



LEIA Safety Information Sheet

Consultation with Employees

Prepared by the LEIA Safety and Environment Committee

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PREAMBLE

This Information Sheet is one of a series produced by the LEIA Safety and Environment Committee on topics relevant to the Lift and Escalator Industry. Whilst every effort has been taken in the production of these sheets, it must be acknowledged that they should be read in conjunction with the relevant legislation, codes of practice etc. They should not be taken as an authoritative interpretation of the law but guidance to it.

INTRODUCTION

Consultation with employees either directly or via their representatives on health and safety issues is important for the creation and maintenance of safe and healthy working environments and for the motivation of employees. Efficiency can be improved and accidents and illness reduced.

By law employers must consult with their employees on health and safety matters. It is not just about giving information but if decisions can affect employees' health and safety then employers must take the time to inform and take views from employees before decisions are made.

Advantages of consulting employees on health and safety

- healthier and safer workplaces – because employee input is valuable to identify hazards, assess risks and develop ways to control or remove risks;
- better decisions about health and safety – because they are based on the input and experience of a range of people in the organisation, including employees who have extensive knowledge of their own job and the business;
- stronger commitment to implementing decisions or actions – because employees have been actively involved in reaching these decisions;
- greater co-operation and trust – because employers and employees talk to each other, listen to each other and gain a better understanding of each other's views;
- joint problem-solving.

Matters for consultation

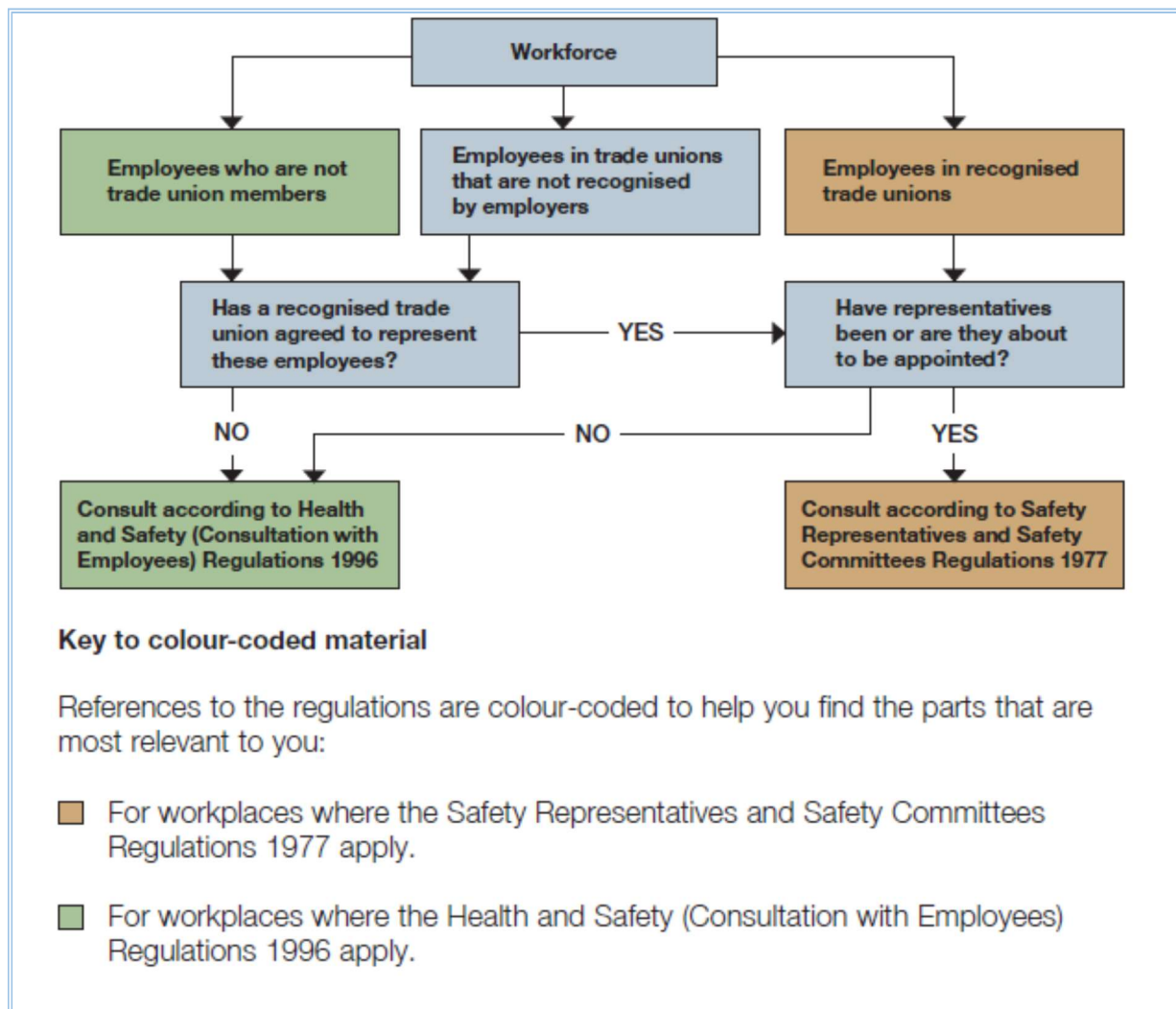
- the introduction of any measure which may substantially affect their health and safety at work, for example the introduction of new types of lift or escalator equipment or new systems of work such as changes to existing working practices
- arrangements for getting competent people to advise and help them comply with health and safety laws
- the information given by employees on the risks and dangers arising from their work, and measures to reduce or get rid of these risks and what employees should do if they are exposed to a risk;
- the planning and organisation of health and safety training; and
- the health and safety consequences of introducing new technology.
- changes in policies and/or procedures

Legal requirements

The law sets out how employees must be consulted; where there is or is not trade union representation. The applicable regulations are

- The Safety Representatives and Safety Committees Regulations 1977 (as amended);
- The Health and Safety (Consultation with Employees) Regulations 1996 (as amended).

