chemicals and should be provided with any necessary safety measures for the

work they are asked to do); they also need guidance to help them understand the importance of healthy and safe working, something which they should carry with them into later working life when they encounter greater health and safety challenges. This is a key theme in a number of initiatives being taken by HSE and others such as RoSPA, IOSH and BSC. And the need for attention to be paid to 'sensible health and safety' is now being transmitted as a key theme in major parts of the national curriculum and more generally as part of risk education in PSHE (Personal, Social and Health Education).

Goals

What is needed here in my view is not more bureaucracy and repeat health and safety questionnaires put to employers by different agencies, but the communication of a set of clear 'safe learner' goals which span child employment, work experience and vocational training. And employers need to be able to attest to their capacity to deliver against these in a variety of ways.

For example, if they have already met satisfactorily health and safety pre-qualification requirements for suppliers, local authorities or other clients – or if they have had health and safety training – or even if they have been on health and safety awareness days – all this should be given due recognition.

There should be less emphasis by the agencies involved on assessment for the purposes of bureaucratic back-covering (although one can understand their sensitivities where the protection of young people is involved) and much more on helping the business which is taking in young people to get its health and safety arrangements up-to-speed.

Perhaps signposting to membership of things like local health and safety groups (www.safetysgroupsuk.org.uk) or even free training should be part of the 'offer' when inviting employers to take on young people. For example, newsagents (whose national federation has guidance on safety in newspaper delivery – www.nfrnline.com/cgi-bin/search.cgi?qt=safety) might be invited to a briefing on cycling safety by the local authority road safety officer.

The situation in relation to child employment is changing, both in relation to its place in education and the way it is regulated. Closer operational links at a local level between all those working on the young person's health and safety agenda could help point the way forward.

Readers' comments are welcome.
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End claims culture confusion

► **RoSPA's** occupational safety adviser, **Roger Bibbings**, argues that the current system of personal injury compensation is failing consumers on grounds of access, fairness, cost-effectiveness and quality of advice and representation.

Five years ago, I wrote in this column about the fulminations of Lord Falconer of Thoroton who at that time was inveighing against the evils of 'compensation culture'. I was not alone in explaining, however, that the so-called 'compensation culture' is actually an urban myth. I stressed that there had in fact been a slight decline in the number of personal injury (PI) compensation cases being taken and that the overall number of settlements had been reducing also.

I also pointed out that at the same time the Government was quietly (but quite correctly) top-slicing motor and workplace injury settlements to help offset treatment costs to the NHS.

Much of this information, I pointed out, was contained in the report *Better Routes*

to *Redress* published in May 2004 by the Government's Better Regulation Task Group. They called on those in positions of influence to resist inflaming the myth, saying: "*It would be more beneficial to educate people to understand that compensation is minimal in most cases and to educate those litigated against that the best way to avoid litigation is to be aware of the risks and to have taken cost-effective measures to manage them.*"

Since 2000, the number of compensation claims recorded by the Government's Compensation Recovery Unit (CRU) has declined from a high of 770,243 in 2003/4 to 732,750 in 2007/8. Within this overall figure there have been increases in some areas like motor claims but a decline in others such as clinical negligence. Yet public concern about an alleged epidemic of claims has continued to grow.

The idea that there is a spiralling personal injury (PI) claims crisis remains as untrue today as it was five years ago, but still nearly everyone believes it to be so. The perception that PI claims are a major problem may be false but it is nevertheless a palpable social and political reality.

So just why is the negative perception of PI compensation so widespread?

There are many strands. Ubiquitous TV advertising by PI law firms is clearly one factor. This creates the impression that injured people are being urged to find even the most slender grounds on which to blame others for their misfortunes and thus gain some financial benefit. Worse still, it creates the impression that people may actually be being tempted to lie about accidents they have suffered, including those that were their own fault, in order to secure compensation. ►



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These impressions, fuelled by anecdotes about seemingly outrageous settlements, heighten prejudices. Opinion formers, who should (and do) know better, continue to peddle the myth of compensation culture as a way of generating easy headlines. Fear of being sued is then cited as the reason why individuals and organisations take absurdly risk averse decisions, for example, banning activities that present quite trivial levels of risk or demanding over-the-top safety measures to deal with the alleged dangers of quite common or garden hazards.

