Health and Safety – Arrangements for Consultation with Staff

Date of Update: 01/08/03

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PSI Amendments should be read before and in conjunction with PSO

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CHAPTER ONE

1.1 Introduction

1.1.1 The Safety Representatives and Safety Committees Regulations 1977 detailed the provisions for the appointment by recognised trade unions of safety representatives and the formation of Safety Committees at places of work.

1.1.2 These were amended by the Management of Health and Safety at Work Regulations 1992, which expanded the consultation role, and required the employer to provide facilities and assistance to enable the safety representatives to carry out their functions.

1.1.3 The Consultation with Employees Regulations extended this requirement to non-union staff.

1.1.4 As well as being a legal requirement, consultation with employees makes sound business sense. Staff are able to provide information and practical experience of carrying out the tasks on a day to day basis. Employers are better able to make informed decisions where all factors are taken into account when knowledge and experience are shared in this way.

1.1.5 People who are actively involved in decisions which affect their working lives will normally adopt a positive attitude, where there is genuine consultation and consideration of their concerns.

1.1.6 Consultations can make a significant contribution to raising awareness of health and safety issues and generating a positive culture.

1.2 Appointment of Safety Representatives

1.2.1 Recognised trade unions may elect or appoint representatives to represent the health and safety interests of employees. Appendix 1 contains a list of Prison Service recognised Trade Unions.

1.2.2 In some instances where there are a number of different unions, a safety representative may, by mutual agreement between the unions, represent more than one group of workers.

1.2.3 The trade union must notify in writing the names of the persons appointed and the groups they represent to the health and safety co-ordinator at the establishment, or Heads of Groups in Headquarters buildings.

1.3 Number of Representatives to be Appointed

1.3.1 The Regulations do not specify the number of safety representatives to be appointed. This is a matter for local consultation, bearing in mind relevant criteria which may include:

- total numbers employed;
- variety of occupations;
- whether shift systems are worked;
- size of the workplace;
- type of work activity.

1.4 Functions of Safety Representatives

1.4.1 It should be noted that safety representatives have functions, not duties. Their responsibility (apart from the normal responsibilities of employees) is to their members not to management.
1.4.2 Under the Safety Representative and Safety Committee Regulations 1977 Safety Representatives have the following functions:

- to investigate potential hazards and examine the causes of accidents at the workplace;
- to investigate complaints by employees concerning health, safety or welfare at work;
- to make representations to the employer on matters arising out of the above;
- to carry out inspections as listed in 1.9;
- to consult with inspector from Health and Safety Executive and receive information from them;
- to attend meetings of the Safety Committee.

1.4.3 They may also carry out additional functions by mutual agreement between the trade unions and management.

1.4.4 These functions are in addition to the consultation arrangements which are listed in 1.6.

1.5 Safety Representatives Time Off with Pay

1.5.1 Governors and Heads of Groups must ensure that safety representatives are allowed sufficient time off with pay to carry out the functions listed above and to receive the training necessary to enable them to do so.

1.5.2 Again, there are no specific limits set out in the Regulations. The time required will vary between workplaces and will depend on the functions being undertaken, and the current circumstances. It may be necessary, for instance, for the safety representative to spend time examining the causes of an accident should one occur.

1.5.3 This time is not facility time allowed under the Facilities Agreement.

1.6 Consultation with Safety Representatives

1.6.1 Apart from the general duty of the employer to consult with safety representatives on the health and safety arrangements there are specific issues under the Regulation on which consultation must take place:

- The introduction of any measure which may substantially affect the health and safety of the employees. In prison establishments this may include a change in the type and numbers of prisoners held, re-designed buildings, changes in staffing levels, or in workshops with the introduction of new machinery;
- Arrangements for appointing competent persons under the Management of Health and Safety at Work Regulations 1992. This would include the duties and responsibilities of any health and safety advisers recruited locally or on an area basis;
- Any health and safety information employers are required to provide to employees;
- Planning and organisation of any health and safety training;
- Health and safety consequences of the introduction of any new technology.

