

South East Employers
Health & Safety Bulletin

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NEW 'FIT NOTE' SCHEME IN FROM APRIL!

A new system for 'signing off' workers who are unable to work due to sickness or accidents comes into force in April. The 'Fit Note' scheme was introduced following Dame Carol Black's Report 'Working for a Healthier Tomorrow' that reviewed the health of Britain's working age population. One of her key recommendations was that the old paper-based sick note issued by general practitioners should be replaced by an electronic 'fit note', thereby switching the focus to what people can do (rather than what they can't) and improving the communication between employers, workers and doctors.

The new scheme will come into force from 6 April 2010 after which general practitioners will be required to issue patients with statements advising that they are either '*not fit for work*' or '*may be fit for some work*'. Doctors also have the option to suggest that the patient would be able to work if, subject to their employer's agreement, temporary changes to their working conditions could be made.

Guidance has been issued by the Department for Work and Pensions on the new system and this confirms that the new 'fit note' can still be used as evidence that the employee cannot work due to illness or injury; the information on the note is still advisory for employers and Statutory Sick Pay (SSP) is still payable under current rules.

However doctors can now include comments on how the worker's condition affects what they do and they can also suggest means of facilitating a return to work. These may include a phased return to work, alterations to the worker's hours, amended duties such as light work and workplace adaptations. One concern has been the potential lack of knowledge by general practitioners of occupational health or indeed details of the patient's job but the guidance makes it clear that doctors should discuss these with the patient.

One of the key themes in Dame Carol's report was that 'work is good for you' since those people who are in work tend to be healthier and also live longer. Consequently being off work sick may not be in the worker's best interests in the longer term. It is hoped that the introduction of the new form will result in less absence from work and eventually a healthier workforce.

MANAGEMENT IN WASTE AND RECYCLING SERVICES

South East Employers will be holding an important 'Achieving Excellence in Health and Safety' seminar on Friday 30 April 2010 at the SEE Offices, Winchester, when the topic will be 'Health and Safety Management in Waste and Recycling Services'. Speakers at this event include representatives from the client side and waste contractor Veolia as well as Mike Wilcock, Head of Operations in the South East for the Health and Safety Executive.

The seminar will consider the recent guidance issued by the HSE on waste management and will look at best practice in the industry. It will be essential for all those involved in the waste management and recycling industry whether client officers, refuse and recycling managers, contract managers, etc. Full details and bookings available from Bev on 01962

840664 or book on line at South East Employers website at www.seemp.co.uk.

WORKERS MEMORIAL DAY

The Government has announced that it will officially recognise Workers Memorial Day from 2010 onwards. This follows consultation last year when the concept of commemorating those who have died in accidents and illness due to work whilst at the same time promoting safe and healthy workplaces was first floated. Workers Memorial Day first originated in Canada back in 1984 and is now recognised as a national day in some twenty countries, including the United States, Spain and Belgium.

Workers Memorial Day will be held on April 28 each year – this is the date that the Occupational Health and Safety Act came into force in the United States back in 1971. Whilst the Government will recognise April 28 as Workers Memorial Day, it will be led by individuals, employers, trades unions and community organisations although ministers will be involved through visiting workplaces, making speeches on health and safety at work and wearing the purple ‘forget me not’ ribbon that symbolises the day. It will also encourage local authority participation.

FIRST CORPORATE MANSLAUGHTER CASE DELAYED

The first case to be heard under the Corporate Manslaughter and Corporate Homicide Act has been delayed. The trial of Cotswold Geotechnical Holdings, along with its director, Peter Eaton, who is charged with common law manslaughter, commenced in February. This followed the death of young geologist Alex Wright, who died taking soil samples at a construction site in Brinscombe, near Stroud in Gloucestershire in September 2008, when a trench collapsed on him.

Mr Justice Field told Bristol Crown Court that it would be unfair for the trial to continue as Peter Eaton needed ‘urgent and intensive’ medical treatment. The trial was adjourned after both defence and prosecution agreed that Mr Eaton was not fit to participate in the proceedings.

The trial is expected to resume in four months time.

NEW SOUTH EAST EMPLOYERS HEALTH AND SAFETY EVENTS!

Following consultation and comments from various individuals South East Employers have revised their health and safety events as follows:

‘Achieving Excellence in Health and Safety’ seminars will replace the ‘Aspects of Health and Safety’ seminars and will be held twice yearly, rather than quarterly, again at the University of Surrey in Guildford.

‘Fundamentals of Health and Safety’ workshops have replaced the ‘Brief Bites of Health and Safety’ events and will aim to ensure that managers have sufficient health and safety knowledge in the basic elements of health and safety. The second event in the series will take place on 22 April 2010 at SEE offices in Winchester and the topic will be ‘Risk Assessment’.

