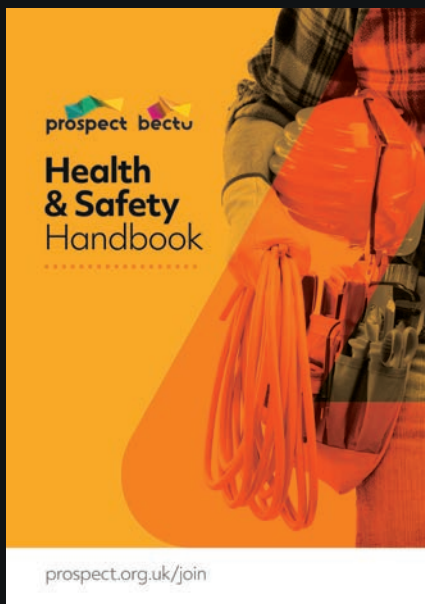




# Health & Safety Handbook



[prospect.org.uk/join](https://prospect.org.uk/join)



A guide for health and safety representatives and branch officers on representing members and engaging with employers on health and safety matters.

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100 Rochester Row,  
London SW1 1JP

T 0300 600 1878

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# 1: The health and safety legal framework

➔ There is a wide body of health and safety law that applies to work across the UK. By design, it is often not prescriptive and written in general terms. While this can make it challenging for reps, it encourages employers to implement high standards of risk control.

## 1.1: Core duties: The Health and Safety at Work etc Act 1974

The Health and Safety at Work etc Act 1974 is the main health and safety law in Britain. It is goal setting in nature, requiring outcomes to be achieved rather than specifying what must happen.

It places duties on different groups, including employers, employees, the self employed, controllers of premises, designers, manufacturers, suppliers and importers.

The core duties cover all hazards, all workplaces and all people affected by risks arising from work activities.

Ancillary laws build upon and provide more detail about the Health and Safety at Work Act's general duties for particular hazards or workplaces.

Northern Ireland has a separate health and safety law, the Health and Safety at Work (Northern Ireland) Order 1978. It is almost

identical to the Health and Safety at Work Act. Crown dependencies also have their own health and safety laws that borrow heavily from the Health and Safety at Work Act and place very similar duties on employers.

- **Isle of Man:**  
Health and Safety at Work Order 1998
- **Jersey:**  
Health and Safety at Work (Jersey) Law 1989
- **Guernsey:**  
The Health and Safety at Work (General) (Guernsey) Ordinance 1987

**Sections 2 and 3** of the Health and Safety at Work Act place a general duty on employers to ensure the safety, health and welfare at work of employees and others who are affected by work activities, such as contractors, passersby or local residents.

Section 2(1) states: *"It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees."*

Section 3(1) states: *"It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment ... are not ... exposed to risks to their health or safety."*



The provisions are outcomes based. It states a result that an employer must achieve (in the case of section 2, that employees are safe and well) subject to a caveat (doing what is reasonably practicable. There is more discussion of this concept below). It does not specify how the employer should achieve that.

**Section 2** also requires employers to:

- maintain plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- have arrangements for ensuring that the use, handling, storage and transport of articles and substances are safe and without risks to health, so far as is reasonably practicable;
- provide employees with appropriate information, instruction, training and supervision;
- maintain any place of work under the employer's control in a condition that is safe and without risks to health, in so far as is reasonably practicable;
- provide and maintain a means of access to and egress from the workplace that is safe and without risks;
- provide and maintain a working environment for employees that is, so far as is reasonably practicable, safe, without risks to health, with adequate facilities and arrangements for welfare at work;
- prepare and as necessary revise a written health and safety policy statement; and
- consult with health and safety representatives on the employer's health and safety arrangements.

Other parts of the Health and Safety at Work Act worth noting are:

- **Section 3(2)** – places a general duty on self employed people whose work poses a risk to others to ensure they do not endanger themselves or anyone affected by their activities.
- **Section 4(2)** – places a duty on employers to ensure that the place of work, the land and buildings do not endanger anyone using them.
- **Section 6** – places a duty on designers, manufacturers, importers and suppliers to ensure that articles and substances they provide for use at work do not pose a risk to health or safety. This section requires them to carry out testing and examination and to provide adequate information, such as data hazard sheets, about how to use the equipment safely.

Employee duties are contained in sections 7 and 8.

- Under **section 7**, employees must:
  - Take reasonable care of their own health and safety and that of others; and
  - Co-operate with the employer to enable it to carry out its legal duties.
- Under **section 8**, nobody – employees or anyone else – may interfere with or misuse anything that an employer has provided to keep people safe.

Other regulations place specific duties on employees on, for example, wearing personal protective equipment.

## 1.2: Building detail: Secondary legislation, ACOPs and guidance

### Secondary legislation

Secondary legislation – regulations or orders made under the Health and Safety at Work Act – impose duties in relation to specific hazards, processes or groups of workers. They build on the requirements of the Health and Safety at Work Act, providing additional information or obligations in order to meet the general duties contained in the Act. Examples include

the Work at Height Regulations 2005 or the Control of Substances Hazardous to Health Regulations 2002.

### Approved Codes of Practice (ACOPs)

ACOPs supplement some regulations, giving authoritative, practical advice on how to comply with the law. They have a particular legal status. If employers follow the advice, they will be doing enough to comply with the law insofar as the specific matters on which the code gives advice are concerned. If an incident happens, so long as the employer followed the ACOP, they will have a valid defence in court. If they didn't follow it and they are prosecuted, they will need to show they complied with the law in some other way.

### Guidance

Guidance produced by the HSE, other regulators and industry may supplement secondary legislation, giving practical information to employers, trade unions and others. It is advisory, but if dutyholders follow guidance produced a regulator they will be doing enough to comply with the law. It can be used to guide an employer or inform trade unions in negotiations.

Because of their legal underpinning, ACOPs provide reps with a stronger basis than

guidance on which to make representations to their employer about how they should manage risk. There are over 50 ACOPs.

