



Department  
for Work &  
Pensions

# **A Review of the Health and Safety Executive as a Non-departmental Public Body**

## **Call for evidence**

**14 JUNE 2013**

# **A Review of the Health and Safety Executive as a Non-departmental Public Body**

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# **Triennial Review of the Health and Safety Executive (HSE): call for evidence**

## **Who this call for evidence is aimed at**

We are keen to hear views from all interested parties but in particular from those with a direct interest in the work of the Health and Safety Executive (HSE) including employers and their representative bodies, the self-employed, employees and their representative bodies, HSE and its staff, local authorities, other Government departments, the devolved administrations, professional bodies, and voluntary and third sector organisations.

## **How to respond to this consultation**

Any comments should be sent to:

HSE Triennial Review Team  
Health and Well-being Directorate  
Department for Work and Pensions  
Zone B, 2<sup>nd</sup> Floor  
Caxton House  
Tothill Street  
London, SW1H 9NA

Email: [HSE.review@dwp.gsi.gov.uk](mailto:HSE.review@dwp.gsi.gov.uk)

To arrive no later than 26th July 2013.

Please note that your comments may be published and attributed to you, for example as part of a summary of call for evidence responses, in the final review report, or if a request is made under the Freedom of Information Act 2000. Please indicate if you consider that anything in your response should remain confidential, and the reasons why, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

## **What happens next?**

We will acknowledge all responses and give full consideration to the substance of comments made. We may contact you again if, for example, we have a query in respect of your response.

Comments made in response to the call for evidence will be considered by the Triennial Review Team and will advise the final report to Department for Work and Pensions' Ministers. The report will be laid in the Libraries of the Houses of Parliament, and published on the GOV.UK website, in autumn 2013.

## Summary

This call for evidence seeks the input of stakeholders to a review of the Health and Safety Executive (HSE) as a Non-departmental Public Body (NDPB). The launch of the review was announced in Parliament by a [Written Ministerial Statement](#) on 25 April 2013. The review is being led on behalf of the Department for Work and Pensions (DWP) by Mr Martin Temple, Chair of EEF- the Manufacturers Organisation, with the support of a Project Manager and small DWP Review Team.

## Background to the Review

In April 2011, the Cabinet Office announced that all non-departmental public bodies (NDPBs) still in existence following the reforms brought about by the Public Bodies Act 2011, would have to undergo a substantive review at least once every three years. These triennial reviews have two purposes:

1. To provide a robust challenge of the continuing need for individual NDPBs - both their function and their form, employing the government's 'three tests' discipline (see below); and
2. Where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

Guidance on how these reviews should be undertaken can be found on the GOV.UK website at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/62129/Cabinet-Office-Guidance-on-Reviews-of-Non-Departmental-Public-Bodies.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62129/Cabinet-Office-Guidance-on-Reviews-of-Non-Departmental-Public-Bodies.pdf)

## The Process of the Review

Mark Hoban, Minister for Employment, announced the launch of the HSE Triennial Review by way of a Written Ministerial Statement on 25 April 2013.

The Review will be in two stages. In the first stage of the Review, Martin Temple, and his Review Team, will consider whether the functions delivered by HSE continue to be necessary, and whether an NDPB remains the best way of delivering those functions. The responses to this call for evidence, alongside evidence gathered from other sources, will help to inform those considerations. If the first stage of the review concludes that HSE should remain an NDPB with the same functions as now, the second stage of the review will consider whether HSE's control and governance procedures meet the requirements of good governance. The terms of reference for the review are set out in Annex A.

A Challenge Group, chaired by Willy Roe, non-executive member of the DWP Board, will rigorously and robustly challenge the assumptions and conclusions of the Review. The Challenge Group will also ensure that the six principles for the appropriate conduct of triennial reviews, as set out in the Cabinet Office guidance, are followed. These state that triennial reviews should be proportionate, timely, challenging, inclusive, transparent, and offer value for money.

The terms of reference of the Challenge Group are attached at Annex B.

One of the founding principles for triennial reviews is transparency. The Cabinet Office guidance stipulates that the review itself should be open and transparent, and that a report must be published at the end of the review that details the evidence and rationale for decisions about the body's future. Departments publish these reports on the GOV.UK website, and announce their publication to Parliament. A report of the HSE Triennial Review, setting out conclusions, recommendations and an overview of any related implementation plan, is expected to be published in autumn 2013.

## **The Questions**

You are invited to contribute to the Triennial Review of HSE by offering your views and supporting evidence on the following questions at A and B below:

When responding please give examples to support your comments or reference sources of information you think may be relevant.

## **Stage one of the review – the functions and form of the HSE**

**Question A:** Do the functions that HSE performs remain necessary and if so do they need to be done by the HSE?

To assist you in forming your answer to this question and to help you better understand the work undertaken by HSE we have provided the following documents:

Annex D – a functional analysis of the work of HSE.

Annex E – background to the HSE's functions and governance arrangements

Annex F – a comparative study of international health and safety statistics

Further information is available on the HSE website at [www.hse.gov.uk](http://www.hse.gov.uk).

There are also some more specific questions overleaf you may wish to think about when replying and there is a proforma at Annex G which you can use for your response if you wish.

In considering your response, it would be helpful if you could include your views on whether or not the HSE meets the Government's 'three tests' for a body to remain as an NDPB:

- is this a technical function (which needs external expertise to deliver)?
- is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (for example, HSE's regulatory functions)?; or
- is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

### **Guided questions for consideration**

You do not have to answer any of these questions, they are provided by the Review Team to help guide you in your response.

