



IOSH response to the Committee on the Green Paper on the Future of Safety and Health at Work

**Gabinete do Secretário de Estado
do Trabalho**



**REPÚBLICA
PORTUGUESA**

**TRABALHO, SOLIDARIEDADE
E SEGURANÇA SOCIAL**

Overview

On behalf of The Institution of Occupational Safety and Health (IOSH), the Chartered body for occupational safety and health professionals, with 50,000 members in more than 130 countries. As a Chartered body, we have charitable and international NGO status. We are also listed on the EU Transparency Register (No. 913858710558-02).

As an international non-profit organisation, IOSH ethically influences important decisions that affect the safety, health and wellbeing of people at work worldwide. We responsibly collaborate with governments, advise policymakers, commission research, set standards, engage with global, regional and local organisations and run high-profile campaigns to promote awareness of occupational safety and health (OSH) issues.

IOSH's Response to the consultation

1. What do you consider to be the main challenges of the future with regard to Health and Safety at Work?

There are a number of significant changes happening rapidly in the world. These include:

- **Climate change and OSH and the Green transition.** Portugal – one of the countries in Europe where climate change is likely to have the greatest impact - remain vulnerable to the adverse effects of climate change, including the work-related impacts of climate change risks and challenges. After signing and ratifying all climate change agreements, including the Kyoto Protocol in 2002, the Paris Agreement in 2016, and the Doha Amendment in 2018, we believe there is an opportunity for better collaboration between the Ministry of Environment and Climate Action, and the Ministério do Trabalho, Solidariedade e Segurança Social. This can constitute a unique opportunity to integrate climate change issues into existing national policies and programmes for labour and OSH, whereby there is a focus on workers who are most vulnerable to changing climatic conditions and as such will be exposure to hazards and risks associated with climate change (i.e., emergency responders, agricultural workers and so on), in addition research must also be incentivised into under-explored areas of climate change impacts (i.e., on selected indoor workers, migrant workers, workers with pre-existing health conditions, etc.).

With an expected increase in the severity and frequency of extreme events such as floods, droughts, heat waves and storms expected in the region, there is an urgent need to mainstream climate change adaptation and mitigation strategies in key sectors of economic activity together with education and awareness-raising initiatives. Special attention will have to be paid to climate-induced health impacts due to extreme heat, reduced air quality, and prevalence of vector-borne diseases, which are significant for outdoor workers and for those based in regions particularly vulnerable to the effects of climate change. Another area of focus should center around prevention and mitigation strategies on exposure to ultraviolet solar radiation, as this is a major cause of work-related cancer deaths globally. Considerations¹ for shifting working hours away from the solar noon, education and training, providing workers with sunscreen and appropriate personal protective clothing as well as raising workers' awareness of the link between occupational sun exposure and skin cancer (as well as informing about the controls that are in place to afford protection) and providing services and programmes to detect early signs of skin cancer will be required.

¹ Frank Pega, Natalie C. Momen, Kai N. Streicher, Maria Leon-Roux, Subas Neupane, Mary K. Schubauer-Berigan, Joachim Schüz, Marissa Baker, Tim Driscoll, Irina Guseva Canu, Hannah M. Kiiver, Jian Li, Jamaji C. Nwanaji-Enwerem, Michelle C. Turner, Susana Viegas, Paul J. Villeneuve, Global, regional and national burdens of non-melanoma skin cancer attributable to occupational exposure to solar ultraviolet radiation for 183 countries, 2000–2019: A systematic analysis from the WHO/ILO Joint Estimates of the Work-related Burden of Disease and Injury, Environment International, 2023.

- **Changing demographics.** Portugal has one of the oldest populations in Europe due to an increase in life expectancy and reduced fertility rates. An ageing population means an ageing workforce, which can raise employment challenges, such as, ensuring competency in an increasingly transitory workforce, adapting workplace risk controls for disability, health conditions and other such considerations. However, on the flip side, ageing workforce means that workers are remaining in employment for longer, and they bring with them their broader range of skills and experience. It is imperative that strategies to better protect these workers are developed and implemented. Within Portugal, this represents an opportunity for the Portuguese government and businesses to deliver proactive age management, including better-designed work and workplace adjustment; training, retraining and redeployment; flexible working; and phased retirement. With chronic ill health a major factor in the decision to retire, early interventions strategies are key. This will entail strengthening occupational health services and systems and improving risk prevention through reduced and controlled exposure to hazardous working environments.

