

## Are you complying with the Regulatory Reform (Fire Safety) Order 2005 (FSO)?

It has become apparent over the last year that companies and organisations are not fulfilling their obligations under the Regulatory Reform (Fire Safety) Order 2005 (FSO). Even though this piece of legislation has been in place since October 2006, companies and organisations are still not sure what they need to do to comply.

This has been highlighted recently with the number of successful prosecutions by Fire Authorities under the FSO. The most recent being a record £400,000 fine to high street retailer New Look.

The FSO allows for prosecution of an organisation, as an employer, for breaches of the legislation and prosecution of managers within that organisation if they are deemed to have responsibility for fire safety. If an individual is prosecuted for contravening the FSO they can be subject to an *unlimited fine and/or a maximum term of imprisonment of two years.*

### Now the question is can you afford not to comply?

Firstly we must understand the requirements of the FSO. The FSO places duties on the *responsible person*. This person is defined as "the employer, if the workplace is to any extent under

his/her control"; there are also duties placed on persons in control of premises e.g. landlords.

**The FSO allows for prosecution of an organisation, as an employer, for breaches of the legislation and prosecution of managers within that organisation if they are deemed to have responsibility for fire safety.**

As the responsible person you must:

- Appoint one or more competent persons to manage your fire safety requirements. A competent person is someone with enough training and experience to be able to implement these measures properly.
- Have a Fire Risk Assessment carried out on your premises.
- Have a suitable and sufficient Fire Plan.
- Provide appropriate information, instruction, and training to your employees about the fire precautions in your workplace. This must be carried out when they start working

for you, and periodically throughout their employment.

- Ensure your premises and any equipment provided in connection with fire-fighting, fire detection and warning, emergency routes and exits are covered by a suitable system of maintenance.

It is important to remember that the Fire Risk Assessment is only as good as the person assessing it; this also applies to your Fire Training. A Fire Risk Assessment should provide you with suitable actions to take to reduce the risk of a fire starting and to ensure all persons will be able to evacuate safely if a fire does occur. The assessment is worthless if these actions are not put into effect!

Taking all the above into account you need to be sure you can trust the person or company you put in place to help manage your fire safety.

**This article was kindly provided by TEAM Safety Services Ltd who ensure you are provided with a professional and competent service. They provide all aspects of Fire Management Systems, from Fire Risk Assessments to practical Fire Training using real fire simulators. Email: [info@teamsafetyservices.com](mailto:info@teamsafetyservices.com) or visit [www.teamsafetyservices.com](http://www.teamsafetyservices.com)**

## Atheists and vegans will be protected under Equality Bill

The equality watchdog, The Equality and Human Rights Commission, has recently opened consultation on a draft Code of Practice which will accompany the Equality Bill when it comes into force later this year. This aims to help employers understand how to interpret and apply the law.

Current legislation provides protection from discrimina-

tion on the grounds of religion and philosophical beliefs. A Court ruling last year, stated that climate change could be classed as a belief afforded protection under the law. However, the new Code has taken this further suggesting that: "A belief need not include faith or worship of a god or gods, but must affect how a person

lives their life or perceives the world." It goes on to specifically suggest that vegans and atheists would be protected.

As with all employment laws, it is not for government or the watchdog but tribunals to determine what will constitute a religion and belief, so once again we will have to wait and see how far this one will go.

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## Legal News

### As an employer, which of the main political parties will best benefit you?



The battle has started - the conferences have finished, the media interest is heightening and now we hear there will be televised US-style debates and that is all before the date has been set! But what do each of the main parties intend to do for employers if they were to be voted in to number 10? Not surprisingly, all three parties believe the economy and current deficit are priorities but apart from that what are they pledging?

