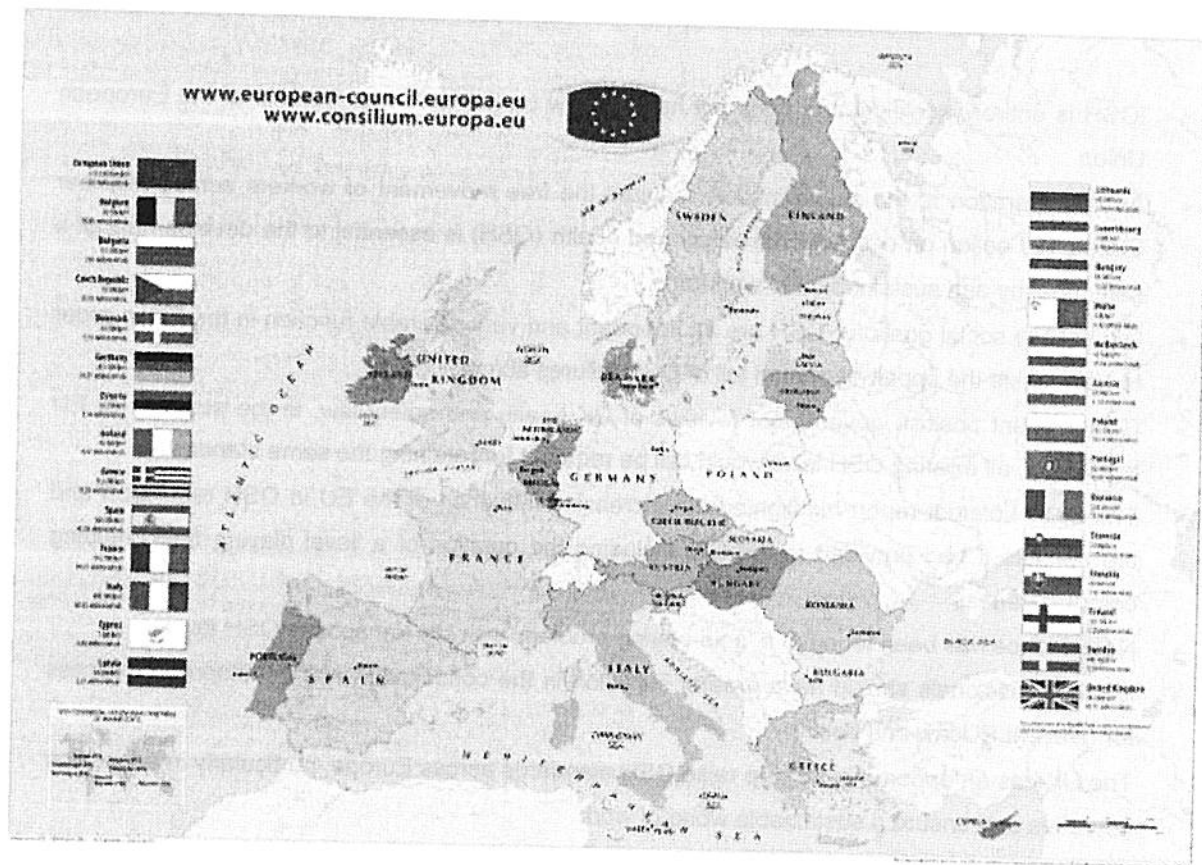


Government review of the Balance of Competences between the UK and the EU – Call for evidence: Social and Employment Review

IOSH comments on the Department for Business Innovation and Skills call for evidence



Submission

24.01.14

iosh

Introduction

The Institution of Occupational Safety and Health (IOSH), the Chartered body for occupational safety and health professionals, is pleased to respond to this call for evidence on the review of the balance of competences between the UK and EU. IOSH is entirely apolitical and does not have a view on the UK's membership of the European Union. Our commentary throughout our submission is based only on the 'social competence' element and within that category, solely on 'occupational safety and health'.

In our submission, we provide an IOSH summary position; answers to the call for evidence questions (supported by sources); and an information page about IOSH.