- The recent COVID-19 pandemic has renewed the **focus on occupational health in the workplace**, on public health in general and on the interface between the two regarding preparedness and response. This makes the case for going beyond compliance (3/2014 law decree of the 28th of January). Good occupational health (OH) is critical to address the challenges of an ageing population due to the prevalence of chronic health conditions, specifically non-communicable disease, poor mental health and an unprecedented long-term illness crisis has on the Portuguese's workforce. All these issues pose a challenge for the financial sustainability of public health systems as well as the size of the economically active population. Non-communicable diseases attributable to the workplace such as occupational cancers are becoming increasingly prevalent in all economies across the world as government data collection improves. This makes imperative the case for increased attention at a public policy and technical level to work-related ill-health and occupational diseases. To this it is recommended an update of existing data² in terms of health, wellbeing, development, and the new challenges the working population could face.

IOSH would also like to draw attention to the **context of Micro, Small and Medium Enterprises (SMEs)**, that remains particularly challenging, as many of these businesses have no dedicated human resource management or occupational safety and health function or occupational health provision. In addition they could financially struggle to access or externalise these services. Moreover, since most SMEs tend to experience financial struggles and challenging situations due to inflation.

- **Working conditions of workers in non-standard forms of employment.** In Portugal, non-standard jobs in general and platform work in particular have the potential of becoming widespread due to digitalisation and other factors affecting the labour market, namely due to unemployment rates among young workers. Digital platform work is also likely to scale up in the context of a financial recession. According to the Employment Survey from the National Institute of Statistics (INE), the number of people who find themselves in that situation has increased 16%, especially during the third quarter of 2021, representing an absolute record for self-employed workers in Portugal³. Even though the hazards and risks of carrying out activities in the context of digital platform work are largely similar to those in the traditional labour market, the specific characteristics of digital platform work aggravate these challenges and complicate the implementation of a sound health and safety policy⁴. As the nature and conditions of digital platform work complicate OSH risk prevention and management it is recommended that the Portuguese government prioritises this typology of work and the safety and health of platform workers.

Similarly, Portugal's **informal economy** - estimated to be 20.3%⁵ - represents an obstacle to sustainable economic growth. Workers in the informal economy may also face very unstable professional

² Portugal: The Nation's Health 1990–2016 - An overview of the Global Burden of Disease Study 2016 Results. <https://www.spmtrabalho.org/dqs-report-1990-2016>

³ Statistics Portugal, Employment statistics, 2021 Available at:

https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_destaques&DESTAQUESdest_boui=472918585&DESTQUESstema=55574&DESTAQUESmodo=2

⁴ European Agency for Safety and Health at Work. Digital platform work and occupational safety and health: overview of regulation, policies, practices and research. Bilbao, 2022.

⁵ Quarterly Informal Economy Survey (QIES) by World Economics, London

circumstances and often are subjected to OSH violations. As informal sector's workers do not have the necessary awareness, technical means and resources to enjoy decent working conditions this represents a challenge which should be faced with an integrated approach to health promotion, social protection, employment creation and by extending occupational safety and health protections all these areas of responsibility of the Ministério do Trabalho, Solidariedade e Segurança Social.

- The implementation of targeted policies to tackle the **burden of mental health** – the impact of mental ill-health, either caused or exacerbated by work, should be a matter of concern. Factors such as socio-economic conditions, access to healthcare and cultural attitudes towards mental health contribute to these disparities. By way of example, in 2019, among EU countries, Portugal had the highest share of the population reporting chronic depression (12.2 %), including Portugal recorded the highest share of women reporting chronic depression (16.4%)⁶. Mental health has become a major issue of public health, and economic and social concern across the whole of the EU. Workplace occupational health and safety and wellbeing needs to become a major factor in the Portuguese economy, supported by the delivery of the social pillar of the UN SDGs and with the ILO declaration of the right to a safe and healthy working environment being a Fundamental Principle and Right at Work. This encompasses not only general health in body and mind, but the identification, prevention and management of stressors/psychosocial risks and the promotion and preservation of good mental health in the workforce.