The HSE has a webpage containing all ACOPs: <https://tinyurl.com/yeypchhu>

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### 1.3: Types of duty

The obligations health and safety law places on employers and others are qualified in different ways. There are three types of duty, which work in different ways to create an expectation of what the dutyholder will do.

#### Reasonably practicable duties

This requires the dutyholder to judge the reduction in risk that a control measure would produce against the sacrifice (the cost, time and trouble) involved in introducing it. This means that employers can argue that the cost of introducing a measure cannot be justified by the benefit. However, the sacrifice involved must be grossly disproportionate to the benefit before employers can legitimately argue this. The process is not one of balancing the sacrifice and benefits but one of adopting measures except where they are ruled out because they involve grossly disproportionate sacrifices. An employer's lack of money to introduce an

improvement is not an acceptable argument under the act.

Sections 2(1) and 3(1) of the Health and Safety at Work Act are examples of reasonably practicable duties.

Guidance and ACOPs, where they exist, provide advice on what is reasonably practicable. In most cases, dutyholders take decisions about appropriate measures to control risk by applying established good practice or following agreed standards. In more novel or complex situations, cost-benefit analysis may be used to support decisions.

#### Practicable duties

These must be complied with in line with current knowledge and understanding, irrespective of the time it would take, the trouble involved or the cost. The risk assessment should not consider the sacrifice involved in controlling the risk.

An example is Schedule 4 of the Work at Height Regulations 2005, which states: "*Suitable and sufficient steps should be taken to ensure, **so far as practicable**, that, in the event of a fall by any person, the safeguard does not in itself cause injury to that person.*"



## Absolute duties

No assessment of risk is required – these must be met or implemented, irrespective of the difficulty, inconvenience or cost, even if it means that the activity can no longer be carried out. They are the highest level of duty and often occur when injury or ill health are practicably inevitable unless precautions are taken. These duties are rare regarding physical safeguards, but more common regarding management requirements, for example the need for a written policy or risk assessments.

For example, Regulation 5(1) of the Provision and Use of Work Equipment Regulations 1998 states: *“Every employer **shall ensure** that work equipment is maintained in an efficient state, in efficient working order and in good repair.”*

## Significance for reps

Each of these types of duty have different significance for trade unions. Absolute and practicable duties are, in practice, very similar. Where they exist, they can be easier to argue because they set out clear legal expectations and it should be evident whether or not an employer complies.

Provisions qualified by the term reasonably practicable can be more problematic. However, it opens a space in which reps can bargain for improved control measures and higher standards; in legal parlance, the union can

argue that the employer must take further specific steps to control a risk because they involve a degree of sacrifice that is not grossly disproportionate to the benefit.

It is important that reps push for the most thoroughgoing control measures. Members may be able to provide authoritative information and views on the process of weighing risk against sacrifice. They usually know the work and the arrangements needed to control the risk.

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## 1.4: Health and safety arrangements

Regulation 5 of the Management of Health and Safety at Work Regulations (MHSWR) places a duty on employers to have suitable arrangements to manage health and safety. It mentions the need to have appropriate measures for the *“planning, organisation, control, monitoring and review of the preventive and protective measures”*.

Health and safety management should be part of the everyday process of running an organisation and an integral part of workplace behaviours.

The HSE recommends a *“plan, do, check, act (PDCA)”* approach to health and safety management systems. This is an iterative

design and management method used in business for the control and continual improvement of processes and products.

- **Plan:** Determine and assess health and safety risks, health and safety opportunities and other risks and other opportunities; establish health and safety objectives and processes necessary to deliver results in accordance with the health and safety policy;
- **Do:** Implement the processes as planned;
- **Check:** Monitor and measure activities and processes with regard to the health and safety policy and health and safety objectives, and report the results;
- **Act:** Take actions to continually improve the health and safety performance to achieve the intended outcomes.

It is important employers engage with the union at each stage of the process. Representatives and members will be able to provide practical insight and information which will improve the quality of implementation at each stage.

There is more information on the PDCA approach in the HSE document Managing for health and safety (HSG65): <https://tinyurl.com/2jrwux97>

## 1.5: Risk assessment

Risk assessment is the cornerstone of an employer's management of health and safety. A risk assessment is a systematic process of establishing what can cause people harm at work, and taking steps to prevent that harm from occurring.

The Management of Health and Safety at Work Regulations 1999 require employers to carry out a "*suitable and sufficient*" assessment of:

- a. the risks to employees' health and safety while they are at work; and
- b. the risks to the health and safety of people who are not employees – such as contractors or passersby – which arise out of or are in connection with the employer's undertaking.

To do this, the employer must:

- identify what could cause injury or illness in the business (hazards)
- decide how likely it is that someone could be harmed and how seriously (the risk)
- take action to eliminate the hazard or, if this isn't possible, control the risk.

The risk assessment need only include risks the employer could reasonably be expected to know. Insignificant risks can usually be ignored, as can risks arising from routine activities associated

with life in general, unless the work activity compounds or significantly alters those risks.

Employees and health and safety reps should be consulted during the risk assessment process. This will help ensure that all hazards are identified, that all appropriate control measures have been considered, that any measures will work in practice and won't introduce new hazards.

Employees are more likely to understand why procedures are put in place and follow them if they have been involved in developing them.

While risk assessors should be competent, it is an imprecise science and sometimes decisions made about risk reflect the view of the person doing the assessment. This is one reason it is important the risk assessor consults widely. Health and safety reps should feel that they can always challenge assumptions in the risk assessment.

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## 1.6: Regulators and enforcement

There are a range of agencies which enforce the Health and Safety at Work Act and other laws to protect workers and people affected by work.

The HSE and local authorities are the main two. In general, the HSE deals with industrial and hazardous industry sectors, while local

authority environmental health departments cover offices, hospitality, retail and leisure facilities. The HSE only operates in Britain – its Northern Ireland equivalent is the HSENI. Other regulators, including the Office for Nuclear Regulation (ONR) and the Office of Rail and Road (ORR), enforce health and safety law in particular sectors.

Regulatory inspectors have powers to:

- enter premises without a warrant
- inspect and investigate
- take measurements, samples and photographs
- require an area or machine to be left undisturbed
- seize and render harmless dangerous items
- obtain information and take statements.

