

Protocol for Consultation with Trade Union Safety representatives.

Introduction

The purpose of this protocol is to outline the arrangements within the School for consulting and co-operating with Trade Union appointed safety representatives. The legal requirements for consulting with Trade Union appointed safety representative are outline in [Annex A](#). This protocol should be read in conjunction with the School's '[Recognition and Procedure agreement with UCU, UNISON and UNITE](#)'.

The School recognises three Trade unions, the Universities & Colleges Union (UCU), UNISON and UNITE.

Trade Unions must give the names of nominated TU safety representatives annually in writing to the Director of Human Resources, with a copy to the Head of Health and Safety. The names of nominated TU Safety Representatives will be posted on the Health and Safety website.

If the recognised TU chooses to only represent their own members, the School will make other arrangements to consult non-union members under the "Health and Safety (Consultation with Employees Regulations 1996 (as amended)".

Arrangements for consulting TU safety representatives

Line managers will as far as it is practical:

- 1) Consult the Health and Safety website or contact the Health and Safety Team to find the name and contact details of relevant nominated TU safety representative for their department or section.
- 2) Consult with the nominated TU Safety representative for their department when drafting local policy statements and safe working procedures.
- 3) Consult with the nominated TU Safety representative for their department when undertaking or reviewing risk assessments of the activities conducted by their department.
- 4) Consult with the nominated TU Safety representative on any proposed changes to working arrangements, prior to the introduction of any changes.
- 5) Arrange for the nominated TU Safety representative to participate in planned inspections of the workplace.

The Head of Health and Safety will as far as it is practical:

- 1) Provide the relevant TU Safety representative with copies of accident reports involving their members or location where their members work.
- 2) Notify the relevant TU Safety representative of any visit to LSE workplaces by the enforcing authorities e.g. the HSE or Fire Brigade or Local Authority inspectors and provide copies of correspondence from the enforcing authority arising from their visit.
- 3) Notify the relevant TU Safety representative of planned inspections or audits by the health and safety team, and provide copies of any report or findings arising from these inspections.
- 4) Facilitate the operation of the Consultative Health and Safety Group.

The Director of Facilities will as far as it is practical:

- 1) When requested allow access to enable the relevant TU Safety representative to inspect records of statutory checks and inspections relating to premises, plant and equipment.
- 2) Provide the relevant TU Safety representatives with feedback following inspections, monitoring undertaken by external consultants such as noise surveys.

Resolving health and safety concerns or issues.

- 1) Line managers and appointed safety representatives will make all possible efforts to resolve any health and safety concern or issues through local consultation, negotiation and co-operation.
- 2) Where necessary either the line manager or appointed safety representative can seek advice from the School Health and Safety team.
- 3) In circumstances where issues cannot be resolved at a local level, the appointed safety representative may apply for the matter to be included on the agenda of the Consultative Health and Safety Group. The School Secretary who is the chair of the Consultative Health and Safety Group will determine whether it is appropriate for the matter to be brought to this forum or recommend an alternative approach to achieving a resolution.

Legal framework.

- The School as an employer has a duty under section 2 (4) of the Health and Safety at Work Act 1974 (HASAWA) to consult with nominated representatives from recognised trade unions. Employer duties under Section 2 (4) of HASAWA are further set out in the “Safety Representatives and Safety Committee Regulations 1977 (as amended)” and the “Health and Safety (Consultation with Employees Regulations 1996 (as amended))”.
- An updated Approved Code of Practice which sets out how compliance with these regulations can be achieved was issued in 2008. The Approved code of practice will be the standard used by any Employment Tribunal when adjudicating on any complaint or appeal by Trade unions representatives.
- Safety representatives can present a complaint to an Employment Tribunal if the employer fails to permit the safety representative paid time off to undertake their functions or to attend training.

Appointing safety representatives

- The Approved Code of Practice recommends that wherever possible safety representatives appointed by Trade Unions should have completed two years employment with the employer i.e. the School, or have at least two years’ experience of working in a similar work activity for another employer.
- The recognised Trade Union must provide the employer with written confirmation the names of safety representatives it has appointed; the written confirmation must also include:
 - the areas of work or location they will be representing
 - which employees they will be representing e.g only their own members or other employees not in the union or other union members.
- The recognised Trade Union should appoint sufficient numbers of safety representatives to cover all work locations.

Paid Time off for Trade Union safety representatives.