- **Digitalisation and OSH.** Digitalisation including aspects like automation, IoT, wearables, robotics, AI systems and so on⁷. Transformation in the world of work and in workplace technologies and digital change – notwithstanding the potential supplementary risks highlighted above (and with good OSH in design, assessment, consultation, implementation and monitoring) strategies the emergence of more affordable and effective workplace technologies stands to make work significantly safer, in some cases eliminating the need for certain dangerous work activities entirely. This will reduce global incidents of injury and ill-health significantly, to levels that eventually create the possibility of achieving a net positive impact from work. IOSH therefore advocates for health and safety to be considered at the design stage and that a thorough OSH review, risk assessment, impact assessment and consultation, is considered before new technology and changes are implemented within workplaces.

2. What measures have already been implemented in your country to face the new challenges and risks with regard to Health and Safety at work?

Fundamentally, the UK legislation is risk-led and based on the principle that those who create the risk are responsible for identifying it and putting in preventative measures to manage and mitigate it. This has futureproofed our health and safety legislative framework since the Health & Safety at Work Act 1974. The UK's primary legislation is the Health and Safety at Work Act – which is goal setting and risk-based in its approach. A large proportion of secondary health and safety legislation within the UK has been led through European Directives. Since the UK left the European Union, the Government do have processes in place to review retained EU law, however, the current existing framework is enough to accommodate new areas of risk due to its flexibility and risk-based approach. This situation is augmented by having in place and resourcing an effective health and safety inspectorate to investigate incidents, educate business and enforce as and when necessary.

At IOSH, our work includes horizon scanning and identifying the leading themes of the day. This work informs our policy positions and the content we produce. Presently our themes are:

- Wellbeing - including mental health management and other aspects of occupational health
- Sustainability – focusing on the social pillar and includes topics like equality, changing demographics, and informal economies.

⁶ Eurostat. Persons reporting a chronic disease, by disease, sex, age and educational attainment level. Last update: 17/12/2021 https://ec.europa.eu/eurostat/databrowser/view/HLTH_EHIS_CD1E/bookmark/table?lang=en&bookmarkId=2d249b06-f173-48b3-b6ed-e90b57e6f683&page=time:2019

⁷ European Agency for Safety and Health at Work. Occupational safety and health in Europe - state and trends 2023. Bilbao, 2023.

- Technology – responding to the rapid and significant changes in workplaces caused by artificial intelligence, robotics and automation, big data analysis and much more.

The United Kingdom has demonstrated its commitment to strengthen efforts to end violence and harassment in the workplace by ratifying the International Labour Organization's (ILO) Violence and Harassment Convention. Convention No. 190 requires ratifying Member States to respect, promote and realise the right of every worker to a work free from violence and harassment in all sectors, including in the informal economy, and to adopt an inclusive, integrated and gender-responsive approach for its prevention and elimination. Additionally, the Convention acknowledges the importance of identifying, in consultation with employers' and workers' representatives, the sectors or occupations and work arrangements in which workers and other persons are at greater risk of exposure to violence and harassment and of taking appropriate prevention and response measures. This constitutes an area for the Secretaria-Geral do Ministério do Trabalho, Solidariedade e Segurança Social to commit in further advancing the agenda for the reform of the regulatory framework.

The Worker Protection (Amendment of Equality Act 2010) Act 2023 makes a significant change to the law on an employer's obligations to protect employees from sexual harassment. There is a new duty to take "reasonable steps" to prevent sexual harassment of your employees in the course of their employment. The initial draft of this law included a proposal to re-introduce protection against harassment of employees by third parties, such as customers and clients. As we wrote about here, this provision was removed following debates in the House of Lords, and it was not re-introduced in the final Commons debate. This is an area in which IOSH has advocated for improvements in the protection of workers, and for prevention first approaches which includes the prevention of harassment within the workplace.

The UK Government is also looking at progressing an agenda aimed at increasing employer use of Occupational Health (OH) Services by increasing OH coverage across the UK, within the broader context of enabling better workplace support to improve productivity and prevent ill-health related job loss. A similar political agenda that has been paused but we consider is relevant for other states to pursue should seek to better understand how women's health affects their experience in the workplace and their ability to remain at work, in particular on issues in relation to menstrual health and gynaecological conditions, fertility, pregnancy, pregnancy loss and postnatal support, menopause, mental health and wellbeing, cancers, the health impacts of violence against women, healthy ageing and long-term conditions.

3. What initiatives IOSH has already developed to address the new challenges and risks with regard to Health and Safety at Work?