The diagram below shows in which cases the above regulations apply



It may well be that existing consultation arrangements in place are satisfactory and that no changes are necessary however employers may wish to review their arrangements to be sure they are satisfactory and in compliance with the regulations.

The tables below illustrate the subtle difference in employer duties depending on which regulations apply

Consulting where the Safety Representatives and Safety Committees Regulations 1977 apply

If an employer recognises trade unions in any part of the business then:

- the Safety Representatives and Safety Committees Regulations 1977 will apply if that trade union **has appointed**, or is **about to appoint**, safety representatives; and
- the employer must consult the union-appointed health and safety representatives on health and safety matters affecting the employees they represent.

If at least two health and safety representatives request in writing that a safety committee be formed within the workplace, the employer must establish such a committee within three months of the request.

Consulting where the Health and Safety (Consultation with Employees) Regulations 1996 apply

The law is different if there are employees who are not represented under the Safety Representatives and Safety Committee Regulations 1977, for example if:

- the employer does not recognise trade unions;
- the employer does recognise trade unions but representatives have not been appointed or are not about to be appointed; or
- there are any employees who do not belong to a trade union and recognised trade unions have not agreed to represent them.

Where employees are not represented under the Safety Representatives and Safety Committees Regulations 1977, the Health and Safety (Consultation with Employees) Regulations 1996 will apply.

The employer can choose to consult employees directly as individuals, or through **elected** health and safety representatives (known as 'representatives of employee safety' in the Regulations), or a combination of the two. See www.hse.gov.uk/involvement for more information.

If the employer decides to consult their employees through an elected representative, then employees have to elect one or more people to represent them. The elected health and safety representative must be employed in the group that elects them.

Safety representative duties

These are broadly similar under both sets of regulations and although the functions of representatives appointed under the 1977 regulations are wider and encompass investigation of incidents and complaints, inspections of the workplace, and attending health and safety meetings it is good practice to apply similar duties to those elected under the 1996 regulations

Information made available

- An employer must give employees or their representatives the information necessary to allow them to participate fully and effectively in the consultation.
- When consulting representatives, the employer must provide them with the information necessary to enable them to fulfil their functions.
- Information should include the risks arising from their work, the measures in place or proposals to control these risks, and what they should do if they are exposed to a risk, including emergency procedures.
- Employers should already have the relevant information needed for employees as part of their health and safety management system. There is no need for employers to present this information in a different format and provide it as a separate package, or get hold of additional information for their employees or their representatives.

Foreign workers

- Employers must consider how to communicate essential information to workers who do not speak or read English, or who may have difficulty understanding written or spoken English.
- It may be necessary to deliver information through a translator or by the use of visual presentations.

The consultation process

- Consultation involves employers not only giving information to employees but also listening to and taking account of what they say before making health and safety decisions.
- The law does not set down when employers must consult, or for how long, but does say it must be 'in good time'. In practice, this means they have to allow enough time for employees to consider the matters being raised and provide informed responses.
- Consultation does not remove the employer's right to manage. They will still make the final decision, but talking to employees is an important part of successfully managing health and safety.

Training and facilities for safety representatives

Employers must ensure safety representatives receive the training they need to fulfil their role as well as reasonable facilities and equipment to carry out their work as safety representatives.

Safety committees

An effective way of consulting with employees via their representatives is by means of a dedicated Health and Safety committee.

A Health and Safety committee is considered good practice and may, in some circumstances, be required by regulations (see the preceding tables).

To be effective it is useful to set out some basic principles as to how the committee will work. These should include:

- The purpose and objectives of the committee
 - By saying what the committee will do and how it will do it
- How the committee will be comprised and who the members will be
 - For example employee representatives from different parts of the company, management representatives and specialists as required (e.g. safety advisor or company doctor)
- Arrangements for the meetings
 - For example the frequency of the meetings and the venue
- The arrangements for reporting the outcomes of meetings to the workforce

- For example by minutes being taken and being displayed on notice boards or e-mailed to individual employees

Various case studies and examples of good practice regarding safety committees exist within HSE publication HSG263 available on line.

References

Consulting workers on health and safety (Legislation)

Safety Representatives and Safety Committees Regulations 1977 (as amended)

Health and Safety (Consultation with Employees) Regulations 1996 (as amended).

Downloadable from <http://www.legislation.gov.uk/>

Consulting workers on health and safety (ACoP).

Approved Codes of Practice and guidance L146 HSE Books 2014

Involving your workforce in health and safety:

Good practice for all workplaces HSG263 (first edition with amendments) published 2015. Contains public sector information published by the Health and Safety Executive and licensed under the Open Government Licence v1.0

Consulting employees on health and safety.

A brief guide to the law INDG232 (rev2) 2013

All downloadable from <http://www.hse.gov.uk/pubns/books/index.htm>