



Health & Safety

MATTERS

Health & Safety Information for GMB Safety Reps

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New Year, New Accident Book

Under Social Security law, employers with more than 10 employees are obliged to keep an accident book recording details of all work-related accidents to their employees, and keep these records for 3 years from the date of the accident. However, from 31st December 2003 employers will have to make sure that their accident recording system complies with the Data Protection Act 1998 (DPA). To comply with the DPA, personal details i.e. name and address, entered into the accident book must be kept confidential. The Health and Safety Executive (HSE) have redesigned the Accident Book (BI 510) so that individual record sheets can be removed and stored securely, leaving a stub in the Book to indicate that the accident has been recorded. The HSE advise employers to nominate a member of staff to be responsible for the safekeeping of completed accident records.

Whilst the GMB supports people's right to privacy under the DPA, we are concerned that this may have implications for Safety Representatives and their ability to carry out accident investigations under Regulation 4 (1) (a) of the Safety Representatives and Safety Committee Regulations 1977. In many workplaces Safety Representatives have open access to the accident book and routinely photo copy accident forms – this will change under the DPA.

The GMB raised these concerns with the HSE and asked for clarification. The Director General of the HSE advised us that employers can disclose information in the accident book to Safety Representatives (as required under the Safety Representatives and Safety Committee Regulations 1977) and meet their responsibilities under the DPA by providing the information in an anonymised form i.e. where specific personal information such as the worker's name and address is removed, or by giving the information in full if the worker who has been injured has given explicit consent to personal information being disclosed.

Explicit consent means that the injured person must be told clearly what personal data the employer is asking them to reveal, to whom it will be revealed and how it will be used. The Information Commissioner, who is responsible for ensuring that the DPA is followed, states that consent must be given freely. This means that the injured person must have a real choice whether or not to consent and will not suffer detriment if they do not give consent. It is advisable that the consent is in writing and the injured person signs to show their agreement.

GMB SAFETY REPS

Making Your Workplace Safer

[Insert Name]
[Insert Address]
[Insert Address]
[Insert Address]
[Insert Address]
[Insert PostCode]

The GMB's advice to Safety Representatives is to seek an agreement with your employer where he/she routinely obtains explicit consent from the injured person. The employer, or their representative, should also explain the benefits to the injured person of accident investigation and disclosure of information to Safety Representatives. The employer may want to design a standard consent form covering all the points mentioned above. A model consent form, which can be adapted for use by your employer, is included with this briefing. It is important that both members and non-members are asked to give consent, as an accident could occur to a non-member in an area where members are working. You should also negotiate a lockable cabinet to keep the report forms in (under Regulation 4 and 6 of the SRSC Regulations your employer must grant you "reasonable" facilities, which could include equipment, to help you carry out your functions). It is advisable to keep copies of the forms for three years from the date of injury.

Where a worker declines to give consent then Safety Representatives should ask the employer to provide them with a copy of an anonymised form.

The changes introduced under the Data Protection Act should **not** be used by managers as an excuse to stop safety reps from investigating accidents and talking to members. Your rights under Regulation 4 (1) a of the Safety Representatives and Safety Committee Regulations 1977 should remain unaffected.

Action Points for Safety Representatives

- Get an agreement with your employer to routinely obtain consent for disclosure of accident forms from injured persons.
- Where consent is declined ensure that your employer still provides information in an anonymised form.
- Encourage members to report all accidents and near misses to you, as and when they occur.
- Ensure that you exercise the right to investigate potential hazards, accidents, near misses and dangerous occurrences in the workplaces.
- Request that collective and anonymous accident and ill health data is reporting to the health and safety committee on a regular basis e.g. monthly breakdowns of number and location of accidents.
- Report, to your Regional Health and Safety Officer, any circumstances where your employer withholds accident information either anonymous (where the person hasn't given consent), or where the person has given consent.

Further information:

Copies of the HSE Accident Book ISBN 0 7176 2603 2 price £4.75 are available from HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 2WA tel. 01787 881165

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