1.6.2 If Governors and Heads of Groups are unsure whether there is a need to consult, the recommendation is that consultation should take place.
1.7 National Consultation

1.7.1 There are well established fora for national consultation on health and safety issues.

1.7.2 The Prison Service Accommodation Health and Safety Committee meets on a quarterly basis to discuss these points. Further consultation takes place by correspondence, or by discrete meetings on particular issues.

1.8 Training for Safety Representatives

1.8.1 Training will be arranged by the representative's union which will meet the cost of such training, as well as associated travel and subsistence. Governors and Heads of Groups are obliged to release appointed safety representatives to attend training, upon reasonable request.

1.8.2 Training will comprise basic and further training as necessary to enable the representative to carry out his/her duties. The extent of the further training required will depend on the type of work carried out by the employees represented by the safety representative.

1.8.3 Safety representatives may also attend training courses organised by the Prison Service. The normal conditions of service in respect of attendance at training courses will apply.

1.9 Safety Representatives as Health and Safety Advisers

1.9.1 While full co-operation on health and safety matters is encouraged between trades unions and management, it should be remembered that safety representatives' first responsibility is to their members.

1.9.2 It is inappropriate for establishments or Headquarters to use trade union safety representatives as local health and safety advisers. There is a potential conflict of interests, which would benefit neither the employees nor management.

1.9.3 Where a need for local qualified health and safety advice is identified, this may be met by:

- training an appointed person to enable them to obtain national qualifications;
- recruiting a person, either from within the service, or outside, who holds such qualifications;
- sharing a qualified person on a cluster basis (no more than 2-3 establishments) where the establishments are conveniently located and numbers of staff and prisoners relatively small.

1.9.4 It should also be remembered that health and safety advice is available from the establishment's nominated Health and Safety Officer from the Home Office.

1.10 Inspections of the Work Place

1.10.1 Safety representatives are entitled to carry out inspections of the workplace in the following circumstances:

- Where they have not inspected it within the previous three months and have given notice in writing of their intention. More frequent inspections may be made by agreement with the Governor or Head of Group;
- Where there has been a substantial change in the conditions of work or because new information is available on the workplace hazards;
Following an accident or dangerous occurrence, when it is safe to do so. Ideally joint inspections should be carried out by the safety representative and local management but this does not prevent the safety representative carrying out independent investigations or having private discussions with staff.
CHAPTER 2

2.1 Safety Committees

2.1.1 Safety Committees were set up to keep under review the measures taken to ensure the health and safety at work of employees.

2.1.2 Employers are obligated to convene Safety Committees where two or more safety representative have requested this in writing.

2.1.3 It is Prison Service policy that all establishments and other Prison Service premises should have Safety Committees.

2.1.4 The basic objective is the promotion of co-operation between management and staff in instigating, developing and carrying out measures to ensure the health and safety at work of all staff.

2.1.5 To ensure that this objective is met, certain conditions are essential:

- The Committee must be fully supported by management and staff i.e. regular attendance by those of an appropriate grade.
- It must be chaired by the Health and Safety Co-ordinator, who must be a member of the Senior Management Team

2.1.6 A formal agenda should be set to include as regular items:

- Examination of accident statistics and investigation reports
- Examination of safety audit reports
- Safety representatives reports
- Monitoring health and safety training
- Development of safe systems of work
- Reviewing implementation of national policies

2.1.7 Occupational health/health promotion issues may be discussed by the Safety Committee, or a dedicated committee may be formed for these matters.

2.1.8 The meetings should be minuted with copies of the agreed minutes available to all staff

2.1.9 Dates and membership should be publicised to allow staff to bring points to the attention of the Committee

2.2 Membership of the Committee

2.2.1 The Chair of the Committee must be the Health And Safety Co-ordinator, who must be a member of the Senior Management Team.

