

Safety Representatives: Getting more than the minimum

**A TUC guide to Roving Safety
Representatives and Union Improvement
Notices**

Section One

Introduction

The most effective tool that we have in ensuring good health and safety at work is trade unions, because organised workplaces are safer workplaces.

Union health and safety representatives and joint safety committees have now been around for 40 years and in that time have made a huge difference. Those employers who have trade union health and safety committees have half the injury rate of those employers who managed safety without unions or joint arrangements. But it is not only injuries that trade unions help reduce. It is also ill-health. The Health and Safety Executive has said “There is strong evidence that unionised workplaces and those with health and safety representatives are safer and healthier as a result.

The law on what employers must do on both health and safety representatives and health and safety committees in unionised workplaces are very clear and the priority must be to ensure that the employer complies with their legal requirements, but these legal requirements are only a minimum.

However, while these laws have made a massive difference to workplaces over the past 40 years we should not be complacent. We must both defend and fully use what we have and that is why the TUC has been celebrating the successes that union health and safety

representatives have made over the past 40 years through the [safetyreps@40 campaign](mailto:safetyreps@40).

But we also have to look at going beyond what the law says and make sure that we tap the true potential of union health and safety representatives to reduce injury and illness.

Where the employer is complying with the law, then health and safety representatives can also consider improving how they work over and above what the law allows.

There are two possibilities that you might want to consider seeking from your employer. These are roving safety representatives and Union Inspection Notices (UINs).

Negotiating roving health and safety representatives are of use where a branch has a lot of diverse employers, small workplaces, or a significant number of contractors on site.

UINs are most useful where there is an active, trained, and effective safety representative structure, but where management often ignores complaints.

This guide will help you decide whether these may be suitable for your workplace.

Section Two

Roving Health and Safety Reps

The Health and Safety Representatives and Safety Committee Regulations 1977 (Brown Book) states that “recognised trade union may appoint health and safety representatives from among the employees in all cases where one or more employees are employed by an employer by whom it was recognised.”

The Guidance Notes to the Regulations add “Normally, recognised trade unions will appoint representatives to represent a group or groups of workers of a class for which the union has negotiating rights. The limitation of representation to a particular group or groups should not, however, be regarded as a hindrance to the raising by that representative of general matters affecting the health and safety of employees as a whole.”

It adds “Equally, these general principles do not preclude the possibility of a safety representative representing, by mutual agreement between the appropriate unions, more than one group or groups of employees (e.g. In a small workplace or within the organisation of a small employer when the number of recognised trade unions is high relative to the total numbers employed).”

Normally a safety representative can only act as a safety representative for their employer, and for their own workplace. There is an exemption made

for two unions in the entertainment industry, but in other sectors the regulations are very restrictive and do not cater for situations where there may be a lot of workers employed by a contractor or where there are lots of different locations.

Unions have asked for this to be rectified for over twenty years. Unions in agriculture attempted to develop a small group of trade union roving representatives to improve the health and safety of farm workers scattered thinly across farms in southern England in the 1990s and in 1999 the Health and Safety Commission issued a discussion document outlining proposals for changes to regulatory arrangements for employee representation on health and safety. They included a legislative framework for roving health and safety representatives to represent workers in small businesses.

Although this did not happen, the HSE did run a pilot scheme of “Workplace Safety Advisers” in 2002. These were experienced safety representatives who worked with a group of employers and was based on a Swedish model. The evaluation of the pilot commissioned by the HSE and published in 2003 was extremely positive about the impact of the scheme. It found more than 75% of employers involved said that they had made changes in their approach to health and safety as a result of the pilot,

including revising or introducing new policies and procedures, regular health and safety discussions with staff, and risk assessments. The pilot also led to the creation of safety committees in some workplaces and joint working on risk assessments and training.

This was followed by a number of projects in 2004 and 2005 but, unlike the pilot, most of them did not involve trade unions and were partnerships between various local voluntary organisations or educational establishments.

Sadly the HSE did not continue with the scheme and, despite the success of the union-supported schemes, the HSE have dropped all plans for roving safety representatives.