Other strands include the prejudice that accidents are nearly always remote, unforeseeable events which cannot be prevented and that to blame people or organisations for them is fundamentally unfair.

And the fact that some people secure substantial settlements, while others deserving of support do not, also serves to condemn the compensation system as a lottery that is unjust if not immoral.

Financial loss

At the same time there are relatively few people who on reflection would go so far as to deny that we should all have a right to claim compensation if we have been injured through the negligence of someone else. Yet seeking compensation for injuries and harm is increasingly portrayed as a massive social problem rather than citizens realising a fairly fundamental civil and legal right. The constant belittling of this right can in turn tend to dissuade the most vulnerable in society from claiming the care and compensation they so badly need following an accident.

It needs to be remembered that when people have suffered injuries due to the negligence of others, a compensation award can help them to afford vital help and services to enable them to adjust, recover fully or make up for financial loss. They may have lost pay, even their jobs, or experienced a dramatic change in lifestyle. They may have had to adapt their life or their homes to deal with the effects of injury. And injury often brings with it stress, depression and anxiety and in turn these can contribute to social exclusion.

Making 'the polluter pay' compensation can also, of course, help to reduce costs to the public purse by reducing funds needed to provide services and benefits to the individuals affected. Also lessons learned from claims ought to benefit others in the long run by adding to pressure to put right the problems that caused the injury in the first place.

Yet despite the positive role played by compensation, the common perception

seems to be that there are just too many claims; whereas the reality is that less than a third of people who could claim actually do so (see Citizens Advice Bureau report *No win, no fee, no chance* published in December 2004 – www.citizensadvice.org.uk/no_win_no_fee_no_chance-2). In fact, the actual number of claims for injuries following accidents reduced very significantly following the abolition of legal aid for personal injury cases in 2000 and its replacement with 'conditional fee agreements' (CFAs).

The truth is that our current system of personal injury compensation is actually failing consumers on grounds of access and fairness, cost-effectiveness, quality of advice and representation, and, very importantly, re-cycling of both lessons learned and funds to help enhance accident prevention

It is extremely complex for an injured individual to pursue a claim for compensation without legal advice, so pursuing a claim efficiently and effectively involves using legal services and possibly incurring court costs at some stage. Under "no-win-no-fee" arrangements the legal and other costs of taking a case are covered by the 'losing' side. The consumer takes out insurance to cover themselves against the risk of having to meet both sides' costs if they lose. These complex financial and legal processes, which can also involve relatively high legal costs and delays, are not always appreciated by claimants who are often induced into signing CFAs inappropriately.

Other problems can include: high-pressure sales tactics; inappropriate marketing and sales practices (so called 'ambulance chasing') by non legally qualified intermediaries; erosion of the value of claimants' compensation by hidden or unpredictable costs; an inadequate focus on rehabilitation options; and cherry-picking by lawyers of those high value cases which seem to have the highest chances of success.

And of course, there is always the challenge of establishing fault liability and causation – not as easy as it might seem. Typically the people who need help most following accidents are those on low incomes who may often be vulnerable precisely because they have suffered injury but lack the ability and/or opportunity to get good advice.

What is so sad about the outrage expressed about 'compensation culture' therefore is not the fact that is based on myth but that rarely, if at all, is it accompanied by any kind of positive suggestion about how to improve the existing system.

With public expenditure under ever tighter constraint, no one is arguing for a return to

means tested legal aid for PI cases, despite the fact that it only represented a net cost to the public of four per cent of legal aid annual expenditure. And for the same reason no one is arguing very hard for the replacement of existing arrangements with a genuine no fault scheme – particularly those such as lawyers, unions and insurers for all of whom PI compensation is main stream business. The only practical solutions have to be those focused on better regulation and improved education.