You are encouraged to use the proforma at Annex G to submit your responses, but this is not obligatory.

Q1. Do HSE's business aims and objectives as set out in Annex D do the right things to deliver its statutory functions? Has it got the right balance?

Q2. How well do you think the HSE fulfils each of its functions at present?

Q3. Is there a need for a body to carry out each of these areas of work? If so is HSE the right body to do this work, in the light of what it is doing now?

Q4. HSE's functions include policy development, including negotiating on behalf of the UK Government on European Legislation – are they the right people to do this?

Q5. HSE also carries out research, technical development, provides advice, carries out investigations and enforces health and safety legislation. Are any of these functions no longer required?

Q6. Are there parts of HSE's work that could be better done elsewhere in the public, private or not-for-profit sectors?

Q7. HSE currently regulates health and safety jointly with Local Authorities – is this division of responsibilities between the HSE and Local Authorities correct?

Q8. Are there functions carried out by other bodies that you consider would be better done by HSE?

Q9. Are there any lessons to be learnt from other countries about how best to deliver the work that HSE does and how similar bodies in those countries

manage their work? Are there any constraints on applying such models in Great Britain?

Q10. Would another delivery model offer a more efficient and effective way of delivering HSE's functions? Some alternative delivery options are outlined at Annex C, but you do not need to restrict your suggestions to the options listed.

## **Stage two of the review – the control and governance of HSE**

**Question B:** If you consider that an NDPB is the right way to deliver HSE's functions, are the current control and governance arrangements the right ones?

We anticipate that answers to Question A will also address Question B. However, please feel free to provide additional comments and evidence to answer Question B on the proforma if you wish.

## **Annex A - Triennial Review of the Health and Safety Executive (HSE)**

### **Terms of Reference**

HSE is an executive non-departmental public body (NDPB) with Crown status, established under the Health and Safety at Work etc Act 1974. It is responsible for regulating work-related health and safety in Great Britain in partnership with local authorities. Its mission is 'the prevention of death, injury and ill health to those at work and those affected by work activities'. Ministerial responsibility for HSE rests with the Department for Work and Pensions (DWP).

HSE has two agencies: the Health and Safety Laboratory and the Office for Nuclear Regulation (ONR).

The triennial review of HSE will examine:

- Whether the functions of HSE remain necessary;
- Whether delivery by an arms length body is the most efficient and effective way to deliver those functions;

and, if it is concluded that the functions of HSE should continue to be delivered by an arms length body:

- Whether adequate control and governance arrangements are in place to ensure that the body complies with the principles of good governance.

Legislation is currently before Parliament to establish the ONR as a separate public corporation. The review will not therefore look specifically at the functions of the ONR which, once established, will be subject to separate review arrangements.

### **Timing**

The Review will commence on 25 April 2013 and is expected to publish its conclusions within six to eight months of that date.

### **Governance of the Review**

The Review is conducted on behalf of the Secretary of State for Work and Pensions and will be undertaken in accordance with the Cabinet Office guidance on reviews of non-departmental public bodies.

The Review will be led by an independent reviewer, appointed by the Secretary of State. The reviewer will be supported by DWP officials.

An independent Challenge Group will rigorously and robustly challenge the scope, assumptions, methodology and conclusions of the Review.

## **Annex B - 2013 Triennial Review of the Health and Safety Executive Challenge Group – Terms of Reference**

### **Background:**

The Health and Safety Executive (HSE) is an executive non-departmental public body (NDPB) with Crown status, established under the Health and Safety at Work etc Act 1974. It is responsible for regulating work-related health and safety in Great Britain in partnership with local authorities. Its mission is ‘the prevention of death, injury and ill health to those at work and those affected by work activities’. Ministerial responsibility for HSE rests with the Department for Work and Pensions (DWP).

DWP is carrying out the first triennial review of HSE in line with Cabinet Office Guidance on Reviews of NDPBs. The Review will be led by an independent reviewer, appointed by the Secretary of State. The reviewer will be supported by DWP officials.

The triennial review will be in two stages, and will examine:

#### Stage 1

- Whether the functions of HSE remain necessary;
- Whether delivery by an arms length body is the most efficient and effective way to deliver those functions;

and, if it is concluded that the functions of HSE should continue to be delivered by an arms length body:

#### Stage 2

- Whether adequate control and governance arrangements are in place to ensure that the body complies with the principles of good governance.

In line with Cabinet Office Guidance, a Challenge Group is being established to provide robust external challenge and scrutiny to the Review. The Challenge Group is part of the assurance process to ensure informed decisions by the Secretary of State for Work and Pensions, who has commissioned the Review.

### **Role of the Challenge Group**

The role of the Challenge Group is to rigorously and robustly challenge the assumptions and conclusions of the Review.

The Challenge Group will also ensure that the six principles for the appropriate conduct of triennial reviews, as set out in Cabinet Office Guidance, are followed. These state that triennial reviews should be proportionate, timely, challenging, inclusive, transparent and offer value for money.

## **Frequency of Meetings**

The Challenge Group is expected to meet at least three times:

- at the beginning of the review process, to agree the scope of the review;
- towards the end of the first stage of the Review, focusing on the emerging findings on functions and delivery; and
- towards the end of the Review, to test and robustly challenge the emerging conclusions.

Challenge Group meetings are expected to last around two hours.