The employer must provide nominated TU safety representatives paid time off to undertake their functions and to attend training. (*See extract from Regulation 4(2) “Safety Representatives and Safety Committee Regulations 1977 (as amended) in appendix B)*

The Trade Union safety representative must give the employer reasonable notice when they wish to take time off to undertake their duties. Arrangements for Safety representative to request time off to perform their functions are set out in paragraphs 6.2.2 to 6.2.6 of the ‘Recognition and Procedure agreement’.

Functions of Safety representatives

The Safety Representatives and Safety Committee Regulations 1977 (as amended) give Trade Union safety representatives wide ranging functions which include:

- a) The right to investigate potential hazards and dangerous occurrences and to examine the causes of accidents in the workplace, and make representations to the employer on matters arising from their investigation.
- b) The right to investigate complaints by any employee which they represent relating to the health, safety & welfare of that employee and make representations to the employer on matters arising from their investigation.
- c) To make representation to the employer on general matters affecting the health, safety and welfare of persons they represent at the workplace
- d) To undertake inspections of the workplace, either on their own or accompanied.

- e) Speak with any representative from the enforcing authorities (HSE, Fire Brigade) who may visit the premises, receive any information from enforcing authority inspectors.
- f) Attend meetings of safety committees or relevant working groups.

Employers' duty to consult safety representatives

The Safety Representatives and Safety Committee Regulations 1977 (as amended) require Employers to consult with Trade Union safety representatives on a number of health and safety related issues including:

- a) The introduction of any measure which may substantially affect the health, safety and welfare of employees the safety representative represents;
- b) Arrangements for appointing competent persons (under section 7 of the Management Regulations). This is appointment of health and safety advisers, fire consultants, occupational hygienist etc, as well as fire wardens and first-aiders;
- c) Information required to be given to employees by statutory provisions i.e. fire arrangements, advice on use of computers, safe manual handling techniques etc;
- d) The planning and organisation of health and safety training for the employees which the safety representative represents;
- e) The consequences of the introduction of new technologies in the workplace where the safety representative represents;
- f) The undertaking and findings of risk assessments required by the Management Regulations 1999;

Provision of information to the safety representative.

The regulations themselves do not specify what information must be made available - rather it gives the safety representative the right to inspect and take copies of information which is relevant to the performance of the safety representative's function. The Approved code of practice gives examples of what sort of information should be available these include:

- a) Records of statutory inspections of plant and equipment
- b) Information about the plans and performance of the undertaking and any proposed changes insofar as they affect the health & safety of their employees
- c) Information of a technical nature about hazards and precautions deemed necessary to eliminate or minimise them, in respect to machinery, plant, equipment, substances and systems of work. This would include: information provided by relevant consultants or designers, operating instructions and manuals produced by manufacturers or suppliers, and hazard data sheets.
- d) Information relating to dangerous occurrences or any accident or notifiable disease. (If these relate to any individual, the individual must first give their permission to have the information released).
- e) Information on accident/incident rates & statistics. (*These are provided to the Safety Committee.*)
- f) Information specifically related to matters affecting the health and safety at work of employees represented by the safety representative, including results of monitoring, measurements taken etc.

The employer is not required to provide information:

- a) if it relates to an individual without the individual giving consent to have the information disclosed.
- b) if information is obtained by the employer for the purposes of bringing, prosecuting or defending any legal proceedings.
- c) if disclosure causes substantial injury to the employers undertaking
- d) if disclosure contravenes a prohibition imposed by or under an enactment.

Facilities for Safety representatives

The employer must:

- a) provide appointed safety representatives with facilities and assistance which they may reasonably require for the purpose of carrying out their functions under these Regulations. What is needed in particular circumstances will vary widely. For example, it could involve giving the safety representative access to:
 - i) lists showing the names and workplaces of employees in a representative's constituency;
 - ii) communication, distribution and photocopying facilities for the representative to communicate with represented employees.
- b) give appointed safety representatives time off with pay, during working hours, as is necessary to perform the representative's functions under these Regulations, and for training as is reasonable in all the circumstances in respect of those functions. In practice, this means they should carry out their duties as part of their normal job, and you will need to take account of this in their workload;
- c) ensure that appointed safety representatives have access to adequate training
- d) ensure that appointed safety representatives are protected against detriment as result of undertaking their role, e.g. their chances of promotion and progression are not impeded.