On the regulatory side claims managers and intermediaries that introduce claimants to legal processes should be subject to stronger regulation to assure their competence and quality and to make sure that the consumer, who under 'conditional fee agreements' is having to fund the system, actually gets value for money. The whole funding of CFAs needs to be examined to prevent diversion of excessive funds into the hands of lawyers and insurers. But government itself needs to be prepared to top-slice settlements, not just to offset injury treatment costs but to help fund prevention work. And there should be a fairer way of dealing with complaints and grievances by claimants.

Given the unabated hysteria about claims the main need is to promote a thorough-going education campaign about personal injury compensation. People need much clearer guidance on their rights to claim and also on their responsibilities. Those who deal with injured people need to be able to guide them to the help and support they need.

Rehabilitation

There needs to be much more focus on rehabilitation, for example, helping people put their lives back together through re-training rather than just cash settlements. And, to combat inappropriate risk aversion, dutyholders like employers or operators of services or facilities need to understand that taking sensible steps to ensure safety will actually help to safeguard them against unjustifiable claims. They need to be strengthened in that belief by their insurers who have a big role to play here.

With a general election in the near future, we need to engage both electors and politicians on these issues and avoid the issue being blown out of proportion. And, following the election, the incoming government will need to come forward with clear proposals.

Readers' views welcome.
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Parting Shots

Memory & resolution

► **This month**, on 28 April, Workers' Memorial Day will be officially recognised for the first time in the UK. Traditionally, the slogan for the day has been 'Remember the dead, fight for the living!'. Here, **Roger Bibbings**, RoSPA's occupational safety adviser, explains why that taking time out to remember should not just be about paying homage to the fallen, but it must also be about remembering lessons learned.

In July last year, recognising the work of campaigners who have pressed for it to be officially recognised, DWP minister covering health and safety, Lord McKenzie, initiated a period of public consultation around the proposal that Workers' Memorial Day, should henceforth have such a status in the UK.

The consultation received a generally favourable response and in January this year the Work and Pensions Secretary of State, Yvette Cooper announced the Government's decision saying: "I am delighted to announce that the UK will officially recognise Workers Memorial Day. This is a tribute to all those who have campaigned long and hard, including bereaved families, trade unions, campaign groups, and many other organisations and individuals."

Workers' Memorial Day (WMD) was started by the Canadian Union of Public Employees in 1984. The following year the Canadian Labour Congress declared an annual day of remembrance on 28 April (the date on which a comprehensive Workers Compensation

Act was passed in Canada in 1914). In 1991, the Canadian parliament passed legislation making 28 April an Official Workers' Mourning Day to remember persons killed or injured in the workplace. 28 April is also the day that the Occupational Safety and Health Act eventually took effect in the United States in 1971.

In several previous articles published in this journal, I have argued that public consciousness of injury and death due to work-related injury and health damage is quite low compared with awareness of accidental death in other circumstances.

In the UK, RIDDOR notifiable fatal injuries thankfully are now at an all time low, due in no small measure to enhanced efforts over the past decade in a number of higher risks sectors. But this rather underestimates the true extent of current suffering and loss due to continuing health and safety failure. The reality – if early death due to health conditions such as work-related cancer and respiratory ill health are taken into account – is that annually we have a work-related death toll equivalent to two Boeing 747s crashing

on British soil every 12 months and 20 such plane loads of sick and injured people landing every day.

Deaths in work-related road accidents, for example, which are at least three times greater than RIDDOR notifiable fatalities, are still not included in HSE official statistics and thus remain largely hidden from view. In contrast to local newspapers, which on the whole do report road accidents, most national dailies will not report such deaths unless they occur in spectacular crashes with many serious casualties or involve the rich or famous.

The sad fact is that death and serious injury at work are all too easily forgotten. And in an atmosphere where we pride ourselves on recent achievements in driving down casualty figures – and in a situation where more insidiously some are even suggesting that 'elf and safety' has now gone far enough – there is even an assumption that work-related deaths, injuries and diseases are no longer a real problem in our country.

The reality, however, is that every day workers are still dying from events and exposures

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that are, for the most part, easily preventable – and not only here in Britain but around the world – especially in low and middle income countries where standards of protection in practice are not only weak but are failing to keep pace with rapid economic growth.