IOSH summary position

- IOSH is entirely apolitical and does not have a view on the UK's membership of the European Union
- As the operation of the single market requires the free movement of workers across Member States, EU action on occupational safety and health (OSH) is essential to the development of a safe, healthy and sustainable EU workforce
- We believe social goals for OSH are an important and very desirable function in the EU in order to help tackle the appalling annual toll of OSH failures across Europe
- Given recent positive government reviews of UK health and safety law, in the absence of EU legislation, all existing OSH laws would still be required for retaining the same standards
- The 2011 Löfstedt report highlighted the increasing influence of the EU in OSH regulation and the benefits it had provided to the UK, including the creation of a 'level playing field', helping competitiveness
- No evidence has been found of a 'gold-plating problem' with UK transposed OSH laws
- OSH professionals should have greater inclusion in the consultation and development process for relevant EU law and policy
- The UK has an opportunity to help raise OSH standards across Europe, particularly in accession countries and ensure a sustainable world of work

IOSH answers to the call for evidence questions

The argument for social and employment competence

1. *To what extent is EU action in this area necessary for the operation of the single market?*

To help address this question; IOSH briefly summarises the history of EU influence over occupational safety and health legislation. It began in 1973, when the UK joined the European Economic Community, now the European Union (EU). In doing so the UK agreed to be bound by the legislative procedures. Initially, each member state had the power of veto, but this changed with the Single European Act 1986 (SEA), which introduced Qualified Majority Voting. It also introduced a new legal provision the Treaty on the Functioning of the European Union (TFEC), aiming at “...improvements, especially in the working environment, as regards the health and safety of workers” and facilitated the free movement of workers in a single market. The Treaty of Amsterdam of 1997 further strengthened legislative competence in the field of social policies and the Lisbon Treaty of 2007 kept the substance of these provisions.

With regard to the extent that EU action in this area is necessary for the operation of the single market; as this operation requires the free movement of workers across Member States, EU action on occupational safety and health is essential. This is in order to prevent significant disparities in safe and healthy working conditions, which could interfere with such movement and undermine the development of a safe, healthy and sustainable EU workforce (see also answers to Q2 & Q6 below).

Sources

- European Commission website (Europa). *History of the European Union*. Available from http://europa.eu/about-eu/eu-history/index_en.htm
- EU-OSHA, *European Directives*
- <https://osha.europa.eu/en/legislation/directives/directives-intro>

2. *To what extent are social and employment goals a desirable function of the EU in their own right?*

IOSH believes social goals for occupational safety and health (OSH) are an important and very desirable function in the EU, in order to help tackle the appalling annual toll arising from OSH failures across Europe, with the European Agency for Safety and Health at Work (EU-OSHA) reporting that:

“Every year, according to Eurostat, more than 5,500 people in the EU lose their lives as a result of an accident in the workplace. A further 159,000 die, the International Labour Organization estimates, because of work-related illness. Put another way, every 3.5 minutes a person in the European Union

dies as a result of a work-related accident or disease. All in all, occupational accidents and ill-health have been estimated to cost an annual sum of EUR 490 billion..."

Please also see our answer to Q8 below.

Source

- EU-OSHA, *Healthy Workplaces: working together for risk prevention, 2012-13*

3. *What domestic legislation would the UK need in the absence of EU legislation?*

To help answer this question; IOSH would summarise some key findings from recent government-commissioned reviews. In his 2010 review of the operation of UK health and safety laws, Lord Young of Graffham concluded that the Health and Safety at Work etc Act 1974 was "a very good piece of legislation."

Then, in the 2011 review of UK health and safety regulations, Professor Ragnar Löfstedt examined around 200 pieces of legislation, finding the system "*broadly fit for purpose*". He did not identify any transposed duties that were simply 'not needed'. He also did not find evidence of a 'gold-plating problem' for transposed occupational safety and health law; and notably, neither did the more recent Triennial Review of the Health and Safety Executive.

Professor Löfstedt's recommendations were about clarifying, consolidating or removing redundant legislation or laws superseded by others. In his review, he reported that the former Chair of the EU Scrutiny Committee had estimated that "*probably 90 per cent*" of all EU laws currently in force in the UK would have existed even in the absence of the EU. Given that neither Professor Löfstedt nor Lord Young identified any transposed duties that were superfluous, by deduction, in the absence of EU legislation, all existing occupational safety and health laws would still be required for retaining the same standards.

