



# Health and Safety

## Bulletin Older workers

### Articles in this newsletter:

- Older workers
- Changes to GB H&S chemical legislation
- Case Law update – older workers
- Gig workers union wins H&S case

### Useful contacts:

HSE website  
www.hse.gov.uk

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In the UK, in 2016 18% of the population was over 60, by 2042 this is expected to rise to more than 24%. More than 10 million of the current UK workforce (almost one in three) is aged over 50, and, following planned pension changes, may have another 20 years of working life ahead...and yet evidence suggests that many employers avoid employing older workers.

Unless, of course, there is a crisis. It is ironic that when the UK was first facing the COVID-19 pandemic one of their first actions was to send 65,000 letters to retired doctors and nurses in England and Wales asking them to return to work to help the NHS – by August 2020 more than 20,000 had agreed to do so.

The Centre for Aging Better (CAB) is a charity focusing on changing policy and practice in England to improve employment, housing, health and communities for later life. One of their target areas is to encourage organisations to become age-friendly employers – this will not only benefit older workers, it will reduce the risk that those businesses will face the skills shortages and labour shortages that are likely as the number of school leavers decrease and Brexit rules makes immigration more difficult.

### How can businesses prepare to employ older workers?

The CAB has issued a report “Becoming an age-friendly employer” (<https://www.ageing-better.org.uk/sites/default/files/2018-09/Becoming-age-friendly-employer.pdf>) and IOSH a research report “Post retirement age workers and health and safety” (<https://iosh.com/media/1528/post-retirement-age-workers-and-health-and-safety-full-report.pdf>) providing some tips associated with managing the risks.

- Task risk assessments – these need to take into account any capability limits. Evidence suggests that older workers have lower accident and injury rates compared with young workers, but when they do have accidents the outcomes are more severe and therefore result in more sickness days
- Suitable training – there is evidence that different learning styles suit different generations. Information needs to be provided in a variety of formats and media so that it is effective for the individual
- Flexible working – although flexible working is important to most people, older workers may have caring responsibilities and/or health issues which make it vital. The range of adjustments may extend to having a personal mobile phone on silent at the work location so a carer can take a call, having flexible hours or the ability to take a period of special leave
- Occupational health support – many conditions can be successfully treated if identified early, reducing recovery time

### Conclusion

It is important that we recognise that aging is not the same as decline – the myth that older workers are less productive and the myth that they have failing cognitive abilities are not supported by statistical evidence.

However, older workers, just like most employees are individuals and their ability to work effectively may be improved by simple minor workplace adjustments that provide benefit for the employer as well.

### Useful websites

- Age Action Alliance toolkit:  
[ageactionalliance.org/employer-toolkit](https://ageactionalliance.org/employer-toolkit)
- UK government on help and support for older workers: [bit.ly/DWP-older-workers](https://bit.ly/DWP-older-workers)
- Eurofound on age-friendly work: [bit.ly/EF-age-friendly](https://bit.ly/EF-age-friendly)

## Recently issued/ revised health and safety information:

- HSE webpage Using power tools: avoiding the need for RPE during the pandemic  
<https://www.hse.gov.uk/coronavirus/ppe-face-masks/non-healthcare/using-power-tools-avoiding-rpe.htm>
- AM1 Asbestos in some types of marble and other stone: assessing the risk  
<https://www.hse.gov.uk/pubns/am1.pdf>
- CITB free COVID training  
[https://ecourses.citb.co.uk/learningprograms/viewprogram/id\\_10](https://ecourses.citb.co.uk/learningprograms/viewprogram/id_10)
- ACAS homeworking guidance  
<https://www.acas.org.uk/working-from-home>
- ACAS homeworking checklists  
<https://www.acas.org.uk/homeworking-checklist>
- Smoke-free Premises and Vehicles (Wales) Regulations 2020  
<https://www.legislation.gov.uk/wsi/2020/1211/contents/made>

## Changes to GB H&S chemical legislation

There have been very few changes to GB health and safety law or standards following Brexit – one was described in the last bulletin – the change from CE marking to UKCA mark.

The other change, which could have an effect on anyone in the GB chemical supply chain (manufacturer, importer, downstream user, distributor), is the introduction of the UK Reach legislation.

The most significant change for any organisation importing chemicals or substances from the EU, is that they are now “importers” and must ensure the substances they purchase are covered by a valid UK REACH registration by 27<sup>th</sup> October 2021.

Most other EU derived health and safety legislation was already incorporated in our legal framework as regulations and there are no indications of plans to make any significant changes in the near future.

### About Clwyd Associates...

We are a management consultancy, focusing on health and safety, and SAP based in the Midlands.

We employ consultants with at least 15 years practical experience backed up by recognised professional and academic qualifications - ensuring our clients receive first class service.

## Case Law update

*This issue focuses on cases that involved older workers*

Redrow Homes Ltd was fined **£500,000** and ordered to pay costs of **£101,000** after they pleaded guilty to breaching Section 3(1) and Section 33(1)(c) of the Health and Safety at Work etc. Act 1974. The case involved the death of a 67-year-old scaffolder, who was walking across a housing development site when he was struck by a reversing dumper truck. He was crushed under the rear wheels of the vehicle and confirmed dead at the scene. The incident was witnessed by his son who was also working at the construction site.

A builder was fined **£10,000** with **£19,000** costs for failing to ensure

the safety of a 62-year-old self-employed labourer working for him. He fell from an unsecured stepladder while ascending from the ground to the first floor of a two-storey extension. The stepladder was too short to reach the first floor adequately - access to the upper level was through a gap in the flooring between joists. The labourer was carrying a bucket of mortar up the ladder when he fell and suffered fatal head injuries.

Electricity North West was originally fined **£900,000** for the death of 68-year-old employee, but this was reduced on appeal to **£135,000**. The employee who had been an experienced linesman,

had climbed a ladder resting against a wooden pole to trim ivy away from overhead power lines when he fell backwards. He had accidentally cut through his work positioning strap, allowing him to fall to his death

A 71-year-old man was killed after the articulated low-loader he had been driving continued to move and pinned him against a wall after he had stopped the vehicle and got out of the cab. The accident took place at his son's factory, Ace Winches. The company were prosecuted by the HSE under section 2 of the Health and Safety at Work etc. Act 1974 and fined **£10,000** when found guilty

## Gig workers union wins H&S case

A recent High Court case has identified that “gig economy” workers are entitled to the same health and safety rights as employees, such as the right to be provided with PPE by the business they are working for and the right to stop work if they face serious or imminent danger.

The case arose after the Independent Workers' Union of Great Britain (IWGB) and their members raised concerns that

many gig workers had worked throughout the COVID-19 pandemic but were not given PPE by their employers and, because they were not protected by UK law, they could be suspended or terminated if they stopped work in an attempt to protect themselves.

The Court found in favour of the IWGB – it is now the Government's responsibility to amend the relevant legislation.

Employers who employ gig workers should: -

- Review workers' contracts to see whether they should be updated
- Update risk assessments and health and safety procedures to reflect that both employees and gig workers are offered PPE as a control measure where appropriate
- Brief line managers on the changes so they are implemented



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