Passive Smoking…HSE Looking at new angles

The term 'Passive Smoking' appears to be of rising prevalence in todays world. What was once the last gasp imbibation of the recently stopped smoker, is now the scourge of the office non-smoker - whose shrill protestations have now found the usually deaf ears of Government.

No doubt bowing to the increased pressure exerted by the plethora of 'No-Smoking' organisations around the world, governments across Europe have delved into the effects of smoking on health from every conceivable angle. Conclusions indicate that a rising incidence of lung cancer and the increase in male impotency is attributable not only to first hand smoke but also to the smoke that smokers exhale.

There are two types of smoke that have been the subject of further research. Sidestream smoke is the smoke that is produced from the burning tip of a cigarette or cigar, wheras mainstream smoke is released into the atmosphere by an exhaling smoker. Together, mainstream and sidestream particles comprising of tar, nicotine and toxic gases, constitute the smoke that is inhaled by non-smokers and the term passive smoking refers to the inhalation of the these byproducts of the process of smoking. Laboratory tests have demonstrated that some of the component constituents in the amalgam of mainstream and sidestream smoke can induce cancer in animals.

It is fair to assume (although maybe incorrectly in the case of ardent ostrich smokers) that the vast majority of the populus are aware that smoking causes fatal deseases. It is only recently that the link between passive smoking and desease has been discovered.

Passive smoking is the subject of new consultation carried out during the past couple of years by the HSC in the UK. Following the publication in 1998 of "Smoking Kills A White Paper on Tobacco" where the British Government set out its desire to review current health and safety issues with regard to smoking, the Health & Safety Commission decided that it favours the introduction of an Approved Code of Practice (ACOP) in order to deal with passive smoking at work.

In its basic form, the code will guarantee the welfare of non-smoking employees, protect employees exposed to environmental tobacco smoke and build on existing good practice. The Code would have special legal force similar to that of the Highway Code, whereby failure to follow the guidelines laid down within the Code will not in itself be an offence. However, in the event of litigation, the employer will need to demonstrate that equally effective measures have been taken to signal compliance with the law.

The HSC Consultation document was issued in July 1999 with a three month period for interested parties, trade bodies and numerous associations to respond to the outlined options. In the event 83.2% of respondents favoured the introduction of an Approved Code of Practice.

The Code is likely to be issued under the provisions of the Health & Safety At Work Act 1974 after Ministers have had time to ruminate on their final descision. Given that these are the very same Ministers set the whole procedure in motion, it is highly unlikely (though not inconceivable) that they will fail to put the Code into effect.

Within the UK this step should be seen as compliance with yet another European Commission Report COMMA(96) 573 final: that invited all Member States to take measures to reduce passive smoking in the workplace, public buildings, and public transport. In addition, in areas that are deemed to be 'in conflict'

between smokers and non-smokers, the right to health of non-smokers prevails over the right of smokers to smoke.

The burning question that arises from the new ACOP is 'How Do We Ensure Compliance?' It is extremely difficult (as anyone who runs a business will affirm) to adopt a blanket smoking ban. Ardent smokers will endeavour to ensure that the status quo remains intact and will view any introduction as a draconian measure specially concocted by management to spoil the pleasure they derive from periodically sucking on a dead plant and proudly exhaling clouds of toxic pollutants.

Although many commercial sites, schools, hospitals and even PSV and airline operators have introduced no-smoking policies before any legal requirement to do so – in a large part to appease non-smoking clientele - the fact remains that certain areas continue to present problems in enforcement.

The spirit of the new proposal is to protect non-smokers from the quantifiable harmful effects of passive smoking with the onus on the employer to be able to demonstrate that all practical and reasonable steps have been taken to minimise this risk. However, smoking continues in the workplace despite all 'reasonable measures' by employers – usually within the sanctuary of the rest room or toilet cubicles.

Recent advances in detection technology have enabled speciallist companies to provide systems specifically designed to detect illicit smoking. New products have appeared on the market, directly targetting companies and schools who have attempted to 'persuade' smokers to smoke only in designated areas

The benefit of such systems can be measured in terms of insurance rebates for totally non-smoking sites, reduced fire risk and protection against subsequent legal proceedings in terms of passive smoking – i.e. 'the employer can demonstrate that all reasonable and practical steps have been taken to protect employees from the harmful effects of passive smoking'.

Other applications for such smoke detection devices such as reducing smoking in bedrooms of care homes and psychiatric hospitals has led to fewer fire brigade call outs to false alarms and a lower fire risk to the client and their environment.

Whatever your feelings on the right to smoke (or not to) the changes in legislation and ACOP's are without doubt going to change the way we view employees rights and the consequences to the employer of non-compliance.

© The Cig-Arrête Anti-Smoking Alarm System

(Cig-Arrête and the Cig-Arrête logo are trademarks of Radal Technology Ltd)