That does not mean that we cannot use them. It is still perfectly permissible for unions to negotiate improvements to the current arrangements so that safety representatives can, by mutual agreement, represent workers in several different workplaces or across a range of employers.

There is no blueprint for the perfect scheme. It will depend on the sector you work in and the nature of the workplaces where the union has membership but examples of where they have been successful have included schools, the health service, construction and the voluntary sector.

Unions in action

Many unions have been successful in developing some form of roving safety representatives. Here are a few examples:

- *Several unions have got employers to agree that health and safety representatives can inspect areas of work where contractors are working, raise issues with the contractors, and discuss safety matters with the contractor's staff.*
- *In the voluntary sector, where there are a number of small employers, unions have in some cases, been able to negotiate that a safety representative covers a number of employers.*
- *Some local authorities have agreed that, in schools, there is a system of roving safety representatives whereby several representatives are given time off to visit other schools to inspect. This is paid out of a separate council-wide fund.*
- *In one ambulance service, management have supported a scheme where 12 roving health and safety representatives cover all the ambulance stations in the area. Previously the policy had been to have one safety representative per station, but in practice, this had not been achievable.*
- *One branch got their employer to agree that health and safety representatives would be given time off to visit all locations, even those where there were no union members. Health and safety representatives can visit these sites and raise concerns. They have been able to recruit a significant number of them, and as a result some of these workplaces now have union health and safety representatives.*

If you think that that negotiating greater rights for health and safety representatives is a good idea then you should consider:

- What system or systems of roving health and safety representatives would you like to introduce to suit the problems you have in representing a range of members in different locations or with separate employers?
- How time off is going to be agreed if there is more than one employer involved.
- If there is more than one union involved whether this can be a joint initiative.
- Make sure that all the members in the workplaces that will be covered are involved and consulted.

Roving Safety Representatives are not a substitute for having a representative in every workplace and with every employer, and should only be considered where the nature of the workplace makes this impossible because of a lot of different small locations.

However the principle of having Roving Safety Representatives is a very simple idea and is just an extension of what a union health and safety representative will already be doing, so focus on how you are going to be able to negotiate it with the employer rather than all the details as flexible arrangements usually work better.

Your union may also be able to give you advice on the best approach for your sector.

Section three

Union Improvement Notices

Even when things are raised with line managers or health and safety officers, and even if they are discussed at joint health and safety committees, every health and safety representative knows that sometimes things just do not get done, even where there is a clear breach of the law. While it is sometimes possible to call the enforcement agency, in the current climate, they are likely to only deal with issues that they consider to be urgent and serious.

Leaving health and safety breaches uncorrected for a long period of time is not only a danger to the workers but is not really in the interests of the employer. This is why a growing number of employers have agreed a system to ensure that an issue is corrected speedily through adopting a system called union improvement notices (UINs).

A UIN is a formal notice issued to a manager by an accredited trade union safety representative. It registers that the employer is not complying with health and safety legislation in respect of an identified workplace hazard, describes the action which must be taken to comply with the law and specifies a date by which action must be taken. A UIN is not an enforcement notice. Only statutory Health and Safety Inspectors (e.g. Health and Safety Executive Inspectors and Local Authority Environmental Health Officers)

can take enforcement action against an employer in breach of health and safety law.

There is no right to issue a UIN nor, in law, is an employer explicitly required to respond, although that is certainly implied in the health and safety representatives' Regulations. However, unions can negotiate a voluntary system of UINs with their employer.

How do they work?

- A UIN can be issued by a trained and accredited safety representative.
- A UIN may be issued where a breach of health and safety law can be identified.
- It is expected that the use will be rare. It is not a substitute for normal inspections and negotiations.
- A UIN may be issued to deal with a hazard that does not pose an imminent and serious risk to the health and safety of employees individually or collectively, and where other action has failed to get the problem resolved within a reasonable time.
- A UIN may also be issued to deal with lower level hazards that have been the subject of frequent complaints to the line manager, but where the manager has failed to take appropriate action.

It is important to emphasise that a UIN is not an appropriate way of dealing with very serious hazards that need immediate attention. Where the hazard is serious, advice should be taken from your union. Nor are they a substitute for action by the enforcing authority.