In addition, inspectors have a number of enforcement tools available. They may issue improvement notices to an employer if, in their opinion, the law has been breached and it's likely to be repeated. It will specify the requirement to remedy the breach within a defined time scale.

Inspectors serve prohibition notices if they find work activities which carry a risk of serious injury. It will specify that the activity cannot continue until the situation has been remedied. Noncompliance with enforcement notices is an offence.

Where there has been a particularly serious incident, the employer may be prosecuted for a breach of the law. In England and Wales, prosecutions are brought by the regulators themselves. In Scotland and Northern Ireland, prosecutions are brought by a prosecution agency – the Crown Office and Procurator Fiscal Service (COPFS) and the Public Prosecution Service (PPS) respectively – with the support of the relevant regulator.

When there has been a fatality at work, the police will take the lead investigating it. Their focus is whether manslaughter has been committed – either gross negligence manslaughter, which is an offence committed by individuals, or corporate manslaughter, which is an offence committed by companies. They will be supported by the appropriate regulator for the industry, who will subsequently take the lead if the police conclude that manslaughter has not been committed.

Some Crown employers have immunity to enforcement actions, and Crown notices are issued in circumstances where immunity applies. The HSE states that failure to comply with a Crown improvement or prohibition notice will eventually result in the matter being taken up directly with the Minister responsible for the workplace.

A key function of health and safety reps is to represent members in consultation with inspectors and to receive information from them. There is more information on this at [section 3.6](#).



## 2: Health and safety representatives – arrangements

➔ Health and safety law empowers unions to appoint health and safety representatives and places an obligation on employers to consult them on a wide range of matters. The law also gives reps rights to carry out a range of functions in order to represent, advocate for and protect members.

addresses consulting employees. Further good practice guidance for employers is available in the document, *Involving your workforce in health and safety (HSG263)*, which is available at <https://tinyurl.com/3u993dny>.

Copies of the Brown Book can be purchased from the TUC, or downloaded from the TUC website: <https://tinyurl.com/44en8fce>

### 2.1: The Safety Representatives and Safety Committees Regulations

The Safety Representatives and Safety Committees Regulations 1977 (SRSCR) set out the arrangements for the appointment of health and safety representatives and provide details of their rights and functions. The regulations are the source of representatives' statutory rights, but these rights will only be put into operation through negotiation and agreement with the employer.

The SRSCR were introduced under the Health and Safety at Work Act and have the same legal force as the Act itself. Failure to meet the provisions is a criminal offence.

The regulations are accompanied by an ACOP and guidance. The regulations, ACOP and guidance are contained in a document published by the TUC commonly known as the "Brown Book". The content is drawn from a wider HSE publication, known as L146, which

### 2.2: Recognition

Only recognised unions can appoint health and safety reps. If the employer recognises Prospect for any area of collective bargaining, the union is considered to be recognised for the purposes of the SRSCR. An employer who recognises the union for other purposes, but refuses to recognise the existence of health and safety representatives, is failing to carry out their obligations.

### 2.3: Appointing representatives

The appointment of union health and safety representatives is covered in Regulation 3 of the SRSCR. It states recognised unions can appoint employees as health and safety representatives.



The SRSCR says reps should, so far as is reasonably practicable, have worked for their employer for two years or have at least two years' experience in a similar role. This is to ensure they have sufficient knowledge to make responsible and practical contributions.

However, reps do not need to have two years' experience in all circumstances, such as where an employer or site is newly established, the work is short duration or staff turnover is high.

The regulations do not cover how the appointment takes place. This is dealt with by the internal procedures in the branch. For example, reps may be elected by the members at an annual general meeting or simply asked to be the rep by a branch officer.

On making an appointment, the union must notify the employer in writing of the rep's name and specify the group or groups the representative represents. It is only once this is done that reps have a legal right to carry out their functions.

In general, unions will normally represent the group or groups of workers it has collective bargaining rights for, especially if there are other recognised unions in the workplace.

There is no hard and fast rule on how many health and safety representatives should be appointed. It is a reflection of the workforce, the workplace and the work process that happen

there. In deciding how many representatives to appoint, branches should consider the:

- total number of staff employed in the area
- variety of different occupations
- size of the workplace
- variety of locations
- shift systems
- type of work activity and the degree and character of the inherent dangers.

Branches should appoint enough reps to build a strong organisation that can appropriately represent members and deal with problems effectively where they occur.

Branches which have more than a few health and safety reps should consider appointing a coordinator or lead rep. Their job is to liaise with other health and safety representatives in the branch to ensure their work is integrated into branch business and to communicate with the executive committee about any health and safety issues.

Unfortunately, the law does not allow self employed people to either become health and safety representatives or be represented by one. However, branches representing freelance members should also consider appointing a rep to lead on health and safety matters on the branch executive committee. Freelance reps in the Bectu sector who have been appointed

to such a role can attend the union's Creative Industries Safety Passport (CRISP) course free of charge. CRISP is a one-day health and safety course designed specifically for workers in film, TV, theatre and live events. Freelance members or reps experiencing health and safety issues they cannot resolve should speak to their full time officer.

Where reps work alongside members who are contractors, those members will need their own health and safety representative arrangements to engage with their employer, assuming they have the employment status of employee.

## 2.4: Liability

Managing health and safety is primarily the responsibility of the employer. Health and safety representatives cannot be sued or prosecuted for anything they do or do not do while acting in that role. The SRSCR states that, aside from sections 7 and 8 of the Health and Safety at Work Act (i.e. their obligations as an employee), none of the functions of a health and safety rep impose a duty on them.

## 2.5: Time off

The SRSCR states that health and safety representatives have a right to take as much paid time off as is necessary during working hours to fulfil their functions and to undergo training. The Brown Book also states they should carry out their functions as part of their normal job, and employers should take account of this in their workload.

HSE guidance says employers should recognise the role of reps by recording the role in their job description, work objectives or performance plan for the year.

If an employer refuses to allow health and safety reps time off, they should contact their full-time officer for assistance. Ultimately, the reps have recourse to an employment tribunal.