Sources

- Young D. *Common Sense, Common Safety*. London: Cabinet Office, 2010.
- Löfstedt R E. *Reclaiming health and safety for all: an independent review of health and safety legislation*. London: TSO, 2011.
- Temple M. *Triennial Review Report: Health and Safety Executive*. London: DWP, 2014.

Impact on the national interest

4. *What evidence is there that EU action in social policy advantages the UK?*

In terms of advantages to the UK from EU OSH policy – IOSH would draw attention to the Löfstedt report, which noted that the increasing influence of the EU in occupational safety and health regulation had provided benefits to the UK, which in summary, he cited as:

- more prescriptive elements have helped small businesses
- the opportunity to consolidate a number of regulations
- the creation of a level playing field across Europe, helping competitiveness

Source

- Löfstedt R E. *Reclaiming health and safety for all: an independent review of health and safety legislation*. London: TSO, 2011.

5. *What evidence is there that EU action in social policy disadvantages the UK?*

IOSH does not have evidence that EU occupational safety and health policy disadvantages the UK.

6. *Are there any other impacts of EU action in social policy that should be noted?*

In terms of other impacts of EU action in social policy that should be noted; IOSH would draw attention to 'COM(2007) 62 final', which states: "*Under the Lisbon strategy, the Member States have acknowledged the major contribution that guaranteeing quality and productivity at work can play in promoting economic growth and employment...The enormous economic costs of problems associated with health and safety at work inhibits economic growth and affects the competitiveness of businesses in the EU. A considerable share of these costs also falls upon social security systems and public finances.*"

Further to this, in 2010, the European Commission (COM(2010) 682) stated "*EU companies depend for their survival and expansion on a committed workforce, thriving in a high-quality working environment, with safe and healthy working conditions.*" This was supported in 2012 by European Commissioner Lazlo Andor, who highlighted the importance of the EU Strategy on Health and Safety at Work, saying "*There is no doubt that a good working environment is a big factor in competitiveness and can play a crucial role in increasing the workforce's potential. This policy area should therefore be seen as contributing significantly to achieving the objectives of the Europe 2020 Strategy – in other words, helping to foster smart, sustainable and inclusive growth, and in particular to raise the employment rate from the current 69% to at least 75%.*"

IOSH would also highlight the benefits to the EU occupational safety and health community from the work of the European Agency for Safety and Health at Work (EU-OSHA). Established in 1996, EU-OSHA is a decentralised agency of the EU. Its functions include collecting, analysing and disseminating relevant information related to occupational safety and health. EU-OSHA publishes a monthly newsletter (OSHmail) on these topics and also provides in-depth publications, including detailed reports. EU-OSHA operates via networks across the EU, covering three main areas: analysis and research; prevention; and campaigning and awareness-raising.

EU-OSHA has also established:

- The EU Risk Observatory – this aims to identify new and emerging risks in occupational safety and health, in order to improve the timeliness and effectiveness of preventive measures. The ERO provides an overview of safety and health at work in Europe, describes the trends and underlying factors, and anticipates changes in work and their likely impact on occupational safety and health.
- The Priorities for OSH research in Europe: 2013-2020 – first produced in 2005, this is a working paper outlining the research priorities for occupational safety and health within Europe. It aims to identify future topics in accordance with both the Europe 2020 Strategy and the Horizon 2020 Programme. Though not exhaustive, it covers 4 main themes, including demographic change and globalisation and the changing world of work.
- EU-OSHA campaigns – this series has raised awareness of topics such as noise, maintenance, manual handling and working together on risk prevention.

The 'Observatory' and the 'Priorities paper' have contributed to knowledge and evidence-based policy and practice in the field of occupational safety and health. The EU-OSHA awards grants to Member States to help promote occupational safety and health. For example, in 2002, IOSH secured funding for developing a UK-version of a risk management toolkit for small- and medium-sized enterprises (SMEs), which we provide free as an online resource for UK businesses (www.ioshroutefinder.co.uk).