IOSH's vision of a safe and healthy world of work drives its various activities as a leading charity in the sector. On the one hand, IOSH partners with global non-government bodies to promote and educate on health and safety. This increases awareness, creates demand and drives action. This manifests through our own campaigns (e.g., Healthy profit⁸, Catch the wave⁹, No Time To Lose¹⁰), or through working on joint projects with our partners. On the other hand, IOSH sets the standard (competency framework for OSH professionals) across our 50,000 members in 130 countries so the demand can be met. The creation of the competency framework for IOSH members provides a benchmark and then further development to, their continued professional development. Both workstreams focus on the key global occupational health and safety themes we identify through horizon scanning, in addition to the required technical, behavioural and business skills that are required to undertake the role.

One area in which IOSH has remain active is the Retained EU Law (REUL) Bill that recently gained Royal Assent and is now an Act of Parliament. Through this Act, retained health and safety EU law

⁸ IOSH, Healthy Profit, Available: <https://iosh.com/media/10318/the-healthy-profit.pdf>

⁹ IOSH, Sustainability, Catch the wave, Available: <https://iosh.com/businesses/iosh-for-business/sustainability/>

¹⁰ IOSH, No Time To Lose (NTTLE), Available: <https://iosh.com/health-and-safety-professionals/improve-your-knowledge/no-time-to-lose/>

(secondary legislation) could be removed from the UK statute books. Whilst there is ongoing uncertainty about the Act and its impact on health and safety requirements, IOSH's focus at this time of great national change and instability remains two-fold: ensuring no erosion of health and safety standards and building a safer, healthier, and more sustainable future for all. Not only must we maintain standards, but we must also energetically drive continual improvement in them and ensure human-centred approaches.

4. What changes/measures are urgent to implement considering the new challenges relevant to Health and Safety at work?

Managing occupational safety and health in small organisations still constitutes an issue that needs to be addressed. Considering that SMEs in Portugal account for 945,649 their lack of capacity necessary for prevention, compliance and enforcement related to OSH is an issue that public policy needs to address. Occupational safety and health is a statutory obligation for employers that is beneficial to employees, but it is equally a factor for business success. Despite this principle, SMEs continue to struggle when it comes to managing OSH effectively. IOSH recalls that as regards health and safety at work, the Framework Council Directive 89/391/EEC lays down a non-negotiable obligation for all employers to carry out and hold a full and up-to-date risk assessment according to its articles 6 and 9. This implies that all risks at the workplace need to be considered and assessed together, including with its interaction of psychosocial, biological, chemical and other risks.

As previously highlighted, a more robust commitment for enabling a gradual move to a green transition requires appropriate policy framing and governance from an occupational safety and health standpoint. Workers, companies, sectors involved in this momentum require tailored support and incentives to adapt. Social dialogue, investments for quality, safe and sustainable job creation, and timely development of partnerships between public employment services, trade unions, industry and educational institutions will be key. As transitioning to a carbon neutral economy will give rise to innovative technologies and processes, these can present new risks and challenges to workers and their health and safety. In this context, a safe and healthy working environment will have to be actively integrated as a perspective of the transition. Both at the society level and at the workplace level. For this reason we recommend that the Labour Ministry actively monitors occupational safety and health in connection with the green transition and new green jobs

The UN SDGs, particularly SDG 8¹¹ and the ILO decision to recognise occupational health and safety as a fundamental principle and right at work have changed the landscape for governments and global business and their supply chains. It is now a human right for all workers to have their physical and mental health protected in the workplace. To undertake good and fulfilling work. However, the recent UN report on the progress of SDGs show that we are lagging behind in our progress against these goals. Work in Europe to comply with a new directive on sustainability reporting requirements has shown how inadequate our present data collection and reporting is in relation to these topics. This will have an impact on how the Portuguese government and businesses address social sustainability issues (e.g. human rights, labour and OSH). Considering the Portuguese market, composed mostly of SMEs with no reporting levels, there is a risk that Portugal would remain apart from this ESG momentum, therefore not going beyond financial sustainability.

