

## 9. OCCUPATIONAL HEALTH, SAFETY AND WELL-BEING

- 9.1 Considering the range of hazards arising from research and teaching to be found in the majority of HEIs, the sector has an excellent safety record. Overall, the sector reported far fewer accidents/illnesses than the UK average<sup>49</sup>. However, Ucea data suggests that up to 25% of all sickness could be attributed to occupational induced accidents and illnesses<sup>50</sup>. If this is correct, then there is ample scope for improvements, and a good case for HEIs to look carefully at their own practice.

### The legal context

- 9.2 Beyond the extensive legislative framework governing health and safety at work, there is a fundamental common law obligation on HEIs as employers to protect their employees - the "duty of care". A clause is also implied in every contract of employment that the employer will take care of their employees' health and safety. This obligation includes providing: a safe place of work; a safe system of work; adequate plant and equipment; and recruiting competent and safety conscious staff.
- 9.3 The main statutory health and safety legislation is the Health and Safety at Work Act 1974 (HSWA)<sup>51</sup>. Applicable to every workplace, it requires HEIs as employers to do everything reasonably practicable to ensure a safe and healthy workplace. The Health and Safety Executive (HSE) is responsible for deciding upon and implementing national health and safety policy<sup>52</sup>. It has wide ranging powers to investigate serious accidents in the workplace and to enforce statutory duties. The legislative framework is intended to promote a proactive approach to health and safety - employers are required to assess the risks to the health and safety of their employees and others affected by their activities and take action to eliminate or at least reduce any identified risks.
- 9.4 Employers have a legal duty to consult with their workforces on health and safety - and have obligations towards safety representatives appointed by recognised trades unions. The HSE's Higher and Further Education Advisory Committee (HIFEAC) recommends adopting the Safety Representatives' Charter<sup>53</sup> as part of an HEI's health and safety policy.
- 9.5 The majority of the Corporate Manslaughter and Corporate Homicide Act 2007 provisions came into force in April 2008, although it will be several years before they are fully implemented. Under the Act, an HEI can be prosecuted where there has been a gross failure by its senior managers to take reasonable care of workers' safety and/or the public, and this has resulted in a person's death. Penalties are fines (without limit on the amount) and remedial orders requiring the failings to be addressed. The Act does not impose any new health and safety requirements, but governing bodies should review relevant practices to ensure that there are no serious shortcomings in the management of health and safety risks.

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<sup>49</sup> Ucea Health and Safety Annual Report 2007, Ucea, 2007

<sup>50</sup> *ibid*

<sup>51</sup> The Health and Safety at Work (Northern Ireland) Order 1978 replicates the Health and Safety at Work Act 1974

<sup>52</sup> The Health and Safety Commission (HSC) and Health and Safety Executive were merged in 2008 and the HSE became the single national regulatory body promoting better health and safety at work

<sup>53</sup> Safety Representatives' Charter, HSC, 2003 [www.hse.gov.uk/aboutus/hsc/iacs/hifeac/rep charter.pdf](http://www.hse.gov.uk/aboutus/hsc/iacs/hifeac/rep charter.pdf)

## Responsibilities of the governing body for health and safety

- 9.6 The CUC Guide usefully summarises these as: "the governing body carries ultimate responsibility for the health and safety of employees, students and other individuals while they are on the institution's premises and in other places where they may be affected by its operations..." In practice, management responsibility for health and safety is usually delegated to a lead health and safety professional, but the governing body's duties include<sup>54</sup>:
- Ensuring that the HEI has a written statement of policy on health and safety and that the policy is brought to the attention of staff.
  - Putting in place arrangements for the implementation of the policy, including the allocation of management responsibility for health and safety and the provision of advice and relevant training.
  - Ensuring that there are mechanisms for consultation with staff about health and safety policy and arrangements, including the appointment of safety representatives by recognised trades unions.
  - Setting health and safety standards and monitoring the institution's activities to ensure that the standards are met.

## Occupational health, employee well-being and stress

- 9.7 Occupational health was traditionally viewed as a reactive service; however, in recent years, it has been used in a much more proactive way. Increasingly, organisations are adopting a 'well-being' approach to occupational health which focuses on preventing staff illness in the first place. This is underpinned by the recognition that preventing absence due to ill health is cost effective, and improving the working experience makes a positive contribution to the intangible part of the reward package.
- 9.8 An important related issue is stress, and the 2007 Chartered Institute of Personnel and Development (CIPD) survey of employee absence revealed that stress was the most common reason for long term absence (that is, longer than four weeks) amongst non-manual workers, particularly in the public sector. In 2006-07, a total of 13.8 million working days were lost to work related stress, depression and anxiety<sup>55</sup>. There are powerful financial and operational reasons to reduce the amount of unhealthy stress to which staff are exposed and to provide support for those whose mental and/or physical health has been affected by stress (for example, by providing access to counselling on a confidential, self referral basis). In addition, there are the legal duties that employers owe to their employees in providing a safe working environment.
- 9.9 The landmark case for governors is that of *Walker v Northumberland County Council* [1995], where the employer was held liable not for Mr Walker's first nervous breakdown, which was unforeseeable, but for his second, which was foreseeable and which would not have occurred if the employer had undertaken a risk assessment and provided support. The total financial costs to the council amounted to almost £400,000.

<sup>54</sup> There is useful guidance on health and safety at work for directors, governors, trustees and equivalent, produced jointly by the Institute of Directors and the former HSC: see HSE, (2007), *Leading Health and Safety at Work*

<sup>55</sup> HSE, (2007), *Self-Reported Work Related Illness Survey (SWI06/07)*

9.10 The HSE has suggested that stress is likely to become the most dangerous risk to businesses in the short to medium term, and its data demonstrates that education is one of five sectors reporting the highest incidence of work related stress. The CIPD and HSE have jointly produced guidance on line management behaviour and stress, including a competency framework for developing the skills necessary to limit stress at work<sup>56</sup>.

### Self-challenge questions

- Does your governing body ensure appropriate oversight of health and safety at your institution?
- What information does your governing body receive about health and safety, and is it fit for purpose in the governing body's oversight role?
- Has your governing body approved targets for improving health and safety, and is performance benchmarked against other organisations?

### A GOVERNOR'S DILEMMA 9:

As a relatively new member of the governing body, you've been shocked at the levels of sickness absence at your HEI and particularly at the amount that is reported to be due to work related stress. You've discussed this informally with one or two fellow governors but no one else seems over concerned - they seem to feel that the stress policy demonstrates that the institution takes the matter seriously. The newly appointed HR director is keen to promote a 'well-being' approach to managing stress, but hasn't properly explained to you what that means, and is reluctant to carry out a stress audit. You feel that this whole area is a significant risk but that yours is a lone voice. What action, if any, do you think you should take?

<sup>56</sup> CIPD, (2008), Line Management Behaviour and Stress - Updated Guidance for Line Managers