## 2.6: Training

As soon as possible after their appointment, health and safety representatives should be permitted time off to undergo training in the role. Health and safety reps have a right to time off to *"undergo such training in aspects of those functions as may be reasonable in all the circumstances"*.

Reps should be appointed before they go on training. It is only once they have been appointed that they have the legal right to the time off.

Even if new reps have professional health and safety qualifications from awarding bodies such as NEBOSH, they will need union rep training.

Prospect provides health and safety representatives with level one training. This will give trainees everything they need to get active in their workplace.

The TUC has two courses for reps who are looking to build on their level one training. Next Steps for Safety Reps is the TUC's health and safety stage 2 course. The TUC also offers a diploma in occupational health and safety.

Your employer may also provide training, but this should be in addition to, not instead of, union training. The Brown Book says health and safety reps should keep themselves informed of health and safety legal requirements, especially those relating to the people they represent, and hazards in the workplace and appropriate control measures. To help with this, Prospect produces a regular health and safety newsletter, holds a biennial health and safety conference and arranges periodic training days and webinars. Reps should engage with these where possible.

## 2.7: Buddying

New health and safety reps sometimes need some help from more experienced colleagues to get started. The branch should consider developing buddying arrangements to help support and develop new reps.

A buddy is an experienced rep who has agreed to be a point of contact for a new rep. They provide informal guidance, shadowing and encouragement during their first months in the role.

The buddy should meet with the new rep soon after they are appointed. They should be available for any questions or queries they may have in the months afterwards. Buddies will need to answer questions on how the branch works, its priorities for health and safety and the employer's arrangements for managing health and safety.

A buddy should be an experienced rep who thoroughly understands the role. They should exemplify and role model the union's expected behaviours, understand different perspectives and work inclusively. They will need to be a good communicator.

If you could like help developing a buddying programme, speak to your Prospect full-time officer.

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## 2.8: Non-union safety reps

Where there are groups of employees who are not covered by a union health and safety representative – this could be because the union does not have recognition with the employer, or because the union has recognition but not for all groups of employees and the union has decided not to collectively represent them – then employers must consult these employees under the Health and Safety (Consultation with Employees) Regulations (HSCER).

There are two avenues for employers to consult employees under these regulations: either directly (e.g. at team or individual meetings), or via what HSCER calls representatives of employee safety (ROES). The regulations leave it to the employer to decide which to adopt.

ROES must be elected by a group of employees to represent them in discussions with the employer. Employers cannot appoint the individuals themselves, although they organise the election and determine which employee groups ROES represent.

ROES have a right to be consulted, but their functions are limited to:

- making representations to the employer on hazards and dangerous occurrences;
- making general representations on health and safety matters; and
- representing their group to health and safety inspectors.



# 3: Health and safety representatives – functions

➔ Like other union reps, health and safety reps could get involved in campaigning, meeting and speaking to members and managers at the company they work for. In addition, the core tasks of a health and safety rep include:

- raising health and safety issues with management
- carrying out inspections and investigations
- attending meetings of the health and safety committee
- being consulted on health and safety documentation and plans, such as risk assessments or the content of training
- reviewing accident and ill health data and trends
- advising members.

Regulation 4 of the SRSCR contains the formal functions of a health and safety representative. The exact nature of the role will be a reflection of the workplace, the members of the branch and even the experience, knowledge and interests of the rep themselves.

## 3.1: Representing members

The most important function of health and safety representatives is to represent the interests of members on matters relating to their health, safety and welfare. Representatives are independent of management and accountable to members.

In order to represent members, the Brown Books says reps should:

- develop knowledge of the legal requirements relating to the people they represent; the hazards they work with and how risks should be controlled; and their employer's health and safety policy and the arrangements for fulfilling it.
- encourage co-operation between their employer and employees; and
- bring to the employer's attention any unsafe or unhealthy conditions, working practices or unsatisfactory welfare arrangements.

As previously stated, a union will normally represent the group or groups of workers it has collective bargaining rights for.

For practical matters, it can be most effective if individual health and safety reps represent a clear group within or in relation to those groups. That could be a group of workers or



a defined area of the workplace. This way, the rep can build relationships and understanding with both members and those on management side, as well as familiarity with the work that happens there and any associated processes and procedures. In turn, members and managers know who to come to if there is a problem.

Reps should speak to other reps on the branch executive committee or other health and safety reps to find out or begin the process for deciding how the rep structure will work.

Reps must treat all their members fairly and be sensitive to issues affecting different groups of workers, for example women, religious workers, LGBTQ+ members, workers with impairments, young workers or those who work outside standard hours, such as maintenance, cleaners and security staff. Representing everyone fairly makes for a stronger union.

Health and safety representatives should ensure that:

- they know how to communicate with members – what are the established channels?
- members know who they are and how to contact them – where is this information displayed? Could it go on the intranet or a noticeboard?

- they regularly discuss health and safety issues with members
- they know when and how to take up health and safety problems with management
- they keep branch and section reps updated on health and safety matters, or the lead health and safety rep
- they know other union arrangements, including branch officials, reps with special responsibilities and health and safety reps from other unions operating in the workplace.

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### 3.2: The employer's arrangements

Health and safety reps will need to establish what their employer's arrangements are for managing health and safety. After being appointed, they should find out:

- the employer's health and safety policy, including information on how it is put into practice;
- management structures, including communication channels, the director/manager responsible for health and safety, any health and safety professionals or officers, occupational health staff, and so on;
- people with special safety responsibilities, including first aiders and fire wardens, who work in the area;

- health and safety committee membership, including when and where it meets;
- how to record incidents and accidents; and
- how to access to information, such as risk assessments and procedures, what the employer will provide and where can it be found.

Reps should speak to their fellow Prospect reps, branch executive committee or full-time officer if they have difficulty with finding any of this.

### 3.3: Gathering information

Regulation 7 of the SRSCR states that health and safety representatives can access any information or documentation their employer holds which they need in order to carry out their functions. There are exceptions, including for national security and sensitive personal information.