## **Membership**

Members are appointed in their personal capacity and not to represent any interest group. Members of the Challenge Group are independent of the HSE and its sponsorship chain within the Department, although representatives of the sponsor team and of HSE may attend as observers, or to provide evidence to the Challenge Group.

## **Members**

Willy Roe CBE – Non-executive member of the DWP Board (Chair).

Paula McDonald CBE - Deputy Director, Public Bodies Reform, Efficiency and Reform Group, Cabinet Office

Neil Carberry – Director for Employment and Skills, Confederation of British Industry

Hugh Robertson – Senior Health and Safety Officer, Trades Union Congress

Daniel Goodwin - Executive Director - Finance & Policy, Local Government Association

## Annex C - Cabinet Office Checklist of Delivery Options

This checklist sets out a range of delivery options for consideration when reviewing the functions of NDPBs. The list is not exhaustive, and other creative ways of delivering functions may also be considered. However, as a minimum, Government departments are expected to be able to show they have considered all of the options set out in this checklist when reviewing the functions of their NDPBs.

### Delivery Options

- **Abolish:** Why does the function need to continue? How does this contribute to the core business of the NDBP and the parent Department? How does this contribute to wider Government policy objectives? Is there a demand for the function or activity from users? Is providing the function a justifiable use of taxpayers' money? What would be the cost and effects of not delivering the function?
- **Move out of Central Government<sup>1</sup>:** Why does central government need to deliver this function? Can the function be delivered by local government, by the voluntary sector or by the private sector? Is there an existing provider (or providers) in the local government, voluntary or private sector that could deliver this function? Can the function be privatised or delivered under contract by the voluntary or private sector? Can the function be delivered by a mutual, Community Interest Company or social enterprise? What are the risks and benefits of moving the function out of central government?
- **Bring In-House:** Why does the function need to be delivered at arms length from Ministers? Can the function be delivered more efficiently or effectively by the parent Department or by an existing Agency of the Department? What would be the cost and benefits of bringing the function in-house?
- **Merge with another body<sup>2</sup>:** Are there any other areas of central government delivering similar or complementary functions? Does the function duplicate work undertaken elsewhere? Could the function be merged with those of another public body?
- **Delivery by a new Executive Agency:** Could the function be delivered by a new Executive Agency? What would be the costs and benefits of this?

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<sup>1</sup> In the case of Advisory NDPBs, this option should include assessing whether the functions of the body can be provided by engaging directly with users, stakeholders, sectors and communities.

<sup>2</sup> In the case of Advisory NDPBs, this option should include assessing whether the functions of the body can be delivered through more informal ad hoc arrangements, or by internal committees of civil servants and/or wider public servants.

- **Continued delivery by a NDPB:** Does the function pass at least one of the Government's "three tests"<sup>3</sup>? How well is the NDPB currently delivering the function? What is the view of users and stakeholders? Are the freedoms and flexibilities inherent in the NDPB model being used to deliver the function? Have all other possible delivery options been examined and evaluated?

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<sup>3</sup> The "three tests" are: is this a technical function (which needs external expertise to deliver); is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.

## **Annex D – Triennial review of the Health and Safety Executive – Functional Analysis**

Annex D is available as a separate document on the Triennial review of the Health and Safety Executive Call for Evidence page on GOV.UK.

## **Annex E - Background to the Health and Safety Executive**

The Health and Safety Executive (HSE) is the national independent regulator for work-related safety and ill health. Its mission is **the prevention of death, injury and ill health to those at work and those affected by work activities.**

As the independent regulator HSE acts in the public interest to reduce work-related death and serious injury across Great Britain's workplaces. It brings about improvements in Britain's health and safety performance, seeks to reduce the costs to the economy of injury and ill-health, and enables the safe operation of those high-hazard industries that are essential to the running of the country and in which failures in safety can have catastrophic consequences.

Since its creation following the introduction of the Health and Safety at Work Act in 1974 HSE has established an internationally respected reputation for effective regulation while Britain has gone on to achieve one of the best health and safety records in the world.

Despite these successes however workplace injury and ill-health continues to place huge economic and social burdens on Britain. In 2011/12, there were 173 workers killed at work, 111,000 reported non-fatal injuries to employees, an estimated 1.8 million people suffering from an illness they believed was caused or made worse by work, and 27 million working days lost. The most recent estimate for the economic costs meanwhile puts the burden at over £13.4 billion in 2010/11 alone. It is HSE that acts on behalf of DWP to deliver the Government's strategic objective of improving health and safety outcomes so as to reduce these personal, social and economic costs to the nation.

HSE also takes the lead in bringing about the delivery of the Government's priorities for workplace health and safety, as well as meeting the Government's commitments under European and international law and agreements to provide a national occupational health and safety regime in workplaces. In meeting these commitments HSE has sought for many years to provide pragmatic and risk-based approaches to the implementation of EU legislation.

HSE's functions are undertaken in the pursuit of four headline aims that support delivery of its mission. These aims, set out in HSE's [Business Plan for 2012-15](#), are to:

- Lead others to improve health and safety in the workplace;
- Provide an effective regulatory framework;
- Secure compliance with the law; and,
- Reduce the likelihood of low frequency, high-impact catastrophic incidents.

Local authorities (LAs) are HSE's co-regulators for work-related health and safety risks in Britain's workplaces. HSE has enforcement responsibilities for an estimated 900,000 premises comprising around 12.3 million workers while

LAs cover an estimated 1.7 million premises and 13.6 million workers in what are generally comparatively lower risk activities. Enforcement responsibilities at different premises are allocated between HSE and LAs by the Health and Safety (Enforcing Authority) Regulations 1998 according to the work activity carried out and reflect the nature of the risks arising in different types of employment.

