

Policy Brief: The role of Health and Safety Representatives in Covid-19

This research highlights the role of health and safety representatives during Covid-19 in addressing workplace risk and mitigating infection. Headline recommendations are:

1. The UK's OHS infrastructure needs to be strengthened in terms of representational mechanisms that legitimise independent worker voice
2. Statutory support for independent and trained Health and Safety workplace representation should be reinforced and extended
3. Occupational and Statutory Sick Pay need review and reform to prevent workplace infection during pandemics
4. There needs to be recognition that employment protection and collective representation for workers on non-standard contracts is not conducive to risk prevention at the workplace and can promote transmission
5. The powers and capacity of the Health and Safety Executive (HSE) in relation to UK workplaces have to be restored and strengthened, including ensuring that employer responsibilities under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) are enforced.

Summary of problem/challenge/opportunity

Pre-Covid-19 studies demonstrated the importance of effective and autonomous trade union representation as 'an essential monitoring and correcting mechanism to effectively reduce risks at work' (Frick, 2011:974). While the regulatory model of worker representation on health and safety may have lost relevance in the light of the reduced coverage of trade unions (Walters et al, 2005), it is a model that demands revisiting in the absence of adequate alternatives and in the context of a pandemic.

The pandemic has laid bare the weakness of the UK's Occupational Health and Safety infrastructure and absence of Health and Safety Committees at organisational and workplace level. There has been limited consideration of the role of workplace representatives and trade unions in Covid-19 risk assessment and the protection of worker health and safety, but also as key agents in public health. Trade unions represent workers in public services working on the frontline and play a unique role in articulating their experiences of pandemic and advocating their interests at work. This project explores the balance between productivity, public health and worker health and safety during the pandemic, with a focus upon exemplary and future practice. The research objectives were to:

1. Provide insights into the role of health and safety representatives in the Covid-19 pandemic
2. Identify effective organisational mechanisms for worker voice and representation on health and safety during Covid-19 and future waves and

- pandemics and highlight examples of new or renewed social dialogue over health and safety
3. Capture the key lessons and best practice on appropriate measures and mechanisms to address occupational health and safety at workplace level during pandemics, in the return to work, and through new working arrangements and practices.

Policy recommendations

1. The UK's OHS infrastructure needs to be strengthened in terms of representational mechanisms that legitimise independent worker voice.

- The research suggests limited expansion of workplace health and safety committees during Covid-19. Where they were in place, they provided the necessary basis for informal and frequent dialogue between health and safety reps and managers. Tripartite responses at sector level, in public transport, were deemed effective, but there was criticism of the deployment of 'command and control' responses in the NHS that marginalised trade unions and discouraged workers from raising concerns.
- Government and employers can support mechanisms that legitimate independent worker representation as part of the reinvigoration of the OHS infrastructure.

2. Statutory support for independent and trained Health and Safety workplace representation needs to be reinforced and extended.

- The research highlights the proactive role played by health and safety reps during the pandemic in identifying and mitigating Covid-19 risk. Managers recognised their training and expertise, and these formed the basis for social dialogue, negotiation and consultation over OHS.
- Government and employers can require and support independent workplace OHS representation.

3. Occupational and Statutory Sick Pay need review and reform to prevent workplace infection during pandemics.

- Trade union and employer reps stressed that where workers had no recourse to occupational sick pay and were dependent on inadequate Statutory Sick Pay (SSP) they could not afford to self-isolate and would attend work with symptoms. In some case studies unions and employers negotiated full pay from day one and suspended punitive attendance policies.
- Public health authorities should promote a review of occupational and SSP in the light of current and future pandemics and push for reform of and increases in SSP.

4. There needs to be recognition that employment protection and collective representation for workers on non-standard contracts is not conducive to risk prevention at the workplace and can promote transmission.

- The case studies demonstrated the exclusion from employment rights and collective representation of those in contracted out services and/or on non-standard contracts,

including 'self-employed' and agency workers, often migrants. Exclusion, particularly access to sick pay, presented specific risks in terms of workplace infection.