Employers sometimes provide unjustified reasons for refusing to share information. Common examples are **legal privilege** and **data protection**. These are only legitimate in certain circumstances. See the box opposite for more information.

## Data protection

➔ Identifiable personal information, such as individual medical records, do not need to be disclosed (see SRSCR Regulations 7(1) and 7(2)(c)). However, information can be made available in other formats, for instance as statistics or with the names of individuals redacted. Information about an individual can be disclosed if they agree.

The accident book published by the HSE contains a section for the injured party to record their consent for their information to be shared with a union rep. While many larger employers use a digital system to record accidents and incidents, it should include the same measures to ensure data protection requirements are addressed.

If you have concerns that your employer is not releasing information when they should, get in contact with your Prospect full-time officer.

## Legal privilege

➔ Employers occasionally refuse to release investigation reports and other documentation relating to an accident, arguing they are legally privileged. SRSCR Regulation 7(2)(e) may be used to support this. However, this argument is often deployed when it is not justified.

There are two types of legal privilege – legal advice privilege and litigation privilege. The former protects communications between a lawyer and their client to enable the giving and receiving of legal advice. The latter protects communications between lawyers or their clients and a third party for the purpose of obtaining advice or information in connection with existing or reasonably contemplated litigation.

It is only when adversarial litigation (e.g. being prosecuted by an enforcing authority) is “reasonably contemplated” (it must be a real likelihood), and communications are created for the dominant purpose (greater than 50%) of obtaining information or advice in connection with it, that litigation

privilege may apply. It is not sufficient to say that legal proceedings are one of a number of purposes of equal importance.

Often, accident investigation reports are produced for several reasons. For example, an employer will carry out an investigation to understand what happened, what measures are required to ensure it does not happen again and to satisfy a legal requirement in the Management of Health and Safety at Work Regulations.

## Workplace and body mapping

Workplace and body maps are useful ways for health and safety reps to identify specific risks to employees. They gather together groups of workers for a collective, participatory exercise to discuss and provide evidence of health and safety issues.

When body mapping, employees mark on an outline of a body where they believe their own job is affecting them. Different colours can be used to represent different effects, for example, red = pain, yellow = stress, and so on. The body maps produced by different groups from within the workplace can be compared to see how problems differ between jobs.

Workplace mapping works similarly, but instead of an outline of a body, employees mark on a plan of the workplace where they believe there to be a health and safety problem. Blue marks could indicate problems with hazardous substances, or green marks ergonomic issues, for instance.

For more information on mapping, see our body and workplace mapping factcard: <https://tinyurl.com/4j3z3phs>

## Surveys

Surveys can be a useful way to gather information from members about health and safety issues. Plan carefully to ensure you get accurate, useful information. Be clear about your aims and how you will use the information you gather.

Choose the most effective method for your workplace and aims: short written or online surveys work well for quick feedback, while face-to-face conversations can uncover more detail. Keep questions clear, concise and relevant, and give space to allow people to raise issues you haven't anticipated. Explain why you're collecting the information, how it will be used, and that individual responses will be kept confidential.

When reviewing responses, look for patterns, such as recurring concerns, specific hazards or departments with higher numbers of problems. Summarise your findings for members and share anonymised responses with management, highlighting issues that need urgent action.

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## 3.4: Inspections

The right to make inspections of the workplace is one of a health and safety reps' most important. Carrying out inspections gives reps the chance to meet members and discuss their

concerns. It also demonstrates the union is serious about health and safety.

Branches may wish to plan a programme of inspections across the areas where members work. New health and safety representatives can be accompanied by a more experienced rep during their first inspections (see [section 2.7](#) for more information on buddying).

Health and safety representatives can inspect the workplace if:

- reasonable notice is given to the employer and it has not been inspected in the previous three months. They can do it more often with the agreement of the employer (SRSCR Regulation 5(1)).
- there has been a substantial change in working conditions, or new information relevant to the hazards in the workplace has been published by the HSE since the last inspection (SRSCR Regulation 5(2)).
- there has been a reportable accident, an accident that has resulted in someone being off work for more than three days, a dangerous occurrence or a notifiable disease (SRSCR Regulation 6(1) – see [section 3.5](#) for more on investigations).
- they are checking that matters notified to the employer following a previous inspection have received appropriate attention (Brown Book paragraph 58).

Reps can inspect any area where members work or which they use during work, including kitchens, toilets, rest facilities, and so on. If the workplace is very large, it will be easier to inspect some areas separately. It may be best to agree with management that large workplaces will be inspected over several days.

The employer must provide facilities and assistance reasonably required to do the inspection (SRSCR Regulation 5(5)). A management representative is entitled to accompany the health and safety rep, but if members wish to discuss particular problems they should be able to do so without management being present.

It is a good idea to vary the type of inspection you undertake from time to time. The HSE suggests that inspections could be one of the following types:

- General inspections or tours of the workplace
- Systematic sampling of particular activities, processes or areas
- General surveys of particularly dangerous operations

Reps can also carry out paper-based inspections of records relating to, for example, lift maintenance or asbestos management.

## Preparation

It is worth doing some simple preparation before carrying out an inspection:

- Let members know an inspection will take place and ask about any problems so they can be checked during the inspection.
- Let management know when the inspection will take place and the areas to be covered.
- If inspecting an unfamiliar area, obtain a plan and develop an idea of the work carried out there. Members can be asked about how they carry out their work.
- Obtain risk assessments and procedures used in the area to be inspected, and consult the accident book or database to see whether any incidents have been recorded.
- Request the results of recent management tours or audits to see if any problems have been identified and resolved.
- If more than one rep will take part in the inspection, from Prospect or another union, meet beforehand to discuss a common approach.

Reps may wish to use checklists to assist with their inspection. The best checklists are those reps develop themselves with members and other representatives, using their knowledge of the workplace. A basic template checklist using Microsoft Forms is available here: <https://tinyurl.com/mtthh5zm>

## During the inspection

- Check on problems that members have identified.
- Don't just look for physical hazards, also consider health risks, working time and training.
- Make a note of problems as the inspection progresses, keeping a note of where they were identified.
- Talk to workers about any issues, both members and non-members. Health and safety is a great recruiting tool.
- Risk assessments can be generic, so consider the specifics of any tasks you look at.
- Check past issues which management has addressed. Has it been resolved, or led to other problems?
- Conditions may not be typical during the inspection. Consider factors that could affect the situation at other times, such as when staffing levels or production are different than normal.