¹¹ UN, SDG 8, Available: <https://sdgs.un.org/goals/goal8>

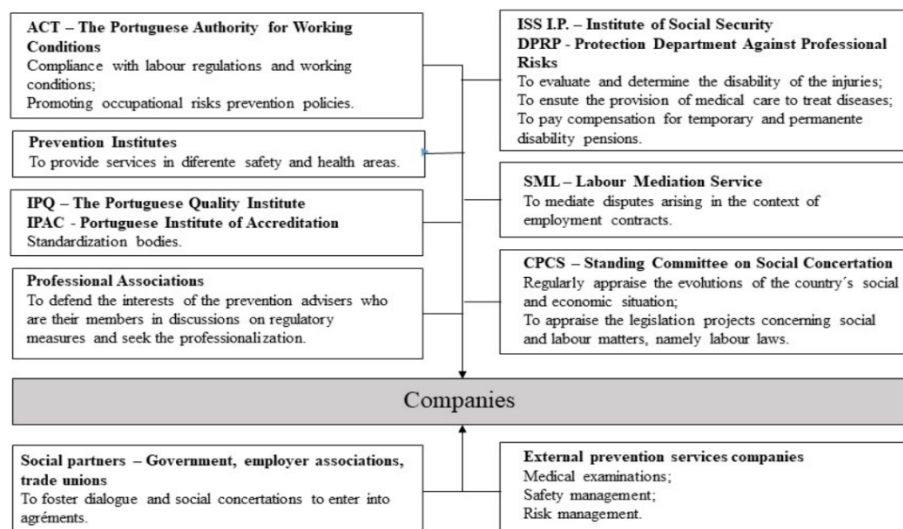


Figure 1. Portuguese OSH Infrastructure scheme (EU-OSHA OSHWiki, 2023).

5. What are your recommendations for dealing with the new challenges relevant to Health and Safety at Work...

a) At the level of government action (public policy recommendations)?;

Member States like Portugal are encouraged to update their current occupational safety and health strategic frameworks in cooperation with social partners. The National Strategy for Health and Safety at Work 2015-2020 - *Estratégia Nacional para a Segurança e Saúde no Trabalho 2015 -2020*¹²

The strategic framework therefore focuses on three crosscutting key objectives for the coming years:

- anticipating and managing change in the new world of work brought about by the green, digital and demographic transitions;
- improving prevention of workplace accidents and illnesses; and
- increasing preparedness for any potential future health crises.

The recent recognition of the right to a safe and healthy working environment as a Fundamental Principle and Right at Work (FPRW) confirms the contribution of safety and health to decent and sustainable work. In this respect, the decision creates greater visibility and urgency at a global level around the need to provide safe and healthy work. The inclusion of a safe and healthy working environment as a FPRW provides the opportunity to empower workers to consider occupational safety and health through a social justice lens, and thus to call out poor working conditions and unsafe working practices, and in particular for workers who are more likely to be working in vulnerable conditions and in certain circumstances such as women, young workers, migrant workers and workers in the informal economy, workers in non-standards forms of employment and new forms of work that could be especially exposed to hazardous working conditions.

Public policy must be risk-led and evidence driven. Implementing good national reporting and data gathering will enable it to make the right policies and ensure that legislation and

¹² National Strategy for Health and Safety at Work 2015-2020 (*Estratégia Nacional para a Segurança e Saúde no Trabalho 2015-2020*). ACT - Autoridade para as Condições do Trabalho, 2016. Retrieved on 11 June 2020, from: [http://www.act.gov.pt/\(ptPT\)/crc/PublicacoesElectronicas/PoliticasProgramas/Documents/Estrat%C3%A9gia%20Nacional%20SST%202015-2020.pdf](http://www.act.gov.pt/(ptPT)/crc/PublicacoesElectronicas/PoliticasProgramas/Documents/Estrat%C3%A9gia%20Nacional%20SST%202015-2020.pdf)

enforcement keeps pace with the rapid change we are experiencing in workplaces, driven by technological changes and the wider changes influencing trade such as labour migration, geopolitical challenges, and climate influences.

Public policy needs to adapt their systems and facilitate an increase in, and proactive approach to, workplace health and safety training, protection, reporting, inspections and penalties. When it comes to enforcement and compliance strategies, labour inspectors can struggle due to inadequate resources and skills development to effectively monitor and investigate OSH violations in the context of changing workplaces and work dynamics. Likewise, when tackling occupational safety and health violations in micro- SMEs), and in less secure and irregular forms of work. While it is welcomed, recent increases in the number of labour inspectors from The Authority for Working Conditions (ACT) (from 307 inspectors in 2015 to 493 inspectors in 2021¹³) we believe there is still a need for better promotion of interventions to tackle both traditional and emerging occupational safety and health risks by facilitating occupational health, climate change and technology upskilling by labour administration and inspection institutions.