In addition, there have been a series of EU occupational safety and health strategies, which are believed to have benefited the EU. The European Commission has published an evaluation report on the latest of these, the European strategy on occupational safety and health 2007-2012. In terms of tangible results, the evaluation reports acknowledge difficulties in analysing and attributing accident and ill health data, including confounding factors such as the recession, under-reporting and lack of consistent definitions. This meant that it was not possible to definitely determine whether the 25% target reduction in accidents had been achieved. However, tangible reported results included the pan-European work of Senior Labour Inspectors Committee (SLIC); the documentation and sharing of national health and safety initiatives and campaigns; the provision of guidance on

how to communicate effectively with SMEs through well-designed guides; and the EU-OSHA campaigns.

Furthermore, we note from the evaluation that in certain member states (e.g. Austria and Spain), the EU OSH Strategy was a clear driver for national strategies; and that in Slovakia, Slovenia and the Czech Republic it helped to give OSH "...higher political profile at national level." Also that the EU OSH Strategy helped some countries to make their own national strategies more specific and operational.

Finally, Professor Löfstedt's review highlighted EU measures to improve the design, implementation and review of regulation. For example, a 25% reduction target for administrative burden and the EU Impact Assessment Board (IAB) created in 2006 to further develop a knowledge-based approach to EU decision-making and improve the quality of impact assessments. He comments that "*The IAB in particular has been a key step in ensuring a clear evidence-base for EU legislation...*"

Sources

- COM(2007) 62. Communication on *Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*, 2007. Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0062:FIN:en:PDF>
- COM(2010) 682 final. Communication on *An Agenda for new skills and jobs: A European contribution towards full employment*, 2010. Available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0682:FIN:EN:PDF>
- Andor, L. *EU Strategy on Health and Safety at Work – where we stand and future priorities*. Conference on occupational safety and health at work. Copenhagen, 28 June 2012. Available from http://europa.eu/rapid/press-release_SPEECH-12-506_en.htm?locale=en
- European Commission. *Evaluation of the European Strategy on Safety and Health at Work 2007-2012*. March 2013. Available from <http://ec.europa.eu/social/BlobServlet?docId=10965&langId=en>
- EU-OSHA website <https://osha.europa.eu/en/about>
- Löfstedt R E. *Reclaiming health and safety for all: an independent review of health and safety legislation*. London: TSO, 2011.

7. *What evidence is there about the impact of EU action on the UK economy? How far can this be separated from any domestic legislation you would need in the absence of EU action?*

IOSH does not have data on the impact of EU action on the UK economy; however, in terms of transposed occupational safety and health legislation, it would be possible to revisit the accompanying 'impact assessments' in order to provide an estimate of what was anticipated at introduction. Some occupational safety and health legislation has also undergone post-legislative

reviews, which could help inform this calculation (please see the IOSH submission to the Löfstedt review).

It should be noted that in 2011 Professor Ragnar Löfstedt examined around 200 pieces of legislation, finding the UK system “*broadly fit for purpose*”. He did not identify any transposed duties that were simply ‘not needed’. He also did not find evidence of a ‘gold-plating problem’ for transposed occupational safety and health law; and notably, neither did the more recent Triennial Review of the Health and Safety Executive.

In answer to the question on separating impact from domestic legislation; the same ‘benefits’ from risk control would accrue regardless of whether the law originated in Europe and was transposed into UK law or originated in the UK. However, some transposed law may not have emerged or started to protect workers when it did, without the ‘prompt’ from the EU.

Sources

- *Löfstedt review of health and safety legislation – IOSH submission - 2011*, available from www.iosh.co.uk/condocs
- Löfstedt R E. *Reclaiming health and safety for all: an independent review of health and safety legislation*. London: TSO, 2011.
- Temple M. *Triennial Review Report: Health and Safety Executive*. London: DWP, 2014.

Future options and challenges

8. *How might the UK benefit from the EU taking more action in social policy?*

Generally, IOSH believes that coordination at a European level is necessary to improve occupational safety and health across the EU. We believe that leaving it to 'national level' action would be insufficient and likely to mean that the currently disjointed and variable levels of progress across Europe will continue. We believe it is particularly important for a sustainable world of work to ensure that Europe's occupational safety and health standards are improved across all Member States, especially those new to the EU, by raising expectations and sharing good practice. One example of the need for, and benefits of, EU-level coordination for occupational safety and health policy is the pan-European work of Senior Labour Inspectors' Committee (SLIC), including the peer review of national inspection programmes.