In today's 'post modern' political environment to focus too much on history is to risk being seen like that little man in the Bateman cartoon (www.hmbateman.com) who embarrasses everyone by saying the obvious. Yet it really is a timeless truth – and not just a truism – that if we do not take time to reflect on where we have come from, we will have great difficulty in working out where we are going. This is as true in the field of occupational safety and health as it is in any other sphere. Not that I have universal admiration for everything he says, but I was much impressed in this respect by a shrewd observation by the contemporary philosopher Roger Scruton who pointed out recently in a Radio 4 interview (and I paraphrase) "We cannot change the past but we can seek to understand it. Whereas – and in contrast – we cannot foretell the future but we have the power to change it".

It is from this perspective that I believe that memorial days are important in modern society – not so much because they evoke the past but because they serve the needs of the future.

Lessons

Every year on the eleventh hour of the eleventh day of the eleventh month we take time to remember those killed fighting in the carnage of war. In virtually every town and village we have monuments to their memory. There is even a monument in London to the memory of animals killed in war (nowhere however is there one to remember the millions of children and other innocents killed in military conflicts).

Taking time out to remember should not just be about paying homage to the fallen though or remembering terrible times past. It must also be about remembering lessons learned – often at a terrible price – and committing ourselves to redouble our efforts to avoid such tragedies in the future.

Although occupational medicine had its origins in seventeenth century Italy with Bernardino Rammazzini (1633-1714), modern industrial health and safety was something that did not emerge until the early years of the nineteenth century in Britain, in response to the terrible working conditions produced by the industrial revolution. Then as today, the efforts of reformers to introduce the most elementary controls were often met by

Workers' Memorial Day resources and information



- **TUC** – www.tuc.org.uk/h_and_s/index.cfm?mins=293
- **HSE** – www.hse.gov.uk/workers/iwmd.htm
- **Hazards campaign** – www.hazardscampaign.org.uk/wmd
- **DWP** – www.dwp.gov.uk/newsroom/press-releases/2010/january-2010/dwp022-10-290110.shtml
- **ILO** – www.ilo.org/safework/lang--en/index.htm

the charge that such measures would be a burden on industry and competitiveness.

The struggle for safety and the protection of workers' health was a long one which culminated in recent times in the Robens Inquiry of 1972 and the Health and Safety at Work etc Act 1974 two years later. In the 36 years that have followed, the development of scientific research and technical knowledge, the professionalisation of H&S, the extension of training and advice, the involvement of directors and workers' representatives, the focus on health – have all been built around this framework. The detail of all this work is as easy to forget as it is to take for granted.

Of course times change and we must all move on, but because of neglect of history and failure to study what was done successfully or otherwise in the past, too many arguments are simply revisited over and over again and too many wheels are re-invented.

Because remembering is **so** important, alongside campaigning to secure official recognition of WMD, there has been the suggestion that there should also be a new national memorial to honour those killed in industrial accidents and health tragedies such as the asbestos scourge. This would probably need to be erected in London and would complement other memorials, including those to police and firefighters who have died in the line of duty (see: www.policememorial.org.uk/Police_Memorial_Trust/NPM.htm. and www.firefightersmemorial.co.uk).

Across the country – often hidden from view – there are already numerous memorials erected to those who have been killed in accidents. There is, for example, the memorial in Hazlehead Park in Aberdeen to the 167 who died on Piper Alpha on 6 July 1988 (www.geograph.org.uk/photo/10032); memorials to miners, often killed in tens and hundreds in the past in

terrible colliery disasters (see the directory at: www.healeyhero.co.uk/rescue/rememise/memorials.htm); and there are even plaques to individual factory disasters as well as monuments such as the Asbestos Stone, unveiled on Workers' Memorial Day 2006 in the Memorial Gardens in Rochdale, commemorating those who died from asbestosis and mesothelioma in the Spodden Valley, which was a major centre of asbestos production.

As a contribution to Workers' Memorial Day, RoSPA is developing an online directory to these memorial sites and others, which we hope might sit alongside the national online directory of war memorials (www.ukniwm.org.uk). Please email me details of worker memorial sites you would like to see included in the directory.

