

How will HSE's focus on occupational health affect UK HE institutions?

31 January 2022

The Health and Safety Executive's (HSE) decision to prioritise occupational health in its 2016 "Helping Great Britain work well" strategy has put certain key occupations in HSE's crosshairs for inspection and potential enforcement actions.

With a new 10-year strategy in the pipeline, will this focus continue and what is this likely to mean for HSE inspection and enforcement activities in relation to higher education institutions (HEIs)?

The HSE adopted a new strategy in 2016, titled "Helping Great Britain work well". The new strategy set out six strategic themes for the HSE's work going forward, including tackling workplace ill health.

For HSE, this increased focus on workplace ill health has meant prioritising occupational respiratory diseases such as asthma and chronic obstructive pulmonary disease and occupational cancer for inspection and enforcement. HSE's Acting Head of Manufacturing and Utilities Unit, Clare Owen, has previously pointed out: *"12,000 people died last year from lung diseases estimated to be linked to past exposure from work, with thousands more cases of ill-health and working days lost"*.

Occupational health in higher education institutions

The wide range of activities undertaken by HEIs provides potential for exposure to an unusually wide range of hazardous substances and environments.

Occupational risks can include issues common to any employment sector — for example, stress and musculoskeletal problems related to computer work — as well as complex or novel risks — for example, those associated with specific hazards, such as ionising radiation or respiratory sensitisers, and those arising from overseas fieldwork.

For HEIs, this means that specialist input may be necessary to adequately assess the risks to individuals, and to determine or deliver appropriate measures to control these and ensure compliance with the law.

HSE occupational health prosecutions

The HSE has prioritised specific priority agents/occupations in relation to occupational respiratory diseases and cancers and has published lists of these on its website.

While these lists do not specifically mention higher education, HSE's prioritisation of occupational diseases has included the prosecution of higher education institutions for safety breaches that have put employees and researchers at risk of occupational diseases, including occupational asthma arising from laboratory animal allergy also known as LAA.

LAA is an allergic hypersensitivity response which may develop as a result of exposure to animal allergens. Approximately 20% of people who work with laboratory animals experience some allergic symptoms due to contact with or inhalation of animal allergens, and about 10% of all those who work with laboratory animals develop the serious symptoms of asthma.

As niche as LAA may seem, in the last year, the HSE has served improvement notices on a few universities, including Charles River Laboratories Edinburgh Limited, in relation to works exposure to animal allergens, demonstrating its determination to deliver on its

occupational health objectives across all sectors. In November 2019, the University of Edinburgh was prosecuted and fined £10,000 as [we reported at the time](#).

Consequences of non-compliance

The consequences of non-compliance with health and safety regulations can be serious.

The maximum sentence following either summary conviction or conviction on indictment for health and safety offences is an unlimited fine. [Sentencing Council guidelines](#) for fines applicable to breaches of the Health and Safety at Work Act 1974 suggest a starting point of between £10,000 to £4m for very large organisations, ie those with a turnover of £50m or more, depending on the culpability of the offender and the seriousness and likelihood of the harm risked through the offence. [Higher Education Statistics Agency](#) figures suggest that half of UK HE providers would be classed as very large organisations for sentencing purposes.

While the offence range stated in the guidelines suggests a maximum of £10m, the guidelines further state that where an offending organisation's turnover or equivalent very greatly exceeds the threshold for large organisations, it may be necessary to move outside the suggested range to achieve a proportionate sentence, implying fines in excess of this.

Future HSE priorities

The HSE is set to develop and publish a new 10-year strategy and revised mission and vision, but COVID has had a significant impact on its activities and progress. HSE's 2020-21 Annual Report confirms that several milestones relating to occupational health were not delivered, including responding to the Department for Health and Social Care (DHSC) green paper: Advancing our Health Prevention in the 2020s.

For HSE, there is unfinished occupational health business to be carried forward, but the statistics present an equal, if not more powerful, justification for this remaining a priority throughout the next five-year strategy. Estimates based on self-reports from the Labour Force Survey suggest there were 1.6 million work-related ill health cases (new or longstanding), and 38.8 million working days lost due to work-related ill health and non-fatal workplace injuries in 2019/20.

For the HSE, occupational diseases are likely to continue to be a priority for inspection and compliance activities beyond 2021. For the higher education sector, whether it is on the HSE's target lists or not, doing the right thing means ensuring measures are in place to comply with the law and protect employees, researchers and students from occupational diseases such as occupational asthma.

If you have any queries in relation to the topics covered in this blog, please contact us.

Contact

Stephanie McGarry

Partner

stephanie.mcgarry@brownejacobson.com

+44(0)115 908 4113

Related expertise

Services