## After the inspection

It is important that reps present to management the details of any issues that need to be remedied. They should produce a report as soon afterwards as possible, using notes taken during the inspection. A copy of the report should be given to management with a



request for a written response on their intended action. Try to agree a blueprint for action so that problems do not drag on.

If several problems have been identified, try to prioritise with management the order in which they will be tackled. If the hazard is serious, it may be necessary to get agreement with management to stop work straight away until a solution is found.

If an agreement cannot be reached with management over what action should be taken, obtain a written response from them on their reasons, in line with paragraph 57 of the Brown Book.

Tell members about the problems that have been identified to demonstrate union activity on health and safety. Report back to the local section and/or branch as necessary.

### **Joint inspections**

Joint inspections with management can help secure quicker action and foster cooperation.

Try to ensure you have shared expectations about how it will proceed at the outset. Agree the purpose, how you will approach the inspection, the type of inspection you will carry out, any particular issues you will focus on and how you will record findings. Keep your own copy of any notes. Carry out your

prep together, and where appropriate share member concerns regarding the area or the findings of previous union inspections.

If disagreements arise over whether something is a problem, record both perspectives in the report, if necessary. Ensure the final report is in the name of both parties. Communicate results to members in the same way as if it were solely a union inspection.

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## **3.5: Responding to incidents and accidents**

When an incident happens, engage promptly with the employer to ensure that short term measures to prevent further harm have been implemented. Consider whether the work or access to it needs to be suspended until the risk is adequately controlled.

Check that the issue has been recorded and, if necessary, reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR). Only certain incidents are legally recordable, but ensuring a broad range of issues are logged will mean there is a record if something similar happens again and gives the organisation a chance to learn lessons.

## Personal injury claims

If a member is injured or becomes ill because of the negligence of the employer, Prospect can pursue a claim on their behalf through the union's personal injury scheme. For more information, visit <https://tinyurl.com/9psf4wbm>.

## Investigations

SRSCR Regulation 6 allows health and safety reps to inspect the workplace when there has been a RIDDOR reportable or recordable incident (i.e. an over-three-day injury, or notifiable accidents, dangerous occurrences or diseases). This inspection should form part of an investigation into the cause of the incident to determine measures to prevent it happening again.

In many cases, branches will have arrangements with their employer that allow a broader range of incidents to be investigated than simply RIDDOR reportable/recordable incidents, for example, near misses which have the potential to be serious.

The employer must provide facilities and assistance to carry out the inspection. One element of this is that reps will need to agree with their employer a system for being notified when there has been an incident which they are entitled to inspect. The branch will also

need a system for determining how these investigations are assigned to reps.

Employers may carry out their own investigation, especially if the incident is or could have been serious. The MHSWR requires employers to have appropriate arrangements for managing health and safety, and incident investigations form an important part of this. Most employers will have a methodology for determining which incidents are investigated, and reps may choose to fall in with this process, or seek to change it if they disagree.

In the spirit of joint working and cooperation which the Health and Safety at Work Act tries to instil, employers should invite health and safety reps to participate in the investigations they carry out. It is generally better to carry out an investigation with management, but there may be circumstances when you want to do it independently – for example, if the employer has decided not to carry out an inspection but reps believe there to be benefit in doing so, or if there are concerns about previous investigations the employer has carried out.

An investigation will need to gather and analyse of all information available, physical (the scene of the incident, being careful not to interfere with, disturb or damage any evidence if a regulator has yet to conclude its investigation), verbal (the accounts of witnesses, including any individuals who

were harmed) and written (risk assessments, procedures, instructions, job guides etc).

As information is gathered, it should be assembled and examined to identify what information is relevant and what information is missing. As the analysis progresses, further lines of enquiry requiring additional information will develop.

There are many techniques for analysing adverse events and identifying root causes. The HSE recommends an iterative approach to explore cause and effect, where you ask “why” over and over until the answer is no longer meaningful. The starting point is the “event”, e.g. the individual being harmed, and the point at which you cannot ask why again being the root cause. The root causes of adverse events are almost inevitably management, organisational or planning failures. Along the way you will reveal risk control measures that either failed or could have prevented the incident if they were in place.

Keep other members informed, while protecting confidentiality as necessary.

### 3.6: Dealing with enforcing authorities

The SRSCR states that health and safety representatives have the right to consult and receive information from regulatory inspectors. Different regulators will have different approaches to engaging with health and safety representatives.

Internal HSE guidance for its inspectors says that when HSE inspectors visit a site, they should make contact with health and safety reps whenever possible to confirm the reason for their visit. Inspectors will not get involved in industrial relations matters, but they should establish whether the reps have any health and safety concerns.

Raising concerns with the inspector should only be done with the agreement of the branch as it could damage the union’s relationship with the employer on issues beyond health and safety.

Inspectors should ensure the advice they give to the employer, and the results of any investigations or tests, is made available to reps. Reps should also be informed of any enforcement action taken.

HSE guidance says that, on concluding the visit, inspectors should discuss their findings and any follow up action with representatives and, where appropriate, hold a joint discussion with senior management and representatives.

The ONR's Technical Inspection Guide on licensed site annual review meetings states that a separate meeting can be arranged with health and safety representatives as part of the review process.

### **Complaining to the enforcing authority**

There may be occasions when it will be necessary to complain to the regulator about health and safety concerns in the workplace. Complaints should only be made about issues that have caused, or have the potential to cause, significant harm, and established grievance and escalation routes have been exhausted.

Complaints should be raised with the appropriate regulator for your workplace, which is primarily determined by the sector you work in. The HSE has guidance to aid with identifying the correct enforcing authority: <https://tinyurl.com/37tpejph>

The HSE has a dedicated form and email address for union health and safety reps to raise complaints. It can be found at <https://tinyurl.com/49r8mwkj>.

