

Answers to Health and Safety Questions - ASET Conference 06/09/06

In the following answers, where we refer to an Organiser we mean either the university, college or educational establishment as the case may be, who are also deemed to be the Employer under the Health and safety at Work etc Act 1974.

1. ***If a student is responsible for choosing/arranging their placement/employer, does this discharge the university's liability? – Andrew Roberts, Cardiff University***

Organisers of placements have the same duties towards students who find their own placement as they do to students who they directly place, and so the Organiser remains liable during the placement and so should carry out the same strict precautionary measures to ensure they comply with their legal liabilities.

2. ***Should we provide out-of-hours university contact details for students and employers for emergencies (especially for bank holidays, Christmas and New Year)?***

It is imperative that an Organiser of placements, particularly abroad, ensures students know who to contact if they have concerns about their health and safety during a placement or in the case of an emergency. This contact could be the Organiser (in the case of a university arranging the placement) or if different the education establishment at which the student is based. It follows therefore that out of hours contacts should be established including bank holidays.

3. ***Regarding overseas placements, a known problem area, e.g. China, has an appalling Health and Safety record in local companies and would not be used. But what about Chinese students who want to go home for placement years? – Carrie de Silva, Harper Adams University College.***

As point 1 states above, If students arrange their own placements then Organisers still have the same duties towards them. However, students have legal responsibilities for their own safety (Section 7 of the Health and Safety at Work etc Act 1974) and if they chose to go to work in a country that you categorically advise against, then it could be argued that they do so at their own risk.

4. ***What steps would you consider to be reasonably practicable when arranging student placements? Most of my students arrange their own placements and some do work in several different organisations. What steps are reasonably practicable in this case? – Ruth Plume, Middlesex University.***

We have set out some pointers to assist below, although this question does really demand a far lengthier answer and it would depend on a case by case

basis what steps would be reasonably practicable for each company a student is placed with. The Organiser needs to be reasonably satisfied that placement providers have:

- **systems** in place to ensure the health, safety and welfare, so far as is reasonably practicable, of the student while under their control;
- **competence** to manage health and safety in relation to the placement;
- **supervision** of work experience by competent people.

In determining what systems should be in place, an Organiser must assess the proposed placement provider and ensure there is a safety policy and sufficient risk assessments in place (governed by The Health and Safety at Work etc Act 1974 and The Management of Health and Safety at Work Regulations 1992). Safety policies must be in writing if there are more than 5 members of staff employed by the placement provider. Results of any risk assessments carried out by an Organiser in collaboration with placement providers should be carried out before commencement of a placement, and the students and their parents/guardians should be informed of the results of such an assessment. This must all occur before the placement starts.

If the placement provider is a large organisation (more than 250 employees), you may be able to check their health and safety performance rating through the HSE's development of CHaSPI, a corporate health and safety performance index.

It would also be prudent for site visits to take place which are accompanied by the placement provider. If, as you say, some students work at various organisations, this may not be possible, but a typical sample of sites should be visited. We appreciate that this may place a significant burden on teaching institutions, and it could be argued that any visit would focus on academic issues, with the tutor quite possibly not having sufficient expertise to be able to comment on health and safety issues. It is often a difficult line between encouraging best practice and bare legal compliance, and individual cases require a much more detailed consideration than can be given here.

Arrangements for a placement should be in writing to clarify and agree respective roles, reduce the potential for misunderstandings, particularly about health and safety responsibilities and identify the supervisor and specify the arrangements for supervision.

Once placements have been agreed they should be continually reviewed although it is not necessary for a placement provider to be reviewed each time a new student is placed with them.

The above is not an exhaustive list of the steps that should be taken in determining the suitability of a placement provider but does give some indication as to the lengths it is deemed 'reasonably practicable' for the Organiser to go to to ensure the health and safety of the students they place. If you have any more specific queries about any of these points, we will be happy to provide further information.