Prevention

To some people this new emphasis on past industrial tragedies might seem to be being exploited now to make a political or partisan point – but it really should not be seen as controversial. However, there are many people who want to believe that the past is behind us and that its horrors can never be repeated. But as with freedom, the price of safety is eternal vigilance. So, on 28 April, not only should we remember those workers and their families who have paid the ultimate price for past failures, we need a new sense of resolution that the prevention of accidents and ill health, like the prevention of wars, must never be taken for granted. Never forget, there are people at work who are alive and well today but who will certainly die or be maimed if we do not keep pushing health and safety up the agenda.

Readers' views are welcome.
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Parting Shots

Preserving our heritage

► **RoSPA's occupational safety adviser Roger Bibbings** argues the case for a dedicated permanent museum for occupational health and safety.

This month is the fortieth anniversary of *OS&H*. Looking back at some of the early editions, three things struck me particularly: firstly, how similar many of the topics covered are to issues we still face today; secondly – and by way of contrast – just how far our subject has developed over four decades; and thirdly, just how quickly memories of major developments in health and safety can fade (mine especially!).

On the same theme, I recently had to clear out my files as part of RoSPA's move to its new offices at 28 Calthorpe Road in Birmingham (see details at: www.rospace.com/news/releases/detail/default.aspx?id=927). Looking back at some of my documents, several going back over 30 years, I was reminded of just how many major policy issues have been examined and re-examined over the years. As a case in point, late last year I had to remind colleagues in the Department for Work and Pensions who were working on the Lord Young Review (www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf) that there had actually been about six such reviews

of health and safety law since 1974. (They seemed unaware of this.)

I find also that many new colleagues coming into the Health and Safety Executive (HSE) tend to be unaware of major policy discussions on important subjects, which to many of us who have been in the game some time seem to have taken place only yesterday. This is not just a problem of ageing but more pervasively one of loss of corporate memory and of historical perspective generally.

In health and safety, as in so many other areas, short-termism seems to rule ('the past is just history, tomorrow's a mystery'). But it remains as true as ever that unless we know where we have come from, we cannot determine where we should be headed – and worse still – we run an increasing risk of repeating past mistakes and wasting energy by reinventing wheels that have long ago been cast aside and forgotten about.

Visiting the head offices of the HSE in Bootle, where photographs of all the chief inspectors are displayed in the main concourse – or looking at the pictures of all the past presidents of IOSH at its headquarters at The Grange in Leicester, one is struck by the fact that so much of the

detail of the story of health and safety and how it has evolved in Britain over nearly 200 years has literally vanished as those directly involved have died. Yet the need to preserve the rich and varied history of our subject is as urgent as ever, especially in the current climate of scepticism – if not hostility – to health and safety.

How is this history to be preserved? And how best can it be made accessible for those who are going to follow us?

One thought to which I am attracted is that there should be a permanent museum for occupational health and safety, either as a freestanding collection and permanent exhibition or possibly as an adjunct to another museum. I am not sure if this has in fact been tried in recent years and failed, or whether it has been ruled out as a practicable project on account of the major cost that would be involved.

Even if there is a major cost mountain to climb, this should not be allowed to obscure the vision of a suitable facility within which the long history of health and safety can be preserved so that future generations – be they school students, workers, trade unionists, teachers, aspiring professionals or business leaders – can gain first-hand



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insights – not only into the tragedy of past occupational accidents and diseases – but into the history of the numerous subjects which make up health and safety and the numerous struggles which have gone on to get us to where we are today.

This is not just a matter of explaining the evolution of health and safety law or our evolving understanding of common hazards, but showing what was done in industries and organisations in the past to help achieve the standards and practices we now tend to take for granted. The potential scope is as wide as the world of work itself; the approach that could be adopted as creative and inspiring as the best that can be achieved in modern museum practice.

Shared vision

But what is required first of all is a shared vision among an influential group of people and organisations that such an institution is actually needed and should eventually be established. Much might be learned from how this has been done in other countries. Japan, for example, has had an industrial safety museum since 1954. And advice and help is available from bodies such as the Museums Association (currently fighting funding cuts in museums and galleries). In addition, there may indeed already be museums that have health and safety related material within their collections and exhibitions. There is much to draw on but first of all there needs to be the will to preserve and provide access to the history of health and safety.