Before issuing a UIN in relation to a hazard, the safety representative must be convinced of four things:

- that there is a breach of health and safety law;
- that the breach has been brought to the attention of the employer in a
- proper manner through agreed channels;
- that the manager has failed to respond appropriately within a reasonable time;
- that the matter is not already the subject of enforcement action by HSE or local authority inspectors.

The issuing of a UIN is a serious matter. It is a sign that the normal machinery for resolving health and safety problems at work has failed.

Safety representatives should ensure that they have agreed the wording of the UIN with their employer. A draft UIN is shown below.

All sections of the notice must be completed carefully. It should clearly identify the legislation that has been contravened and issued to the appropriate manager.

The steps the manager should take to remedy the situation must be explained briefly but clearly.

The amount of time that the manager should have to respond to the UIN should be specified in the agreement with the employer. However, what is reasonable is likely to depend on the nature of the hazard, but should not be less than seven days after the serving of the notice and, given that it may involve developing a policy or replacing equipment, may be up to 28 days.

The agreement should also specify who the completed UIN should be delivered to.

A copy of the UIN should be posted in a prominent position within the workplace and drawn to the attention of affected employees. The safety representative should keep a copy of the UIN. In addition a copy should be sent immediately to the branch health and safety officer.

The issuing of the UIN must be reported to the next meeting of the safety committee.

If the manager disputes the UIN and/or fails to take appropriate action within the designated time, there must be clear agreement about what steps the employer will take.

The agreement must specify what happens. There are various options: One solution would be to agree that any manager who does not respond to a UIN within the agreed period shall be subject to disciplinary action.

In addition, where a manager does not respond, or does not take effective action to remedy the breach, then a more senior manager and the employer's health and safety advisor

should be asked to intervene within an agreed timetable.

If, after senior management has intervened, remedial action is still not taken, nor a timetable for remedial action agreed, the safety representative may either raise the breach at the Safety Committee, notify the enforcing authority, or both.

Remember, that health and safety should be managed through a partnership approach with health and safety representatives and employers working together using the local negotiating machinery to achieve change. If this fails, and legislation has been contravened, the Union Inspection Notices may be appropriate.

Unions in action

- *A safety representative in food and drinks distribution served a Union Improvement Notice after complaints were ignored about delivering to a restaurant where the access was via a steep slope. Deliveries now take place via the front entrance. Copies of all notices were posted on the Union noticeboard.*
- *A safety representative used a Union Inspection Notice after their employer failed to provide suitable personal protective equipment for a number of women who had recently started work in a previously all-male workforce and attempts to resolve the issue by negotiation failed.*
- *A safety representative in a London local authority negotiated Union Inspection Notices and used them successfully to remedy health and safety problems in an office by getting risk assessments carried out in relation to pregnant workers, and the lack of heating.*

If you think that UINs might be helpful if your workplace you should consider:

- What training would health and safety representatives need to implement UINs?
- How could you get managers to take UINs seriously?
- What problems would you see arising from introducing a system of UINs?
- Would UINs be a useful means of getting your employers to address major health and safety concerns?

The next step is to negotiate UINs with your employer that means drafting a claim, which would show how they would be beneficial to both worker safety and also to management. You also need to decide how you will raise the issue (through the joint negotiating machinery, safety committee, or directly with management).

Always remember that UINs are not there to deal with risks that pose an imminent risk where you should contact your union straight away.

Draft union inspection notice

To: _____

[give name of manager as appropriate]

I _____

[give name of the safety representative issuing the notice]

appointed as the safety representative by (name of union) under the Safety Representative & Safety Committee Regulations 1977 (SRSC), believe that you, as an employer, are contravening the following statutory provision(s):

[identify Regulation(s) contravened]

The contravention is occurring at:

[give address or area of the workplace]

The reason(s) for my opinion is/are as follows:

The said contravention(s) or, as the case may be, the matters occasioning them, should be remedied by:

[give date]

The following action should be taken:

[Signature of safety representative] [Date]

Copied to branch health and safety officer, full-time union officer and employer's safety officer.

Find out more

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tuc.org.uk/healthandsafety

tuc.org.uk/safetyreps@40

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