2.2.2 Other management areas such as Works and Personnel should also be represented. Where a local health and safety or Occupational Health nurse adviser is employed, these should also be members of the Committee.

2.2.3 Where long term contractors, such as Education or catering staff are on site, Governors may wish to also include a representative from these.
2.2.4 The number of management representatives should not normally exceed that of the employees' representatives. Additional members may be co-opted for specific agenda items.

2.3 Effectiveness of the Committee

2.3.1 Properly formed and supported Safety Committees are one of the most effective tools for improving health and safety conditions in the workplace. They are only effective, however, if due regard is given to the points above, and are a genuine focus for staff with concerns, and real effort is made to meet these concerns.

2.3.2 It is the responsibility of all members of the Committee, staff and management, to ensure that these conditions are met.
CHAPTER 3

3. Consultation with Employees Regulations 1996

3.1 These Regulations were introduced to complete the consultation process on health and safety issues, by requiring employers to consult with all employees, including those who do not belong to recognised trade unions.

3.1.1 Although the legislation is primarily aimed at non-union organisations, it also covers any area where there are a significant number of staff who chose not to belong to the recognised trade unions.

3.2 Consultation Issues

Consultation is required on a number of specific points:

- Any measure at the workplace which may substantially affect employees' health and safety. In the Prison Service this may include new working practice and patterns, amended staffing levels, or new accommodation;

- Plans for appointing a competent person to help in compliance with health and safety requirements, where it is planned to appoint a locally based health and safety adviser, this must be the subject of consultation;

- Any health and safety information which must be provided under statutory requirements, including the results of risk assessments;

- Planning and organising of health and safety training;

- The health and safety consequences of the introduction of new technology into the workplace.

3.3 How To Consult

3.3.1 The Regulations give employers the option of consulting employees individually or through elected representatives. The majority of Prison Service staff belong to a recognised trade union. It is considered that consultation with the remainder as individuals would be the preferred option but it will be for governing governors in consultation with their area managers to decide on arrangements at establishments. Heads of Groups in Headquarters should consult their non-union staff on an individual basis.

3.3.2 There is no requirement to consult through non-recognised trade unions or staff associations.

3.3.3 The existing arrangements for consultation with trade unions will remain in place.

3.4 Consultation with Individuals

3.4.1 It will be the responsibility of the health and safety co-ordinator to ensure that one of the reduce options below is carried out when consultation is necessary:

- Send a letter to every member of staff detailing the issues involved but making it clear that should union members wish to comment they should do so through their trade union appointed safety representative;

- Send a letter to the above but only to non-union members;

- Inform staff through a newsletter or similar method of communication;
3.4.2 In all but the most complex of issues the last methods will probably be sufficient.

3.4.3 In all cases there must be a clearly explained mechanism for staff to be able to comment on the proposals, and for them to be given the reasons for any decisions made.

3.5 Consultation with Elected Representatives of Employee Safety

3.5.1 Where it is decided that groups of non-union staff should elect a representative, governors must:
- arrange elections for each group of staff including independent scrutinising of the counting and the result;
- ensure that only those eligible to vote i.e. non-union members, do so;
- fund suitable training for the elected representatives;
- allow the representative time off with pay to carry out their functions.

3.5.2 The functions of the representatives of employee safety consist of:
- representing staff in consultation about any of the issues listed in 1.2 or with HSE Inspectors;
- making representations to employers on potential hazards, or on general health and safety hazards in the workplace, which may affect the group of workers represented.

3.5.3 Elected representatives of employee safety do not have the right to make workplace inspections, nor is there any obligation to include the representatives on the Health and Safety Committee.

3.6 Consultation at National Level

6.6.1 Where any changes in Prison Service policy which may affect the health and safety of staff are being considered a Notice to Staff will be issued which will allow staff the opportunity to comment on the proposals. It will not always be possible to respond individually to points raised but all efforts will be made to do so.