5. ***A student was raped in a French hall of residence. Was the UK university liable?***

This is a question loaded with ambiguity and it would be impossible to give a yes or no answer. It would depend on so many different factors and circumstances i.e. were the halls of residence secure and broken into or were they unlocked and therefore a risk; who was the assailant - was it a fellow student, a member of the public, an employer or can they even be identified? Only a police investigation could determine the circumstances and only then could any question of liability on the university be considered.

6. ***If a student were subjected to, say, harassment on placement, e.g. racial or sexual, how could the university be liable if it had 'vetted' the organisation? – Margaret Walsh, University of Wolverhampton.***

This is linked to point 4 above. If it can be shown that the Organiser had taken all reasonable precautions in assessing the placement provider then it would be difficult to hold the Organiser liable for any harassment taking place during the work placement. However, if reasonable precautions had not been taken, i.e. if harassment against staff had been previously reported to the placement provider and records made but the Organiser had failed to reveal this in any assessment they carried out, they would more than likely still be liable.

7. ***Re. students in full-time employment who come to college on part-time courses. We require them to demonstrate learning has taken place at their workplace. Do we have the same duties towards these students at their place of work? – Mike Irwin, Suffolk College.***

We believe that the direct employer of the student in full time employment would have the duties towards the student in this case as they would have to hold the employers liability insurance. The education establishment would have normal duties and obligations for the student's health and safety whilst attending lessons on campus, but not whilst they are at their full time place of work.

8. ***Do we, as an institution, require a European Health and Safety document (for employers) and is there a template we can access?***

From the research we have carried out on this subject there does not appear to be a requirement that a European Health and Safety document be in place

between the education establishment as Organiser and an employer/placement provider. HSE merely state the following that an Organiser should be aware of:-

- Students will be subject to the health and safety regulations of the country in question; It is therefore important to find out in advance what rules apply in that country. A good website is www.osha.europa.eu/OSHA to discover more about the law and health and safety requirements in different countries
- There may be differences in insurance requirements, see question 10 and its answer below.
- There is, of course, the potential for language difficulties.
- An assessment of risks involved in travel including health and vaccination requirements should be carried out.
- Contacts and numbers should be provided in the event of the students having problems or worries, and who to contact in an emergency.
- The additional preparation required, so students know what to expect and what is required of them.

9. ***I am concerned about pre-placement/pre-accommodation checks and at what level a member of staff should be trained to undertake this responsibility. – Donna Sheringham, Writtle College.***

There are no hard and fast rules about who should be given the responsibility of ensuring the pre-placement checks are carried out, but it is clear that it is an important job and sufficient training should be given to whoever does carry out the role. Someone at a higher level in the educational establishment will not necessarily be the best person for the job if they are not trained properly and they may not have the time to dedicate what they need too to the role. A team dedicated to the task would be ideal.

10. ***How should we manage sending students on overseas placement when we know the employer does not provide Employers' Liability insurance? The placement year is compulsory and must be spent outside the UK in a country where the students' studied language is spoken. Most of the students I work with go on placement in Europe, but sometimes further a field - Russia, South America etc. Employment law seems to vary from country to country and some employers are unable to insure students against accidents in the workplace. These placements are generally low-risk office based placements and the lack of insurance is made very clear to the students prior to accepting the placement. The final***

decision whether or not to take the placement is left to the student. – Emma Searle, University of Bath.

As you will be aware employers in the UK are required to take out Employers' Liability Insurance for their employees working in the UK (The Employers Liability Compulsory Insurance Act 1969). This is not the case for those employees who are sent to work abroad including students on placements. However, you should check whether the law in the country to which you are placing a student requires that you take insurance to cover them, or requires any further measures to be taken out to protect them. This may well be the case if, under the law of that country, employers are not required to insure their workers. Students should also be advised of their own obligation to take care of themselves and make sure they have sufficient travel and/or medical insurance in place to work abroad. Once again, the risk assessment mentioned in point 4 above may be relevant here. An Organiser will need to show they have taken all reasonably practicable steps to ensure the students are placed with appropriate providers.