Broadly speaking HSE regulates higher risk premises where more industrial work activities are undertaken. These regulatory responsibilities cover a wide range of sectors and industries:

- HSE's Field Operations Directorate (FOD) covers many employment sectors including construction, agriculture, general manufacturing, engineering, food and drink, quarries, entertainment and fairgrounds, education, health services, local and central Government and domestic gas safety.
- HSE's Hazardous Installations Directorate (HID) covers major hazard industries: industries where failures in safety can present potentially catastrophic consequences for the workforce, neighbouring communities and the environment as well as disrupt activities which are key to the economy. HID's regulatory activities in these industry sectors cover offshore oil and gas, onshore chemicals and petro-chemicals, pipelines carrying hazardous substances, mines, explosives and biological agents.

LAs regulate premises in what are comparatively lower risk sectors including retailing, wholesale distribution, warehousing, hotel and catering premises, offices, and the consumer/leisure industries. Many of these are premises that are also visited or regulated by LA inspectors in respect of other matters such as food hygiene, sanitation, licensing, and public health generally. By regulating occupational health and safety matters alongside these other responsibilities, LA regulators can avoid multiple inspections of individual premises.

HSE supports LA co-regulators in the consistent and proportionate enforcement of health and safety legislation. This includes providing guidance to help LA inspectors target higher risk premises within their allocated sectors where they can apply their expertise to greatest effect and where their interventions can be combined with their broader public health responsibilities.

The functions undertaken by HSE's regulatory inspectors in support of HSE's aims include:

- Working as a catalyst with industries at a strategic level through trade associations, joint committees, working groups and supply chains to agree standards, expectations and improvement programmes which are then taken forward by the industries themselves;
- Investigating work-related deaths and serious incidents involving injury, occupational disease or dangerous occurrences;
- Responding to complaints from workers or the public about health, safety or welfare conditions at work;

- Inspecting a wide range of undertakings and work activities from large, multi-site organisations to small firms, targeting higher-risk sites and the less compliant dutyholders;
- Implementing HSE's 'permissioning' regimes which involve a requirement for a dutyholder to gain the regulator's approval or permission for certain activities (e.g chemical sites with major accident potential);
- Taking enforcement action in accordance with HSE's [Enforcement Policy Statement](#).

In the case of work-related deaths, investigations are carried out jointly with the police under the terms of the Work Related Death Protocol (WRDP) to identify whether serious criminal offences other than health and safety offences, including manslaughter (in Scotland, culpable homicide) or corporate manslaughter (or in Scotland, corporate homicide), may have been committed.

In order to deliver these functions Inspectors are entrusted with a range of statutory powers including, where the standards of health and safety encountered require them to be exercised, powers to:

- Issue verbal or written information and advice;
- Serve improvement or prohibition notices;
- Prosecute in the criminal courts for the most serious failings, where there is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to prosecute.

In 2011/12 HSE:

- Followed up around 10,400 health and safety complaints from workers and members of the public that met HSE's agreed risk-based criteria.
- Served 9,900 enforcement notices.
- Instigated 584 prosecution cases securing convictions in 92% of cases.

In industries and occupations where there are higher risks of accidents or ill health HSE works in partnership with key stakeholders to raise awareness, create behavioural change and influence others to take ownership for driving forward improvements in health and safety standards. It also works closely with other parts of Government, national and international bodies and a range of stakeholders and partner organisations to support national priorities and the wider work of Government. This includes influencing and negotiating directly in Europe on behalf of the Government to ensure EU health and safety policy making takes full account of the UK's aims, particularly on better regulation.

- HSE worked closely with partner organisations and industry in preparation for London 2012 to make it one of the safest Olympic Games ever with no work-related fatalities during the work to build the new venues or during the staging of the Games themselves.
- Through its Estates Excellence project HSE works with a wide range of business and regulatory partners to support SMEs to grow their knowledge and control health, safety and fire risks. Already around 1500 SMEs have had the opportunity to take advantage of the flexible package of benchmarking, training and occupational health support offered by the initiative.
- In November 2012 a joint agreement with the Environment Agency was published on the coordinated regulation of shale gas exploitation.
- HSE is a Category 2 responder under the Civil Contingencies Act and through its contributions to the maintenance of the Government's National Risk Register supports the Cabinet Office's Civil Contingencies Secretariat (CCS) and others in reducing the risks from emergencies.

- British business will be saved somewhere between £30m and £230m over 10 years through gains secured during negotiation of the European Regulation on the placing on the market and use of biocidal products.
- Early action with contacts within the European Commission has substantively delayed a potentially burdensome and poorly conceived draft Directive on work-related musculoskeletal disorders, saving British business from additional costs estimated at between £90m and £330m per year.
- A crucial derogation for medically important magnetic resonance imaging activities in the proposed Directive on electromagnetic fields has been protected.
- A change has been secured in the form of the proposal on the safety of offshore oil and gas activities, protecting the UK's world-leading offshore safety regime from disruption and providing the industry with greater certainty as to future requirements.