#### **Conservative Party**

- **Reduce the amount of legislation and red tape** - There is little detail on how the party intends to do this but they feel that the rights of employees and the way that tribunals work has gone too far against the interests of business and intend to address this.
- **Reduce business taxes** by reducing corporation tax at both the higher rate and for small businesses and reverse Labour's National Insurance increases. Also any new business started in the first two years of a Conservative Government will pay no Employer NI on the first 10 employees it hires during the first year.
- **Extend flexible working legislation** so that employees with children under 18 can request to work flexibly and continue with plans to allow parental leave to be shared between the mother and father.
- **Training** - Improve the provision of apprenticeships by creating 100,000 additional apprenticeships and training places. An overhaul of apprenticeship and training funding administration will also make it easier for companies to run apprenticeships and make funding applications simpler.
- **Immigration** - Introduce an annual limit for immigration into the UK but allow those to enter who will most benefit our economy.
- **Pensions** - Simplify the rules and regulations around pensions to encourage companies to offer high quality pension provision to all employees.

#### **Labour Party**

The general message from the Labour Party is that they intend to continue along the same lines as they have for their last term. In particular:

- **Business taxes** - They remain committed to

the rise in employers' National Insurance contributions in 2011 announced last year.

- **Employment legislation** - Continue with the legislative programme that they have announced including laws allowing mothers and fathers to share the second 6 months of maternity leave; the Equality Bill; and the Agency Workers Directive.
- **Training** - Continued support for the apprenticeship programmes; funding for training in small businesses; guaranteed job or training places for 18-24 year olds unemployed for over six months; and an increase in the training and support people need to return to work.
- **Pensions** - Committed to the planned changes in 2012 introducing Personal Accounts and mandatory employer and employee contributions.

#### **Liberal Democrats**

- **Reduce the amount of unnecessary legislation** by introducing independent checks on the costs and benefits of new legislation before they are introduced. Additionally, they will consult with businesses to identify regulations for repeal or simplification.
- **Employment legislation boundaries** - Create a distinction in employment legislation between what is required of large and small businesses.
- **Reduce business taxes** - The party would like to see a system where the headline rate comes down and the allowances are removed. They are also committed to not raising the small business rate. Despite disliking Labour's National Insurance increases, they have not committed to abolishing these.
- **Training** - Improve the provision of apprenticeships by creating additional places; change the way that the Job Centre provides support to those looking for work; and provide any young person completing an internship or work experience with £55 a week for three months.
- **Retirement** - The Party is committed to the removal of the current default retirement age of 65.

With some time to go before the election happens, there is still room for the manifestos to change and for more detail to be provided. We will continue to keep you up to date with developments and how these might affect you.

### A stressed employee could stress you, as the employer, with a six figure claim

Stress is one of the main causes of sickness absence. It accounts for millions of lost working days and costs the economy billions of pounds annually. The productivity of employees continuing to work while suffering from stress is also an issue that employers need to consider. There is sometimes confusion between the terms *pressure* and *stress*. It is healthy, and for some essential, that people experience challenges within their lives that causes *pressure* and, up to a certain point, this can improve performance. However, if pressure becomes excessive, it becomes harmful and destructive to health.

#### Spotting the signs

Making managers and employees aware of the changes in behaviour that can be caused by stress helps to spot potential problems. Here are some of the signs to look for:

- reduction in the quality or quantity of work and indecisiveness;
- increased sickness absence;
- more headaches, colds, nausea, palpitations or chest pain, high blood pressure and excessive sweating;
- changes in working hours, staying later than usual, working through lunch or taking more breaks;
- poor time keeping;
- tiredness/insomnia;
- irritableness and tearfulness;
- lack of enthusiasm or concentration; and
- low self esteem.

If a manager or employee identifies one or some of these signs in themselves or a colleague then it should be addressed immediately.

#### Prevention is better than cure

A happy, healthy workforce should suffer less stress and be more productive. Although the Management of a company is normally a major contributor to the culture and work ethic, it cannot be responsible for all the actions of its employees and external

factors that may affect stress. It is therefore sensible to provide tools to help employees to identify stress and provide somewhere for them to get help. Employee Assistance Programmes (EAPs) are confidential services designed to support employers and employees with work and personal problems. Normally EAPs include a 24-hour telephone line, and most also provide access to face-to-face counselling where necessary. In addition, many EAPs support employers in the form of telephone support or management information. Details of employee support organisations can be found through the Employee Assistance Professionals Association (visit [www.eappa.org.uk](http://www.eappa.org.uk) or call 01993 772 765).