- Employers need to consider the specific risk to and from those on non-standard contracts and the representation of their interests over health and safety.

5. The powers and capacity of the Health and Safety Executive (HSE) in relation to UK workplaces have to be restored and strengthened, including ensuring that employer responsibilities under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) are enforced.

- Key experts stressed the deleterious impact of the deregulation of OHS and weakness of the HSE following funding cuts, along with the under-reporting of Covid-outbreaks, a function of the UK's self-regulatory approach.
- Government needs to review the powers and resources of the HSE in the light of the pandemic, along with requirements on employers to report deaths and infection.

Summary of evidence

The research is based on interviews with 13 key experts in the field of health and safety, a survey of 648 Trade Union Congress (TUC) health and safety (H&S) reps and 11 case studies. The latter are based on 34 interviews with workplace and employer representatives in key sectors: financial services, the ambulance service, maternity services, food production, food retail and distribution, construction, the underground and bus transport.

The survey of TUC reps conducted in November 2021 found that only one quarter of representatives (19%) reported confidence in their employers to protect the health and safety of the workers in future pandemics. The frequency of negotiation over health and safety was positively associated with the confidence that representatives had in their employers. Only just over half of representatives (52%) felt that their employers were supportive of their H&S roles. Before the pandemic, one third (33%) reported the existence of a health and safety committee with union representation only, approaching half (45%) reported there was both union and non-union representation. Reps suggested some changes to formal workplace and organisational health and safety representative structures as a result of the pandemic; approaching one third (29%) reported the establishment of health and safety committees. Over a third (35%) reported increased formal or informal interaction with the employer.

The case studies confirmed that existing health and safety structures provided a necessary basis for informal and frequent dialogue between union reps and managers during the pandemic, often on a day-to-day basis. They highlight the proactive role played by trade union H&S reps, pressing for risk assessments, regulating the implementation of measures and ensuring the immediacy of employer responses to the pandemic. A number of managers recognised the unique expertise health and safety reps possessed, built on accredited training and union resources. Such expertise formed the basis of social dialogue during the pandemic. Reps appreciated the legal basis for their role. They described themselves as the 'eyes and ears' of the workplace, reflecting their embeddedness in the labour process and intimate knowledge of how the organisation of work created risk. Communication with the workforce on the ground was fundamental to mitigating risk and a key role was in ensuring compliance with regulations and overcoming resistance to them - challenging what may be called 'a culture of denial'. Unions were keen to ensure that Covid-19 did not become a disciplinary issue, although the tension between the educational and policing role was evident.

Sick pay emerged as a major issue during Covid-19, in some workplaces there was limited access to occupational sick pay and SSP was an inadequate replacement. Reliance on SSP inhibits compliance with rules on self-isolation with workers attending work when symptomatic because they could not survive financially. There were specific issues for agency and self-employed workers who had no access to employment rights and limited or no access to sick pay and independent representation.

There were also issues for migrant workers, more likely to be agency workers or contract cleaners. Union reps negotiated for full, basic or occupational sick pay for those shielding or self-isolating, for sick pay from day one and the relaxation of sickness absence schemes that previously could incur disciplinary outcomes. Exceptionally the RMT negotiated for cleaners working for contractors on the underground, normally on SSP only, to receive full pay from day one if they were off with Covid-19 symptoms. The union's successful negotiation for agency staff, outside their formal collective bargaining agreement, demonstrates the capacity of unions to influence conditions for non-standard workers in order to prevent workplace infection.

Sources and further reading

Frick, K. (2011), Worker influence on voluntary OHS management systems – A review of its ends and means. *Safety Science*, 49(7), 974–987.

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Walters, D., Nichols, T., Connor, J., Tasiran, A. and Cam, S. (2005) *The role and effectiveness of safety representatives in influencing workplace health and safety*, Health and Safety Executive.

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