Two directorates of HSE operate as in-house agencies:

- The Health and Safety Laboratory (HSL) provides technical support to HSE's incident investigation activities, as well as science and research services, and is to be considered by the review.
- The Office for Nuclear Regulation (ONR) was established in April 2011 to create a single integrated nuclear regulator. It has been established as an in-house agency ahead of the Government's intention to establish it as a statutory corporation, expected in April 2014 subject to legislation. As it will be subject to its own review arrangements once established as a statutory corporation ONR is outside the scope of the review.

- HSL provides HSE with scientific evidence vital to both its investigation and prosecution activities and its policy analysis and advice to Ministers. It also sells its specialist scientific products and services to external clients to help those organisations achieve healthier, safer and more productive outcomes. Being part of the independent regulator gives HSL a unique status as a commercial provider which has been essential to the successful growth of this side of its business.
- HSL has worked with other Government departments and agencies to help protect national infrastructure. This includes work on flood risks with DEFRA and with the Home Office on interoperability across the emergency services.
- HSL is also working directly for major corporations on new technologies in nuclear power, petrochemicals, process pharmaceuticals and aerospace and has used its multi-disciplinary scientific expertise, risk management knowledge and highly specialised testing and validation facilities to help industry safely introduce new products and processes whilst maintaining the safe operation of existing plant.
- A significant milestone for the building of new nuclear power stations was reached in December 2012 when ONR, with the Environment Agency, granted a Design Acceptance Confirmation for the European Pressurised Reactor design.

### **HSE resources and staffing**

Expected expenditure for 2013/14 (excluding ONR and including capital expenditure): £276.3m (this includes £114m in income from sources other than government grant-in-aid).

Staff (as at March 2013 excluding ONR): 2,947 (2,746 Full Time Equivalents)

### **HSE's status as a public body**

HSE is a Crown Non-Departmental Public Body (NDPB) of DWP established by the Health and Safety at Work etc Act 1974 (HSWA) as amended by the Legislative Reform (Health and Safety Executive) Order 2008.

HSE's main statutory functions as set out in HSWA are to:

- propose and set necessary standards for health and safety performance;
- secure compliance with those standards;
- carry out and publish research and encourage research by others;
- provide an information and advisory service; and
- provide Ministers with information and expert advice.

HSE also undertakes functions outside of these on behalf of other departments and their Ministers including Defra, DTI, DECC, DCLG, BIS, Home Office, Cabinet Office, and Scottish and Welsh Ministers.

The broad governance arrangements within which HSE operates as a public body are set out in a [DWP/HSE framework document](#).

As an NDPB of DWP the Secretary of State has principal responsibility for HSE. The Minister for Employment accounts for HSE's business in Parliament including the policy framework within which HSE operates. The HSE Board sets policy aims and objectives for HSE consistent with that framework and with HSE's statutory purpose and duties, directs HSE's policy activities, and formulates advice to Ministers on specific policies and regulations, policy proposals and proposals for the making of regulations.

The Board does not exercise the powers of Ministers: the Minister for Employment retains direct responsibility for major policy issues while HSE exercises day-to-day accountability for individual policy areas and undertakes independent policy analysis on specific issues, informed by its detailed technical knowledge and expertise.

DWP formally exercises its sponsorship role of HSE through quarterly Sponsorship Board meetings at which senior officials from DWP and HSE review HSE's operational and financial performance, key risks and emerging issues. Additionally, HSE submits monthly data to DWP on its forecasts for and use of resources and quarterly data on its operational performance for inclusion in DWP Executive team reports and Quarterly Data Summaries. Regular meetings between the Minister and his DWP Ministerial account manager and the HSE Chair and Chief Executive also take place to allow the Minister to receive advice, and provide views, on key issues.

As Government business, health and safety policy proposals are cleared where necessary through the Cabinet and its Committees by the Minister. This includes clearing proposals concerning regulations with the Reducing Regulation Committee and clearing EU negotiating and voting strategies with the European Affairs Committee. HSE's EU negotiations are conducted in line with the Government's Guiding Principles for EU Legislation and under the full oversight of the Minister for Employment.

As well as providing the Government with advice on health and safety policy, the Board oversees HSE's activities and ensures that high standards of corporate governance and ways of working are maintained. It does this by:

- approving a business plan that takes forward the implementation of its strategy, approving the broad allocation of resources and scrutinising progress towards achieving the plan;
- considering the health and safety performance in Britain and within specific sectors, occupations and processes. and the effectiveness and efficiency of HSE's interventions;
- monitoring the performance and effectiveness of HSE; and
- supporting the Accounting Officer in ensuring the proper conduct of HSE's business.

The HSE Board also speaks for, leads and motivates the health and safety system as a whole, providing it with a strategy, [\*The Health and Safety of Great Britain: Be part of the solution\*](#), to guide all with a role to play towards the achievement of a less bureaucratic and more effective health and safety system.

Board members, including the Chair, are non-executive directors appointed by the Secretary of State and in compliance with the Code of Practice of the Office of the Commissioner on Public Appointments. The Board has a prescribed structure requiring three members with background experience from an employee perspective, three from an employer perspective, and one from the local authority perspective. Two further members are also appointed to provide additional perspectives to complement those of statutorily required appointments.

While Board members act objectively in the discharge of their responsibilities they also seek to use the links they have to stakeholder groups to take others' views on issues to further inform corporate discussions. Consequently, Board decisions on policy development and implementation are informed by a wide spectrum of views and advice to Ministers is provided in full recognition of the potential impacts and risks of the options available.

### **Public accountability**

Wherever possible Board discussions are open to the public and through the structure of the Board HSE makes itself accountable for its decision-making to stakeholders in the health and safety system, including both sides of industry.