Each regulator will have its own policy and procedure for handling complaints about a dutyholder. Generally, the regulator will triage your complaint to determine whether to visit your workplace. They may ask for further

information, such as evidence concerning the issue and correspondence relating to it.

Unfortunately, not all concerns reported to the regulator will be followed up, partly because many regulatory agencies have severe resource problems after years of underfunding. If you experience this, inform your Prospect full-time officer.

### **Being questioned by a regulatory inspector**

Caution is needed if a regulator is called in to investigate an accident which has resulted in death or serious injury. If Prospect members were acting in a supervisory capacity, it is strongly recommended that a solicitor or Prospect full-time officer should be present if the member is interviewed under caution by a regulatory inspector.

A particular issue for members is the taking of statements. Where an inspector carries out an investigation into an incident, accident or other dangerous occurrence in the workplace, under Section 20(2)(j) of the Health and Safety at Work Act, an inspector may require any person who they have reasonable cause to believe to be able to give information relevant to that investigation to answer such questions as the inspector thinks fit to ask and to sign a declaration of the truth of the answers given. The inspector can question the person alone or

in the presence of a nominated person, such as a manager, supervisor or health and safety rep.

Members approached by an inspector following an incident should ask whether the approach is being made under Section 20 of the Health and Safety at Work Act, or whether the inspector is contemplating prosecution of the member being questioned.

In the event of a Section 20 inquiry, members have the right to ask for their health and safety representative or other appropriate representative to be present. The member must answer all questions put by the inspector and sign a declaration if asked to do so. In that event, members should ensure the following words are included: *"This declaration is made in pursuance of inquiries made under Section 20 of the Health and Safety at Work Act 1974."*

No answers given by a person under Section 20(2)(j) inquiries shall be admissible in evidence against that person in any proceedings. In itself, however, failure to provide the information is an offence.

An inspector may also take voluntary statements under Section 9 of the Criminal Justice Act 1967, or under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE). These are admissible in court. There is no obligation upon the member to answer questions in PACE interviews. However, the inspector will

caution the member by saying that while they do not have to say anything, it may harm their defence if they do not mention something when questioned which is later relied on in court. In these circumstances, the member should always take legal advice from Prospect. Once a member has requested legal advice, the inspector cannot insist upon the interview starting until that advice has been obtained.

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### 3.7: Data protection

Health and safety reps may collect sensitive personal information in the course of representing members, for example, when carrying out an incident investigation or conducting a survey. Prospect has a responsibility to keep its membership information secure and to use it in a way that members would expect and think fair. For more information on how union representatives should comply with data protection legislation, please see Prospect's *Guide to Data Protection*: <https://tinyurl.com/49bffrt4>





## 4: Consultation, involvement and engaging with employers

➔ Once the union has appointed health and safety representatives, the Health and Safety at Work Act places an obligation on employers to consult them.

- the health and safety implications of the introduction (or planning) of any new technology.

The table on the next page, taken from an HSE publication, provides a summary of what good and bad worker involvement looks like.

### 4.1: Being consulted

Section 2(6) of the Health and Safety at Work Act states employers must consult reps about “the making and maintenance of arrangements which will enable ... [them] ... to cooperate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures”.

Regulation 4(A) of the SRSCR builds on this. It requires every employer to consult health and safety representatives “in good time” on:

- the introduction of any measure which may substantially affect employees’ health and safety (substantial here meaning any degree more than trivial);
- the arrangements for appointing competent people to assist with managing health and safety and on implementing procedures for serious and imminent risks;
- any health and safety information the employer is required to provide to employees;
- the planning and organising of health and safety training; and

### 4.2: Health and safety committees

Well-run health and safety committees improve joint working and cooperation, communication, speed up problem-solving and help unions shape employers’ approach to health and safety. They are an integral part of an employer’s health and safety management system.

Under Section 2(7) of the Health and Safety at Work Act and Regulation 9 of the SRSCR, employers are required to set up a joint health and safety committee if two or more health and safety representatives request one in writing. The committee must be established within three months of the request.

The Brown Book says the arrangements for how the committee functions should evolve from discussion and negotiation between the employer and the union. Committee functions, membership and coverage should be reflect the organisation.

### What effective cooperation looks like

- Trade union H&S representatives carry out their full range of functions either independently or, if agreed, jointly with management.
- Trade union H&S representatives are involved in risk assessment.
- Trade union H&S representatives are consulted in good time on matters relating to their health and safety and the results of risk assessments (e.g. systems of work including procedures).
- Suggestions made by trade union H&S representatives are considered before health and safety decisions are made with an explanation from management if suggestions are rejected.
- Trade union H&S representatives are comfortable and supported in reporting unsafe acts and conditions.
- The company has key performance indicators for worker involvement, progress against which is reviewed and reported.

### What it looks like when done badly or not at all

- There are no arrangements or measures to enable health and safety cooperation between the employer and workforce.
- Employees lack the right level of information or training needed to do their job in a safe and healthy manner.
- Trade union H&S representatives are not supported to carry out their functions.
- Risk assessments are made without worker engagement.
- Change and new technologies are introduced without involving trade union H&S representatives in assessing any health and safety impact.
- Health and safety controls are not practical, forcing workers to work around difficulties.
- No supervisor/line manager discussion of:
  - how to do a job safely
  - the safe use of new equipment.
- Workers do not know how to report health and safety concerns or fear making a report will disadvantage them.
- Little or no evidence of information being cascaded through the organisation.

In large organisations, a single committee may either have too many people or, if kept small, be too remote. It may be necessary to set up several committees with arrangements for co-ordination between them. These might be overseen by a committee at group or company level, particularly where relevant decisions are taken at a higher level. The appropriate structure will depend on the nature of the organisation, the geographic spread of workplaces, the different risks and so on.

Effective health and safety committees should have clear terms of reference (outlining its purpose, structure, membership, responsibilities and operating procedures) and regular meeting dates (typically quarterly), with meetings scheduled in advance to allow preparation. Agendas and papers should be circulated in good time so reps can consult members and gather views. Minutes should record decisions, responsibilities and deadlines, and be distributed promptly.