Following up these thoughts I have canvassed close colleagues' views on the idea, including on how a critical mass of opinion in favour of a museum as described here might be achieved and on whether they would wish to be part of such an initiative.

Most of the comments I have received seem to agree about loss of corporate memory within HSE and a lack of appreciation of what has gone before. But equally several colleagues have questioned whether a museum is the answer to this problem since it might actually encourage people to condemn even more to history by putting it in the museum! It was also pointed out to me that the way in which themes are analysed and represented in any collection would greatly impact on the influence such a resource would have. And colleagues have pointed out that there have been some attempts in the past.

For example, some years ago there was an exhibition on occupational health (with some safety) at the People's Museum in

Manchester. More surprisingly, what most people seem to have forgotten is that over thirty years ago there **was** actually an official 'museum' for H&S – the Industrial Health and Safety Centre at 97 Horseferry Road, London – formerly the Safety, Health and Welfare Museum, which before that was the Home Office Industrial Museum. This was built originally as an industrial museum in 1914, but the advent of World War I prevented its use for this purpose. It was not until 1925 that it was restored to the Factory Department of the Home Office and developed as originally intended.

During World War II the Factory Department, and along with it the museum, were transferred to the Ministry of Labour and National Service.

The 'museum' was the only one of its kind in the country, the building holding a permanent exhibition of methods and appliances for promoting safety, health and welfare in industry. All new inspectors were "taken" to see the museum as part of their training. It housed an up-to-date collection of exhibits, many of which were lent by manufacturers and could be demonstrated in use.

In the field of health, the exhibits covered: industrial diseases, protection for the respiratory system, both by the use of breathing apparatus and by suppression of dust; first aid; protective clothing; lighting and colour schemes; and various aspects of employee welfare. Exhibits under the heading of safety included: machine fences; protective devices for electrical apparatus; practical interpretation of building regulations; and fire prevention. There was even a lecture room available for meetings and film shows. The centre was open daily, free of charge, and an H.M. Inspector of Factories was always on duty to conduct people around. In 1953, there were more than 12,000 visitors.

Back in the mid seventies it was decided that the centre should be abandoned because of lack of visitors and funds. But many of the documents were rescued by HSE's then head of information services, Sheila Pantry, and incorporated into the HSELINE database (www.hse.gov.uk/infoserv/hseinfo.htm) that she created in 1977 and which still exists today. It is here where you can find, for example, gems such as *Industrial Health and Safety Centre: Outline Guide Ministry of Labour and National Service* (HMSO, 1958) and *Descriptive account and catalogue of the Home Office Industrial Museum and exhibits, with explanatory notes* (Home Office, 1929).

Luckily Sheila made an historical collection of all such historical papers, reports, books, annual reports of inspectors, including those from 'lady inspectors' as they were then called, going back into the 1800s, laboratory notebooks, and almost a perfect collection of "Redgraves". She also received lots of bequests from inspectors when they retired and some historical papers belonging to early lady inspectors such as Dame Adelaide Anderson. These were used in the book that Sheila was involved in that was published in 1993 entitled *Women of courage*. She also made sure that the HSE historical collection was under Kew Public Records Office jurisdiction (apparently a statutory instrument was made protecting the collection) – but just a few years ago this collection was split up with some of it going to the Public Records Office, some still held at HSE, some to the Wakefield Mining Museum, some to the Fawcett Society etc.

Inspiration

So the message I have received is that there should at least be a "corporate health and safety memory collection". Whether this might take the form of a museum or a hub or network of collections is open for discussion as is the idea that in the era of the internet it might even be a virtual facility linking government reports, research reports, journals, newspapers, artefacts, photographs, exhibits etc – based, for example, at the British Library at St Pancras.

What is abundantly clear is that we **must** find a way to value and preserve our history. Not just as a dry academic exercise but to educate and inspire those who are going to follow us in health and safety. I fully accept that in today's economic climate this will not be an easy thing to achieve but equally it would be good to aim at say 28 April this year (Workers' Memorial Day) as a date by which key people in the H&S field could have come together to resolve to work together on this task.