For full details and booking for all these events contact Bev on 01962 840664 or visit the

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SEE website at www.seemp.co.uk.

IN COURT (1)

A delivery of asphalt to a road resurfacing scheme in South Yorkshire led to the tragic death of a road worker and the prosecution of his employer and the delivery company. Doncaster Crown Court heard how the 32 tonne tipper truck was reversing slowly along the site on Fitzwilliam Road, Rotherham in May 2007 when it ran struck council worker Gordon Duffield, causing fatal injuries. An investigation by the Police and Health and Safety Executive revealed that the instructions given to the driver were inadequate, there was no CCTV fitted to the vehicle and no one was designated to direct the movements of the lorry. Although the vehicle was fitted with a reversing device that sounded during the reversing manoeuvre, Mr Duffield was partially deaf due to exposure to noise at work, a condition known to his employers and so he couldn't hear the bleeper.

In February 2010 Rotherham Metropolitan Borough Council pleaded guilty to a breach of s2 Health and Safety at Work Act and were fined £75,000 with £18,350 costs whilst the lorry owners, Brocklebank & Co (Demolition) Limited also pleaded guilty to a breach of s3 HASAWA and were fined £30,000 with £12,000 costs.

IN COURT (2)

Driving a loading shovel the wrong way around a one way system in a council depot resulted in a fatal accident and prosecution of both the driver and his employer. The accident occurred in October 2006 at the Dudley Metropolitan Council depot in Netherton. Michael Lilley was driving a loading shovel against the direction of the one way system with the shovel at a height which meant that he couldn't see ahead properly. During this manoeuvre he struck manager George Padgett, who was wearing a high visibility jacket and facing the oncoming traffic but was struck in the back by the blade of the vehicle bucket. Although other workers tried to warn Mr Padgett and divert the vehicle, it didn't stop until after the front wheel had run over him, causing fatal injuries.

At Wolverhampton Court Dudley Metropolitan Council pleaded guilty to a breach of s2 Health and Safety at Work Act and was fined £30,000 with £20,000 costs whilst Michael Lilley also pleaded guilty to two breaches of s7 Health and Safety at Work Act and was fined £750 with £500 costs. HSE Inspector David Price stressed that depots and loading yards are dangerous places, requiring employers to provide set routes, keep pedestrians and vehicles apart and check that sites rules and systems of work are adequately enforced. In addition drivers need to obey signs and instructions in workplaces just as closely as they would on a public highway.

CHAINSAW TRAINING

Q. One of our employees is occasionally required to use a chainsaw during the course of his work. Although he was trained to the required standard and obtained the relevant certificate this training took place several years ago. Does he require refresher training and how often should such training take place? Whilst we know that the training is expensive we are keen to ensure that we meet all our legal requirements in this area.

A. Chainsaws are useful pieces of equipment but are potentially very dangerous and capable of inflicting serious, even fatal injuries if not used correctly. Chainsaws used at work come under the Provision and Use of Work Equipment Regulations 1998 (PUWER 98) which specifies that such equipment must be suitable for its use, adequately maintained and operators must be competent and trained in their safe use.

Since PUWER 98 is general in its application it does not specify how often operators should be given refresher training for items such as chainsaws. However the Health and Safety Executive have produced guidance in the form of a leaflet 'Chainsaws at Work' that recommends that regular users of chainsaws (eg arboriculturists) should attend re-training every 5 years. For those who use chainsaws occasionally, such as your employee, it recommends a frequency of refresher/update training every 2 to 3 years.

WEARING SEAT BELTS IN REFUSE VEHICLES?

Q. One of our refuse vehicles was seen recently being driven with none of the crew wearing a seatbelt. When we raised this with the crew they argued that they are exempt from seat belt legislation as they have to keep getting in and out of the vehicle to collect refuse and that this counts as an exemption. When we asked the local police for their advice they said that refuse crews are not exempt and must wear seat belts when travelling in the vehicle. Could you clarify please?

A. Certainly. Seatbelts must usually be worn by drivers and passengers of vehicles such as lorries, vans, etc. as well as those in cars where seat belts are fitted. There are some exceptions, such as taxi drivers, as well as certain vehicles such as vans making deliveries, where drivers have to get in and out on a regular basis. However the requirement to wear seatbelts still applies unless the vehicle moves less than 50 metres between stops. Refuse vehicles usually travel in excess of 50m between stops and so seatbelts must be worn.

This is a legal requirement that various police forces have recently been enforcing – in fact in February in Dorset the police ran a campaign aimed at drivers and passengers in commercial vehicles. Several Christchurch Borough Council vehicles were stopped and fixed penalty notices issued to workers who were emptying litter and dog bins. The council has now reminded employees that they must comply with the law and always wear seat belts if they are to avoid £60 penalty fines being imposed.

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