In June 2019, the Portuguese Government presented the national strategy AI Portugal 2030 to set out challenges and opportunities of the growing AI ecosystem in Portugal. This development is supposed to be based on a transparent framework, taking into account the risks involved and protecting the EU's values, on issues such as human rights and privacy, among others. We recommend for future AI legal frameworks to follow the participatory approach of similar initiatives as seen with Law 83/2021, of 6 December 2021^{14 15} that held the potential to benefit both workers and employers.

(b) At the level of action of employers and workers' representatives (e.g., recommendations to raise awareness and empower managers and workers on OSH)?;

Capacities of occupational safety and health related organisations and institutions, including social partners, which support the development of occupational safety and health policies and/or provide occupational safety and health -related services directly to employers or workers, are enhanced.

Academic research on this topic, including IOSH's own, clearly shows that the safest workplaces are found in countries with good government policy and legislative framework, an effective enforcement agency that seeks to educate as well as punish, a committed leadership within the organisations and the means to have an effective worker voice in the organisational decision-making processes. This means employing competent health and safety assistance (occupational safety and health professionals) as well as having educated health and safety representatives on site, with the time to carry out their duties, and the mechanisms to report and challenge management decisions.

(c) At the level of action of the academy (e.g., recommendations for another OSH training and action research agenda)?;

¹³ See <https://www.portugal.gov.pt/pt/gc22/comunicacao/comunicado?i=act-com-reforco-de-70-inspetores-atinge-numero-mais-elevado-de-sempre>

¹⁴ Mauro Pucheta, Ana Cristina Ribeiro Costa, Going Beyond the Right to Disconnect in a Flexible World: Light and Shadows in the Portuguese Reform, *Industrial Law Journal*, Volume 51, Issue 4, December 2022, Pages 967–984, <https://doi.org/10.1093/indlaw/dwac030>

¹⁵ Ribeiro Costa, A. A saúde e segurança no novo regime do teletrabalho: reflexões sobre o sentido mais favorável aos trabalhadores. *Revista Questões Laborais*. February, 2022.

IOSH has just commissioned a piece of research examining the impact of the ILO declaration on a safe and healthy working environment as a fundamental principle and right at work. This study, led by Lancaster University, will be made across a number of countries and in Partnership with the International Commission on Occupational Health (ICOH). IOSH continues to plan more academic projects within the topics associated with occupational safety and health, worker wellbeing, social sustainability and technological change.

d) At the level of action of other possible actors?

Research and data collection are a pre-condition for the prevention of work-related diseases and accidents. Scientific advice and the latest technological developments feed into occupational safety and health legislation and policy. Improvements in these mechanisms could allow the the Ministério do Trabalho, Solidariedade e Segurança Social to make better informed decisions when it comes to evidence-informed and evidence-led policymaking.

6. What recommendations do you make for the awareness/motivation of leaders and (top) managers of companies to give relevance to OSH?

What concrete initiatives can be implemented?

In the case of employers whose decisions are based on the use of algorithms, artificial intelligence systems and digital platforms. Law no. 13/2023 was published on April 3, amending the Portuguese Labour Code and related legislation in implementation of the, so called, Decent Work Agenda. The regime of the following matters was changed, with a significant impact: outsourcing practices, temporary work, professional traineeship, self-employed workers in a situation of economic dependence, digital platforms, overtime work.

There are two aspects to work upon in the engagement of leaders in companies:

- Increase pressure through investors to report truthfully on the occupational health and safety performance of their organisations. This will enable the right data capture and demonstration of performance and progress.
- To educate them on the social pillar of sustainability.
- To bring them to the realization that good occupational health and safety practice doesn't only mitigate potential losses but done well it can add value and further returns on investment, such as enhance productivity, increased worker engagement and performance.

For further information, please contact:

- Duncan Spencer duncan.spencer@iosh.com
Head of Advice and Practice
- Ruth Wilkinson ruth.wilkinson@iosh.com
Head of Policy
- Dr Ivan Williams Jimenez: ivan.williams@iosh.com
Senior Policy and Public Affairs Manager

Institution of Occupational Safety and Health (IOSH)

The Grange, Highfield Drive Wigston Leicestershire

United Kingdom, LE18 1NN Tel: 0116 257 3100

Email: consultations@iosh.com or publicaffairs@iosh.com