HSE's accounts are audited by the National Audit Office and laid in Parliament as well as being [published on its website alongside its annual report](#) and the Chief Executive, as accounting officer, can be called before Parliament to account for the use of HSE's resources.

For dutyholders or members of the public who are unsatisfied with HSE's conduct there is a well established complaints system in place which offers recourse to the Chief Executive where issues can not be resolved locally. Dutyholders who have been served enforcement notices have the right to appeal to an Industrial Tribunal and where they have concerns that health and safety advice given by HSE or LA inspectors is incorrect or goes beyond the requirements of the law then they can also put their disagreement to an Independent Regulatory Challenge Panel.

- Over the period 2005/06 to 2011/12, only 0.07% of notices served by HSE were successfully appealed against. The number of notices appealed over this period was less than 0.6% of the total notices served.
- HSE deals with almost 15% of all the FOI requests received by monitored bodies and is the only monitored body to have received more than 1000 requests in every quarter since the FOI Act was introduced. More than 90% of the FOI requests submitted to HSE are made in support of civil injury claims. In 2012/13, over 6,390 FOI requests were received of which more than 91% were responded to within the 20-day target.

## **HSE and the devolved administrations**

Health and safety is a matter reserved to the UK Parliament and there are working arrangements in place between HSE and the Scottish and Welsh Governments to ensure that any areas of common interest are managed appropriately. Health and safety in Northern Ireland is regulated by the Health and Safety Executive for Northern Ireland (HSENI). Northern Ireland has health and safety policies and practices similar to the rest of the UK and HSE consults HSENI about new UK proposals so that they can consider their implications and adopt parallel measures if they wish.

## **Recent reviews that have considered the work of HSE**

### **Public Bodies Review (2010)**

The 2010 Public Bodies Review considered HSE's functions and status and concluded that it should be retained as an NDPB.

As the regulator for health and safety HSE exercises functions on behalf of the Government that:

- are technical in nature – HSE sets standards for workplace health and safety, publishes technical guidance and provides specialist advice to Ministers;
- require political impartiality – HSE performs regulatory functions, including the making of enforcement decisions, which need to be, and be seen to be, delivered with political impartiality;
- enable the independent establishment of facts – HSE investigates incidents so as to identify lessons, undertakes policy analysis, carries out research and publishes its findings.

Since the 2010 Public Bodies Review the following reviews and announcements on behalf of the Government have taken place for the purposes of redirecting and improving health and safety regulation and the wider health and safety system:

### ***i) Common Sense, Common Safety***

At the request of the Prime Minister the Rt Hon Lord Young of Graffham undertook a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture. His report 'Common Sense, Common Safety', published in October 2010, concluded that HSWA provided an effective framework for reducing accidents at work in hazardous occupations and identified that HSE had a vital role in promoting health and safety standards and ensuring that health and safety legislation was applied in a proportionate manner. The Government accepted Lord Young's report and recommendations in full.

- *Health and Safety Made Simple*, a plain English guide that takes businesses through their basic health and safety duties, was launched in March 2011 and has now been accessed online by more than 810,000 users.
- Online risk assessment tools for offices, shops and charity shops have been made available to help cut the whole process back to less than 20 minutes. The office tool, which to date has been used to produce over 27,000 risk assessments, is expected to save business around £380,000 a year.

### ***ii) Good health and safety, good for everyone***

In March 2011 DWP published 'Good Health and Safety, Good for Everyone'. An announcement of the Government's new framework for health and safety, it set out major changes to the enforcement regime to remove unnecessary burdens from business and confirmed the central role HSE had in delivering the modernisation of health and safety regulation. The announcement set out measures to refocus inspection activity onto higher risk areas and away from lower risk businesses who manage their responsibilities effectively. It also set out initiatives to improve access to third-party health and safety advice and to simplify health and safety regulation.

- By focusing on higher risk sites and poorly performing businesses proactive HSE inspections in non-major hazard industries were reduced by approximately one-third, from 33,000 in 2010/11 to less than 22,000 in 2011/12.
- LA regulators have also reduced their inspections, from 70,700 in 2011/12 to a projected 16,200 in 2012/13 based on mid-year data returns from LAs. HSE has recently launched a statutory National LA Enforcement Code that is based on the same principles used to direct HSE's inspection activities.
- With HSE's support the Occupational Safety and Health Consultants Register (OSHCR) has been established to give employers confidence they are accessing advice from well-qualified, competent consultants. Launched in March 2011 there are currently around 2000 consultants on the register.

### ***iii) Reclaiming health and safety for all***

In November 2011 leading risk management specialist Professor Ragnar Löfstedt published his report 'Reclaiming health and safety for all: An independent review of health and safety regulation'. Carried out at the request of the previous Minister for Employment, the review concluded that regulation has a role to play in preventing injury and ill health in the workplace and that, in general there was no case for radically altering current health and safety legislation. The report also set out a number of risk- and evidence-based recommendations to reduce regulatory requirements on business where they do not lead to improved health and safety outcomes, and remove pressures on business to go beyond what the regulations require.