As ever, readers' comments are welcome and should be sent to me at: rbibbings@rospa.com

RoSPA has its own archive at the University of Liverpool as well as historical resources held in our Infocentre at our headquarters in Birmingham (see: www.rospa.com/resources/infocentre/default.aspx). For information on RoSPA's history see: www.rospa.com/about/history/

True colours?

➤ **RoSPA's occupational safety adviser Roger Bibbings** discusses high visibility clothing.

Throughout history many causes have come to be identified with a colour that symbolises their values. Red for socialism, blue for conservatism, green for environmentalism and so on. This colour coding of causes not only marks them out in a form of political shorthand but it also pigeon-holes them, implying partisanship, extremism even.

In a recent blog – *High invisibility* (www.hse.gov.uk/news/judith-risk-assessment/high-invisibility060313.htm) – the HSE Board's chair, Judith Hackitt, expressed a degree of sympathy with recent comments by columnists as diverse as Jeremy Clarkson, Richard Littlejohn and Phillip Johnston about the ubiquity of day-glo fluorescent garb being sold, not just for workers in hazardous environments where enhanced conspicuity is quite an important control measure, but to anyone who feels that it might be a good idea to stand out from the crowd.

Her complaint is that, if this goes on unchecked, we will be in danger of losing all sight of its true purpose. She notes hi-vis gear now includes t-shirts and polo shirts and tiny tops for pre-school children to play in, and that hi-vis jackets even made an appearance on the catwalk during London Fashion Week.

She points out that there is no doubt that in some jobs high visibility coats or tabards are absolutely necessary and can genuinely be life saving but she says, the "...spread of high visibility workwear is symptomatic of the wider over-application of health and safety – people presuming that something which is good and necessary in one circumstance must be good and necessary in other situations...".

Valid general comment? Well, yes. But why, one might ask, have the likes of Clarkson, Littlejohn and Johnston fastened on to this issue? Not I suspect because, like Judith, they see the over-use of day-glo, hi-vis as a degrading of the safety currency, nor that like her that they worry that, by becoming a commonplace, it may lose its safety usefulness. No, I suspect they attack the phenomenon because this aggressively stand-out (and very recognisable) hue has come to symbolise for them the battle colours of what they perceive as a highly partisan and worryingly pervasive movement, the 'elf and safety community'.

Day-glo, especially for those who tend by instinct to be aggressively sceptical about health and safety, is a colour code that triggers an inner sense of anxiety. It has become associated in their minds with that negative and stereotypical response which perceives

even the most sensible of health and safety requirements as yet another manifestation of restrictive, petty, bureaucratic, over-regulation which, in its turn, is inhibiting innovation, eroding our sense of personal responsibility and sapping all resilience (if not the moral fibre of the nation itself). Day-glo hi-vis is the colour which comes to their minds each time a new tale of health and safety silliness, however apocryphal, hits the headlines.

From this point of view, Judith's central point about over-use and unthinking application of a useful safety measure, while perfectly valid, may not be quite enough to break this negative and illogical colour association.

The practical question of course is, '*when does hi-vis add to safety and when is it just meaningless ritual?*'.

The answer should, of course, be provided by 'suitable and sufficient risk assessment' – but sometimes the answers this throws up are not to everyone's liking.

For example, an appeal was made recently to the HSE 'Myth Busters' Panel which is chaired by Judith. It concerned the case of a pilot of a light aircraft who complained that, after he had landed at an airfield, parked, disembarked and walked to the airfield control tower some 75m away, he was told that he should have been wearing a high visibility vest. On hearing this he contacted the airfield

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manager, who apparently was unaware of the policy but suspected it was the result of a CAA ruling. After consideration of the pilot's complaint, the Panel said: "HSE was consulted on guidance produced by CAA which recognises that the wearing of high visibility vests is a sensible risk control measure to be taken when airside. Airside pedestrians need to be visible to drivers of refuelling vehicles and the like. The requirement to wear a high visibility vest is reasonable and likely to be common practice at airfields."