It is important to ensure that managers are trained on how to identify the signs of stress and also on how to approach employees who are suffering from it. Not all anti-stress measures need to be costly. Small benefits can be just as effective. Examples of this could include a 'chill out' room for employees to eat their lunch; the opportunity to leave work a couple of hours early or an extended lunch break once a month; a monthly social event; the occasional box of biscuits; or an employee suggestion box.

#### The legal position

There are no laws specifically covering stress in the workplace. However, employees may still bring three types of stress cases against an employer:

- negligence;

- a case based on expressed or implied terms in the contract of employment regarding mutual trust and confidence;
- health and safety based on an employer's duty to provide a safe working environment.

In the courts, *six figure settlements* have been made when judges find in favour of a claimant suffering from work-related stress. An example was in *Walker v Northumberland County* where the estimated cost to the employer of "Management failure" was over £400,000. This included: damages of £175,000; £150,000 for the 2 week trial; sick pay; and ill health pension.

#### Cost to the company

Stress related absence can be very costly. Stress is one of the most common reasons behind sickness and it is increasing. In the *CIPD Absence Management Survey 2008*, just under a third of organisations surveyed reported an increase in work-related stress compared with the previous year. The *CIPD 2007 Research Report New Directions in Managing Employee Absence* found that the average length of time someone takes off work with stress is *21 days*.

#### Should an organisation have a Stress Policy?

While many organisations have developed Stress Policies, others have found that a Well-being Policy is more effective in recognising the need to maximise the employees' health rather than merely reduce their level of stress. This approach is in line with that taken by the World Health Organisation (1990). Whether organisations choose a 'Well-being' or 'Stress' Policy the elements that should be contained in the policy are very similar including a statement which shows the organisation's commitment to developing a working environment that promotes health and well-being, key well-being initiatives and where these can be obtained. It should be supported by Senior Management and be kept under constant review, including the process for evaluating, to ensure maximum employee well-being.

## Standing up to the workplace bully

*"When you consider the pressures that the Prime Minister is under...it is amazing how he has managed to constrain himself on so many occasions,"...this statement raises the question - is a pressurised job an excuse for any level of bullying and does a company have responsibility to ensure their employees at all levels behave in an acceptable manner?*

Although all managers have a responsibility to raise awareness and respond positively to concerns about bullying and harassment, employees also have a role to play in creating an environment in which this behaviour is unacceptable.

Harassment may consist of verbal or physical abuse, unwanted sexual advances or any other action which the recipient finds upsetting or offensive. It is important to remember that harassment is defined by *how it feels to the recipient*, rather than the intent of the person causing the offence. It cannot be excused or justified by claiming that it was unintentional, humorous or it was because the person was under stress at the time.

Ideally, an employee who believes they have been the subject of bullying or harassment should ask the person to stop and make it clear what aspect of their behaviour is offensive and unacceptable. Hopefully, just being aware of the offence may be enough to stop them. However, employers must appreciate that some people may not have the confidence to deal with it alone and it is normally

the most vulnerable who are subject to this kind of inappropriate behaviour. A company should ensure that it does not ignore inappropriate behaviour even from the most senior of employees.

Due to the possible sensitivity of the subject, all companies should have a Bullying and Harassment Policy which is easily accessible so that all concerned know how to deal with any issues. The policy should include the definition of bullying and harassment, recommendations of how to deal with the situation informally and then formally, who the employee should speak to and how formal complaints would be dealt with.

There is no specific anti-bullying employment legislation; instead claims are usually bought under Health and Safety or Harassment and Discrimination legislation and therefore in some cases (if related to Sex, Race or Disability) there is *no ceiling to the amount* which could be awarded at tribunal. Aside from any possible tribunal cases, a research project on the cost of workplace bullying carried out by Unite estimated that 33.5 million days were lost by organisations in 2007 because of bullying-related absenteeism. Combined with increased staff turnover statistics and costs to productivity, experts estimated employers are left out of pocket to the tune of £13.75bn. Surely it is more pleasant and cost effective to work in a bully free environment?



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