- Revised guidance for Portable Appliance Testing was published in April 2012 making clear testing requirements in low risk workplaces, a source of myths estimated to cost an unnecessary £30m a year in offices alone.
- The Myth Busters Challenge Panel is providing a mechanism for anyone – companies, organisations or individuals – to challenge claims made about health and safety requirements that they believe to be disproportionate or inaccurate. Since its launch in April 2012 the panel has provided advice on over 160 cases.
- The *Health and Safety Toolbox* microsite helps SMEs to identify, assess and control common work hazards. Since going live in September 2012 over 250,000 users have accessed the advice provided by the toolbox. The HSE website home page has been redesigned to ensure that those who are low risk or new to health and safety start their journey with *Health and Safety Made Simple*, and then progress to the *Toolbox* if they decide they require further information.

HSE has shown itself able to respond rapidly to changes in Government priorities and support the timely delivery of the recommendations of these reviews. Details on progress can be found in the progress reports [published regularly by DWP](#).

#### **Public inquiries:**

##### **Patients First and Foremost**

On 26 March 2013 the Government published 'Patients First and Foremost', its initial response to the Mid Staffordshire NHS Foundation Trust Public Inquiry report. The response set out the Government's intention to make arrangements for a newly created Chief Inspector of Hospitals to refer possible instances of criminally negligent practice in hospitals to HSE for consideration for prosecution. The Department of Health is to ensure sufficient resources are available to HSE for this role.

#### **Better Regulation initiatives:**

##### **Red Tape Challenge**

The Red Tape Challenge seeks to minimise burdens on business by reducing and improving the stock of regulation with which businesses must comply. Of 201 health and safety regulations in scope, more than 84% are to be scrapped or improved with HSE on course to remove more than 50% by October 2014 without reducing the protection offered to employees and the public.

- By April 2013, 20 redundant or unnecessary regulations or acts had been scrapped generating savings of around £0.9m over 10 years.
- HSE works closely with industry when developing policy options, consulting widely and identifying costs to business from any changes to legislation. The Government's Regulatory Policy Committee (RPC) assessed 91% of HSE impacts assessments as 'fit for purpose' in 2011, the best performance by any Government department or agency. 92% of HSE's impact assessments were found 'fit for purpose' in 2012.

### **Focus on Enforcement (FoE) Regulatory Reviews**

FoE reviews examine the impact of regulatory delivery and enforcement in particular sectors. In February 2013 BRE published their 'FoE [Review of Enforcement in the Chemicals Industry \(COMAH\)](#)' in response to which the COMAH Competent Authority (HSE and Environment Agency) has [proposed a programme of changes](#) to their operations with the aim of reducing unnecessary burdens on business whilst securing the protection of people and the environment from major accidents.

### **Public Sector Reform:**

#### **Reducing the costs of delivery**

HSE's current settlement requires substantial further savings across the Spending Review period to 2014/15. To achieve these savings HSE is pursuing a financial strategy which includes challenging efficiency and economy measures in all categories of spend and seeking to derive more of its income from non-Government sources.

- HSE has reduced its requirement for taxpayer funding by nearly £61m (26%) in real terms in the five years to March 2012, maintaining the effectiveness of its regulatory functions by focusing on reducing costs across administrative and support functions. Over this period:
- Staffing numbers have been reduced by over 320 full-time equivalents (9%) while keeping the reduction to frontline health and safety inspectors to less than one per cent.
- Accommodation costs have been reduced by 16% by having fewer, smaller and more efficient offices and letting spare capacity to sub-tenants.
- By renegotiating major contracts with providers Information Systems/Information Technology spending has been reduced by 22%.
- External science spend has been reduced by 64% by improving the targeting and prioritisation of research and commissioning research in partnership with industries and stakeholders or through collaborations with national, international and EU programmes.

### **Civil Service Reform Plan**

Alongside its strategy to reduce its financial costs to the taxpayer HSE is also taking forward actions to implement the Civil Service Reform Plan. This

includes the transferral of human resources, finance and procurement transactional services to DWP Shared Services from June 2013 and transforming services to make more of them digital by default.

- In April 2013 HSE transferred its internal audit services to DWP Shared Services.
- An online service with interactive forms has been introduced for the statutory reporting of injuries and incidents.
- HSE has moved to a web-based information service. Following the switch visits to the HSE website increased by 400,000 per month while HSE's email bulletin service has attracted over 1.7m subscriptions.
- HSE makes all of its guidance available free online and has been improving its website to provide more accessible advice for low risk businesses and SMEs. By optimising and simplifying its content HSE guidance is now easier to find using search engines and is accessible through a wide range of devices including mobile handsets. In 2012/13 HSE's website received more than 32m visits.

## Annex F - Health and Safety Statistics 2011/12: International comparisons

### Background

1. Each autumn HSE publishes a compendium release of statistics related to ill health and injury at work. This release includes self-reported injury and ill health from the Labour Force Survey, reported non-fatal injury from RIDDOR, ill health reports from the THOR GP and specialist schemes, claims for Industrial Injuries Disablement Benefit (IIDB) and deaths from asbestos-related disease. The latest release, with statistics for 2011/12, was published on 31 October 2012.

### International comparisons

2. Comparing health and safety performance across countries is very complex because of substantial differences in definitions, reporting systems, enforcement practices and cultural factors which impact on the propensity to report incidents. Particular examples include the inclusion or exclusion of road traffic accidents, injuries to the self-employed, suicides and injuries in the public sector.
3. The most comparable data available is from Eurostat where an attempt is made to harmonise definitions for countries in the EU – particularly for fatal injury statistics. Periodically, the EU also runs surveys using standardised questionnaires across European countries which provide an opportunity to compare UK performance with peers.
4. In the following table, UK performance on key health and safety outcomes is compared with other European systems. ‘Peer’ comparisons refer to the rates for other large economies; Germany, France, Italy, Spain and Poland. Comparisons are made against the EU-15 group of countries and EU-27 where available.