HSE actually offers a lot of very useful advice on the subject of high visibility (HV) clothing. For example, in relation to the *Personal Protective Equipment at Work Regulations 1992*, which require many factors to be taken into account to ensure that the correct clothing is chosen for a particular task where it is needed, HSE says: "For some jobs an HV waistcoat, for example, may be all that is needed, but those workers who are particularly at risk, eg. from moving vehicles (marshallers or maintenance workers), may need full body HV clothing so that they are as visible as possible to the driver. HV clothing should provide adequate protection both during the day and at night, as well as in adverse weather. As a rule: the darker the conditions or worksite, the greater the amount of HV clothing required.

"To be effective HV clothing should be of a colour that will allow the wearer to stand out against the ambient background found in the working environment. In practice the best colours for this purpose are likely to be day-glo or fluorescent yellow. Where necessary, the clothing should also incorporate retroreflective material to make the wearer visible when seen in headlights, in poor lighting conditions or during darkness. This may require reflective strips at or below waist level on waistcoats or jackets, or strips on trousers."

Guidance

Other considerations in this guidance include: Is the hi-vis suitable for the risk? Is it suitable for the job and for the wearer? Is it compatible with other forms of PPE? Does it comply with relevant standards? And HSE reminds employers that any HV clothing needed for the job for safety reasons must be provided free of charge. It must be checked and maintained in a clean state and kept in good working order. Storage facilities for clothing should be provided and there should be adequate information, instruction, training and supervision so it is used correctly. This should include an explanation of the risks, why the clothing is needed, and how and when it should be worn.

For their part, employees, who should be consulted over matters such as equipment choice, must wear the HV clothing provided as instructed, look after it, checking for and reporting any damage or defects.

Interestingly, in her blog Judith (whose role is focused primarily on the traditional fixed workplace) also mentions road safety – but only indirectly. (For millions of workers, whether driving or on foot, the road is actually among the most hazardous working environments in Britain today).

Students of the *Highway Code* will know that this key guidance has quite a lot of advice about hi-vis and conspicuity. It advises, for example:

- For pedestrians. Para 3: "Help other road users to see you. Wear or carry something light-coloured, bright or fluorescent in poor daylight conditions. When it is dark, use reflective materials (eg. armbands, sashes, waistcoats, jackets, footwear), which can be seen by drivers using headlamps up to three times as far away as non reflective materials." And, at para 5, 'Organised walks' it advises lookouts front and rear, fluorescent clothes in daylight and reflective clothes in the dark.
- For horse riders (para 50) and for cyclists (para 59) the Code advises light coloured or fluorescent clothing by day and reflective clothing by night (including belts, arm/ankle bands).
- For motorists: Breakdowns and incidents (para 274), "If your vehicle breaks down, think first of all other road users and ... help other road users see you by wearing light coloured or fluorescent clothing in day light or reflective clothing at night or in poor visibility..."

The advice in the *Highway Code* on these matters is, of course, only advice. As a freedom loving nation we do not impose these require-

ments on our citizens as absolute duties but try to guide people towards making sensible safety choices.

By way of contrast, the French tried recently to introduce a new mandatory requirement for motorcyclists to wear a minimum amount of hi-vis. After massive protests and challenges, they have had to withdraw it in favour of an approach based on education.

Education

Education does work. I am a lifetime, 365 days-a-year motorcyclist but I have to confess that before I came to RoSPA I used not to wear anything reflective over my black riding gear. But my colleagues kept nagging me and very soon I was wearing my reflective gear as a matter of routine.

More recently my wife bought me a new cycling top for my birthday (a hint at my need for fitness and weight reduction!). And of course it's fluorescent. Like many people, in most of my life I prefer just to blend in to my surroundings – so I suppose I'd worry if wearing this excellent garment caused me to be marked out as some kind of safety partisan or extremist.

I agree very much with Judith's underlying sentiments and we need to be on our guard against the PPE industry over-selling hi-vis. But equally we must never forget that seeing and being seen are fundamental to safety. Lives depend on it.

Understandable as they are, I do hope Judith's observations don't lead to the pendulum of fluorescence swinging back too far the other way!

Readers' comments are welcome.

Email: rbibbings@rospa.com

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