

Take notice



Unions make the workplace safer, because unions make employers take notice of hazards. A London School of Economics research paper published in 2000 concluded: "Labour possesses vital, tacit, shopfloor knowledge regarding health and safety, knowledge that is imperative for reducing accidents" (*Hazards* 74).

Union Inspection Notices help put that expertise to effective use. UINs alert the employer when safety standards are falling short of the law, saying why, where and by when health and safety problems should be remedied.

The union approach

Management of health and safety is broadly a three-stage process:

- ◆ A partnership approach with safety representatives and employers working together;
- ◆ the use of local negotiating machinery to achieve change. If this fails, and where legislation has been contravened, a safety representative may issue a Union Inspection Notice; and
- ◆ enforcement or arbitration by appropriate enforcing authority.

What is a UIN?

A Union Inspection Notice (UIN) is a formal notice issued to an employer by an accredited trade union safety representative.

It registers the view that the

employer is not complying with health and safety legislation in respect of an identified workplace hazard, describes the action which should be taken to comply with the law and specifies a date by which action is requested.

A UIN can be issued by an accredited trade union safety rep acting within procedures laid down by his or her trade union. Specific training is currently being developed by the TUC.

Not to be confused with...

A UIN is not an enforcement notice. Only statutory health and safety enforcement agencies (usually Health and Safety Executive (HSE) or local authority safety inspection units) can take enforcement action against an employer in breach of health and safety law. In particular, where an imminent and serious risk of injury or illness exists, enforcement agencies have the power to issue Prohibition Notices.

Using a UIN

A UIN may be issued to deal with a hazard that does not pose an imminent and serious risk to the health or safety of employees individually or collectively and where other action has failed to have the problem resolved within a reasonable time.

A UIN should be issued only where a specific breach of health and safety law can be identified, and that breach should be specified in the Notice.

A UIN may be issued to deal with lower level hazards that have been the subject of frequent complaints to the employer but where the employer has failed to take appropriate action.

Preparing to UIN

Before issuing a UIN, the safety representative must be convinced of four things:

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

When not to use a UIN

A UIN is not an appropriate way of dealing with very serious hazards that need immediate attention.

"Imminent" risks must be dealt with immediately by the employer, either by remedying the problem immediately or stopping the job until the problem is remedied.

Where employers do not take such action, safety reps should call on the enforcement authorities to intervene. Ultimately, workers have a legal right to refuse to do anything which would put them at imminent and serious risk of injury and illness.

And if the legal safety enforcement agency – usually HSE or the local authority – has issued a formal improvement or prohibition notice, issuing a UIN is unnecessary.

Issuing a UIN

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.

When issuing a UIN, all sections of the Notice must be completed carefully.

The legislation that has been contravened must be clearly identified.

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

The employer must be given a reasonable time, depending on the nature of the hazard, to make

an appropriate response. This time must not be less than seven days after the serving of the notice.

The UIN must be delivered to an appropriate representative of the employer and its receipt confirmed.

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. The issuing of the UIN should be reported to the next meeting of the Safety Committee.

UIN disputes

If the employer disputes the UIN and/or fails to take appropriate action within the designated time, a copy of the UIN, with a summary of the action taken to serve it and a report on the lack of progress should be sent to the appropriate enforcement agency, to the union to which the safety representative belongs and to the TUC.

Checklist

Issues to be addressed when completing a UIN

- ◆ **What is the nature of the health and safety problem and how was it identified? (eg. inspection, survey, complaints from members)**
- ◆ **Have you informed the employer or their representative informally or through an existing internal channel? Who did you tell and when?**
- ◆ **How much time was the employer given to resolve the issue? This must be reasonable but will vary depending upon the issue.**
- ◆ **Has any legislation been contravened? If not, seek further advice, for example, through your own union procedures, HSE Infoline etc.**
- ◆ **Have you checked the legislation? Give details - the title and number of regulation. You must check the legislation before continuing.**
- ◆ **Is the problem already the subject of an improvement or prohibition notice? If "yes", a UIN is inappropriate. You can now complete the UIN.**

www.hazards.org/notices