IOSH therefore supports the development of a new EU Occupational Safety and Health Policy Framework, believing its topics should include:

- occupational *health* management and reporting (as well as safety)
- protection of vulnerable groups
- embedding occupational safety and health in the education system
- harmonising competence standards for occupational safety and health professionals across the EU (e.g. EurOSHM* and EUSAFE**)
- ensuring occupational safety and health (beyond legal minimums) is an essential part of Corporate Social Responsibility and supply chain management
- promoting the business case for good occupational safety and health
- helping small- and medium-sized enterprises to comply
- ensuring adequate levels of regulation and enforcement

We believe the UK would benefit from this because our workers across Europe would enjoy improved occupational safety and health standards. The UK would also potentially benefit from improved European occupational safety and health standards, including for enforcement, to 'level the playing field' and create a safe, healthy and productive Europe.

Sources

- *EU occupational safety and health policy framework – IOSH submission – 2013*, available from www.iosh.co.uk/condocs
- ***EurOSHM**: a pan-European competence standard for OSH professionals, available from www.euroshm.org/
- ****EUSAFE**: a new OSH professional qualification and training framework, available from www.eusafe.org/index.php/en/theprj-eng.html

9. *How might the UK benefit from the EU taking less action in social policy, or from more action being taken at the national rather than EU level?*

IOSH does not think there are benefits for the UK from having less EU action on occupational safety and health. Please also see answer to Q8 above.

10. *How could action in social policy be undertaken differently? For example, are there ways of improving how EU legislation is made e.g. through greater adherence to the principles of subsidiarity and proportionality or the ways social partners are engaged?*

IOSH would like to see greater inclusion of the occupational safety and health profession in the consultation and development process for relevant EU law and policy. We believe the current tripartite system is outdated in this regard and should be expanded to include appropriate professional bodies, such as IOSH. This would help the EU to build, share and apply the evidence-base for occupational safety and health policy and practice. This type of evidence-gathering is important for producing high-quality Regulatory Impact Assessments to help inform the legislative process and ensure an effective approach to risk management.

11. *How else could the UK implement its current obligations in this area?*

Please see previous IOSH answers.

12. *What future challenge/opportunities might the UK face in this area and what impact might these have on the national interest?*

In terms of future challenges and opportunities – IOSH believes the UK has the opportunity to help raise occupational safety and health standards across Europe, particularly in accession countries. The UK can continue to promote our risk-based, proportionate and evidence-based approach.

About IOSH

Founded in 1945, the Institution of Occupational Safety and Health (IOSH) is the largest body for health and safety professionals in the world, with around 43,000 members in over 100 countries, including over 13,000 Chartered Safety and Health Practitioners. Incorporated by Royal Charter, IOSH is a registered charity, and an ILO international NGO and CIS collaborating centre. The IOSH vision is:

“A world of work which is safe, healthy and sustainable”

The Institution steers the profession, providing impartial, authoritative, free guidance. Regularly consulted by government and other bodies, IOSH is the founding member to UK, European and International professional body networks. IOSH has an active research and development fund and programme, helping develop the evidence-base for health and safety policy and practice. Summary and full reports are freely accessible from our website. IOSH publishes an international peer-reviewed journal of academic papers twice a year titled *Policy and practice in health and safety*. We have also developed a unique UK resource providing free access to a health and safety research database, as well other free on-line tools and guides, including websites for business start-ups and young people; an occupational health toolkit; and a risk management tool for small firms.

IOSH has 33 Branches in the UK and worldwide including the Caribbean, Hong Kong, Isle of Man, Middle East, the Republic of Ireland and Singapore, 17 special interest groups covering aviation and aerospace; communications and media; construction; consultancy; education; environment; fire risk management; food and drink; hazardous industries; healthcare; international; offshore; public services; railways; retail and distribution; rural industries; and sports grounds and events. IOSH members work at both strategic and operational levels across all employment sectors. IOSH accredited trainers deliver health and safety awareness training to all levels of the workforce from shop floor to managers and directors, through a professional training network of more than 1,600 organisations. We issue around 100,000 certificates per year.

For more about IOSH, our members and our work please visit our website at www.iosh.co.uk

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