Health and safety committees should address strategic issues affecting the workforce and allow day-to-day health and safety matters to be resolved at a local level.

Typically, committees will review and discuss accident, illness and absence statistics; audit/inspection reports; arrangements for training and competence; health and safety communications; policies; procedures; occupational health provision

and management; and reports from sub-committees. It can also be a forum for the union to formally raise and discuss health and safety problems or disputes.

Membership should be as compact as possible, while ensuring appropriate representation of the interests of management and employees, with people with technical expertise coopted as necessary. The Brown Book is clear (paragraph 84) that the number of management representatives should not exceed the number of employee representatives. The committee should be attended by a member of the senior management team to ensure it has authority.

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### 4.3: Framework agreements and rep charters

Framework or partnership agreements and health and safety rep charters are tools negotiated between unions and employers to strengthen representation, improve engagement and consultation. They set out agreed principles, commitments and practical arrangements, usually going beyond minimum legal requirements. They can be a useful reference when problems or complaints arise.

A framework agreement typically applies across an organisation and establishes common standards. It can cover matters such as:

- commitment to joint working and meaningful consultation and engagement;
- arrangements for joint inspections and investigations;
- in what circumstances and at what point the employer will consult reps;
- access to information;
- facilities such as paid time off, workspace and IT access;
- how disagreements or disputes will be dealt with; and
- company and site forums and procedures for discussion of health and safety.

A health and safety rep charter is usually a shorter document, often written in plain language, summarising what management and unions have agreed about the role and support for health and safety reps. Often it reaffirms legal basics, but will address any areas where there is an agreement to go above the minimum. It may be displayed in workplaces or on the intranet to remind everyone, including managers, of these commitments.

For reps, these agreements provide a benchmark to measure whether promises are being met. They are useful when challenging managers who may be unaware of company-level commitments, and they can help secure consistent practice across multiple sites.

Prospect has a template representatives' charter, which is available at: <https://union.prospect.org.uk/resource/safety-representatives-charter-template.html>

## 4.4: Disputes

Some organisations have special dispute procedures especially for health and safety matters but it is acceptable to use a general dispute procedure. They should be used sparingly. If health and safety representatives have to resort to these procedures, there is likely to be something wrong with the employer's approach to health and safety management.

If you need to pursue one, ensure the senior branch officers are aware and inform your Prospect full-time officer. Representatives should obtain as many facts as possible when putting together their concerns. Consider the following:

- are there any legal standards set in health and safety regulations?
- does HSE guidance or an ACOP exist on the issue? What does this say?
- are there standards set by industry or professional bodies?
- use your rights as a safety representative to obtain information from the employer

- talk to members. If the grievance is about a particular incident or accident, is there a witness?
- what proposals can be made to resolve the problem?
- what are management's probable arguments?
- what is your fallback position?

It may be necessary to complain to the enforcing authority. There is more information in section 3.6.

## Union Improvement Notices

Some employers have agreed a system to ensure that ongoing issues are corrected through adopting a system called union improvement notices (UINs).

A UIN is a formal notice issued to the employer which registers that the employer is not, in the union's view, complying with health and safety law. Notices usually describe the action which the union believes must be taken to remedy the problem and specifies a date by which action should be taken.

A UIN is not an enforcement notice. There is no right to issue a UIN nor, in law, is an employer explicitly required to respond, although it is implied in the SRSCR. However, unions can

negotiate a voluntary system of UINs with their employer where a notice can be issued:

- by a trained and accredited health and safety representative.
- where a breach of health and safety law can be identified.
- to deal with a hazard that does not pose an imminent risk to the health and safety of employees individually or collectively.
- where other action has failed to get the problem resolved within a reasonable time.

It is important that a framework for issuing UINs is agreed with the employer in advance. The agreement may address the format of notices, how and when they will be responded to, who can issue them, and what the union and/or employer will do if a UIN is not addressed.

It is expected that the use of UINs will be rare. It is not a substitute for normal inspections and discussions.

There is more information on UINs, including a template notice, in the TUC document *Getting more than the minimum*: <https://tinyurl.com/3m9c9mfy>

## 4.5: Making health and safety part of branch business

With standalone consultation machinery and specified reps, it can be easy for health and safety to become siloed and separated from other branch business. The questions below will help you perform a health check on your branch's health and safety arrangements.

- Does the union engage sufficiently with the employer on health and safety matters? Evaluate the level of engagement using the bullet points in the table in section 4.1.
- Does the branch have priorities and objectives for health and safety?
- Does branch activity on health and safety reflect the views and priorities of all groups within the membership?
- Is health and safety siloed in the branch or integrated into core business? Is there joined-up working between health and safety reps and reps with other roles, such as equalities or technical reps?
- Do you discuss health and safety at branch executive committee meetings?
- Do you discuss health and safety matters at annual general meetings?
- Are any areas of the organisation – either in terms of groups of staff or physical parts of the workplace – that do not have a health and safety rep?
- Does the branch have a lead health and safety rep, if necessary?
- Do health and safety reps know how to communicate with each other?
- Do members know who their health and safety reps are?
- Are there sufficient and effective health and safety committees?
- Do you consider health and safety as part of recruitment and organising activities?

# Who are Prospect and Bectu?

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**Prospect** is a trade union representing around 157,000 people across the UK in roles as diverse as (but not limited to) air traffic controllers, scientists, engineers, civil servants and digital experts.

Our organisation also incorporates **Bectu** – the sector of our union that supports people working in broadcasting, film and TV, theatre, entertainment and more.

We are experts in health and safety and employment law, workplace practice and industry policy. This guide is intended for representatives of both Prospect and Bectu.

If you are not a member of Prospect or Bectu, we recommend joining us at [prospect.org.uk/join](https://prospect.org.uk/join) or [bectu.org.uk/join](https://bectu.org.uk/join).







# Health & safety handbook

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A guide for health and safety  
representatives and branch  
officers on representing members  
and engaging with employers  
on health and safety matters.



[prospect.org.uk/join](https://prospect.org.uk/join)