

Are you protecting yourself from the sun? Who is responsible, the employer or the employee?



An enquiry from a BALI member last year prompted BALI's Technical Officer Policy & Research, Owen Baker, to investigate the use of sunscreen in the workplace, and identify where responsibility lies to ensure employees are adequately protected from the sun and UV rays. Given the warm weather we are currently enjoying, I thought it was a message worth repeating.

Before addressing the issue of sunscreen, it is important to review the wider subject of employee safety in the sun. A recent campaign by the Institution of Occupational Safety and Health (IOSH), *No time to lose*, has produced some startling facts about the risk of skin cancer in the UK:

- Sun exposure is the main cause of skin cancer
- Getting painful sunburn once every two years can triple the risk of a melanoma
- Up to 80% of dangerous ultra-violet (UV) rays can get through a cloudy sky
- 5 construction workers a day get skin cancer in the UK
- Skin cancer cases are rising faster in the UK than the rest of Europe
- 90% of all skin cancer deaths could be avoided if people controlled their exposure to UV rays

Employers have an obligation to control risks to their employees, based upon the outcomes of risk assessment, by using the hierarchy of control measures identified in the *Management of Health and Safety at Work Regulations 1999*. Exposure to UV radiation represents a risk to workers, which must be considered and controlled (as far as reasonably practical) by employers.

The Health and Safety Executive has produced free guidance for those who work outside, which employers may wish to impart as part of a policy.

Precautions include:

- Where possible, schedule outdoor work early or later in the day, when UV radiation is less intense
- Cover skin using loose-fitting clothing
- Wear a hat with a brim or flap, which covers the ears and neck
- Wear safety glasses which provide UV protection
- Seek shelter during lunch breaks and whenever possible during working hours
- Use sunscreen (either SPF30 or SPF50 is advised), which also provides UVA protection
- Check your body regularly for changes in skin, and report new growths or moles to your doctor immediately
- Be aware of the need to drink additional water to remain hydrated

Use of sunscreen is just one method of protecting employees and, in terms of personal protection, clothing is a safer option. Sunscreen can add protection where clothing is not practical, but reliance should not be put on sunscreen alone. Indeed, it is still possible for some UV radiation to get through sunscreen and cause skin damage.

Employer responsibility for providing sun protection reached the Court of Appeal a few years ago, in the case *Tracy Earl v Middlesbrough Council* 2014. In this case, the plaintiff, Tracy Earl, developed a growth on her nose after working for the council as a gardener. The growth was as a result of ultra violet radiation damage, and Earl alleged the council should have provided sunscreen and a hat to prevent this. The judge dismissed the case, on the basis that an employer does not need to provide sunscreen and a hat in order to comply with health and safety rules.

In answer to our members query: there is no legal duty for the employer to supply those who work outdoors with sunscreen – it is up to the employee to decide whether they use sunscreen, and what they wear. Conversely, there is no law which prohibits employers supplying sunscreen. However, it is a requirement for employers to assess the risks facing their employees, highlight these, and follow the Health and Safety Executive (HSE) guidance on sun exposure.

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UKHSS offer health and safety consultancy and training throughout the UK.
www.ukhss.co.uk

ROSPA is a British charity, that aims to save lives and prevent life-changing injuries which occur as a result of accidents. www.rospace.com

Useful links:

HSE guidance on sun protection:

<http://www.hse.gov.uk/pubns/indg337.pdf>

<http://www.hse.gov.uk/pubns/indg147.pdf>

IOSH *No time to lose* data

<http://www.notimetolose.org.uk/>

<http://www.notimetolose.org.uk/Free-resources/Solar-pack-lite-version.aspx>

The Management of Health and Safety at Work Regulations 1999

http://www.legislation.gov.uk/uksi/1999/3242/pdfs/uksi_19993242_en.pdf