Key health and safety outcome	Current position	Peers (DE, FR, IT, ES, PO)	EU-15	EU-27
Fatalities standardised incidence rate per 100,000 employed. (Eurostat 2012)	In 2009 GB had the <b>second lowest</b> fatality rate of those published by Eurostat at 0.59 per 100 000. GB performs well against other large economies such as France (2.07), Germany (0.66), Italy (1.73), Spain (2.04) and Poland (5.3).			

Key health and safety outcome	Current position	Peers (DE, FR, IT, ES, PO)	EU-15	EU-27
Work related accidents resulting in sick leave (LFS 2007)	2% of UK workers reported an accident resulting in sick leave, this was <b>mid-table performance</b> ; lower than the EU-27 rate of 2.3%, and 16 individual EU countries including DE, FR, ES, IT. While IT and DE have similar rates to the UK with 2.3% and 2.4% respectively, ES and FR have higher rates, 3.2% and 3.6%. Only ten member states achieved a lower percentage than the UK, including PO with 1%.			
Work related health problems resulting in sick leave (LFS 2007).	In comparison with DE, IT, ES and PO (FR excluded in this instance as data not comparable), the UK has the <b>lowest self-reported rate of work-related ill health resulting in sick leave</b> at 3.2%. Wider comparison shows only 7 countries with levels lower than this, and IE having the lowest at 1.7%.			
<b>KEY</b>				
	UK performance exceeds comparators		UK performance in line with comparators	
			UK performance below comparators	
				Comparison not available

5. Recent European survey data is also available on the health and safety system in member states covering areas such as enforcement, policy and practice. The table below summarises some of this information and, as with the outcome data, presents a very positive picture for the UK.

Survey data from business	Current position	Peers (DE, FR, IT, ES, PO)	EU-15	EU-27
Managers reporting H&S inspection in last 3 years (ESENER 2009)	UK performance lies in the <b>middle of the pack</b> . Around 60% of UK businesses (with more than 10 employees, and excluding agriculture) interviewed in 2009 reported receiving an inspection in the last 3 years. IT had similar levels of inspection to the UK, DE reported higher levels of inspection, while PO, ES and FR had lower levels.			
Managers reporting an established OSH management policy. (ESENER 2009)	The UK has the <b>highest</b> percentage of managers (in businesses employing more than 10, and excluding agriculture) reporting that their workplace has an action plan or management system for health and safety: around 98%. ES reports similar levels, whereas IT reports around 83%. PO and FR perform much less well in this area with 65% and 63% respectively, and DE has the lowest			

	rate of the larger economies with 54%.			
Workers who consider their health and safety to be at risk because of their work (EWCS 2010)	According to the 2010 European Working Conditions Survey, 18% of UK workers think their jobs risk their health or safety; this is one of the <b>lowest proportions</b> in the EU, compared with around 24% of all EU-27 workers. Germany have similar results to the UK, while more workers in France, Italy, Spain and Poland think that their health or safety is at risk because of work			
<b>KEY</b>				
 UK performance exceeds comparators	 UK performance in line with comparators	 UK performance below comparators	 Comparison not available	

## Annex G - HSE Triennial Review Stakeholder Response Form

<b>Your details</b>	
Name	
Organisation	
Role	
<b>Contact details</b>	
Address	
Phone	
Email	

You can use this form to record your response to the call for evidence if you wish. The text boxes may be expanded as required.

Please note that your comments may be published and attributed to you, for example as part of a summary of call for evidence responses, the final review report, or if a request is made under the Freedom of Information Act 2000. Please indicate if you consider that anything in your response should remain confidential, and the reasons why, but we cannot give an assurance that confidentiality can be maintained in all circumstances

### Stage one of the review – the functions and form of the HSE

**Question A:** In part one of this review the primary question is; do the functions that HSE performs remain necessary and if so do they need to be done by the HSE?

#### Additional Questions (optional)

Q1. Do HSE's business aims and objectives as set out in Annex C do the right things to deliver its statutory functions? Has it got the right balance?

Q2. How well do you think the HSE fulfils each of its functions at present?
Q3. Is there a need for a body to carry out each of these areas of work? If so is HSE the right body to do this work, in the light of what it is doing now?
Q4. HSE's functions include policy development, including negotiating on behalf of the UK Government on European Legislation – are they the right people to do this?
Q5. HSE also carries out research, technical development, provides advice, carries out investigations and enforces health and safety legislation. Are any of these functions no longer required?
Q6. Are there parts of HSE's work that could be better done elsewhere in the public, private or not-for-profit sectors?
Q7. HSE currently regulates health and safety jointly with Local Authorities – is this division of responsibilities between the HSE and Local Authorities correct?
Q8. Are there functions carried out by other bodies that you consider would be better done by HSE?

Q9. Are there any lessons to be learnt from other countries about how best to deliver the work that HSE does and how similar bodies in those countries manage their work? Are there any constraints on applying such models in Great Britain?

Q10. Would another delivery model offer a more efficient and effective way of delivering HSE's functions? Some alternative delivery options are outlined at annex D, but you do not need to restrict your suggestions to the options listed.

### **Stage two of the review – the control and governance of HSE**

**Question B:** If you consider that an NDPB is the right way to deliver HSE's functions are the current control and governance arrangements the right ones?

**You can use this box to record any additional comments you would like to make.**