

# Good Health and Safety, Good for Everyone

The next steps in the Government's plans for reform of the health and safety system in Britain

21 March 2011

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# Introduction/Background

If the Government is to achieve its goal of making Britain a more growth-focused, entrepreneurial nation, a key priority must be to ease the burden of bureaucracy on business. The more barriers we place in the way of entrepreneurs and investors, the less successful we will be economically. The culture of red tape will have to change.

A key part of our deregulatory agenda is changing the health and safety culture that causes so much frustration in Britain today. Protecting people in the workplace and in society as a whole remains a key priority. No business benefits from having a bad safety record. But the burden of health and safety red tape has become too great, with too many inspections of relatively low risk and good performing workplaces, frequently poor health and safety advice to businesses from badly qualified consultants, and a complex structure for regulation. The time has come for all of this to change.

These proposals set out a new start for health and safety regulation for Britain's businesses. In future we will shift the whole focus of our health and safety regime to a lighter touch approach, concentrating efforts on higher risk industries and on tackling serious breaches of the rules. We will leave those organisations which pose a lesser risk and which do the right thing for their employees free of unwarranted scrutiny.

There will be three key aspects to the changes we are introducing:

- We will clamp down on the rogue health and safety advisers who cost industry so much money by giving them advice which bears little relation to the actual requirements of legislation. To make it easier for businesses to secure competent and ethical consultancy, we are launching an official **register of Occupational Safety and Health Consultants** for those health and safety practitioners who are properly accredited to one of the professional bodies in the industry. This will make it easier to access reliable, reputable advice.
- We will shift the focus of health and safety activity away from businesses that do the right thing, and concentrate on higher risk areas and on dealing with serious breaches of health and safety regulation. This will mean a very substantial drop in the number of health and safety inspections carried out in the UK. We will also shift the cost burden of health and safety away from the taxpayer, and instead make those organisations that gain competitive advantage by flouting the rules pay for the costs of putting things right. **The new Health and Safety Framework** contains more detail of our proposals in this area.
- We will also seek to simplify health and safety regulation and legislation, and in doing to ease the burden on business. To do this we are launching new **"Health and Safety Made Simple"** guidance to provide lower risk small and medium-sized businesses with the information they need to achieve a basic level of health and safety management in their workplace. We are also setting up an immediate **review of health and safety regulation**. The Chair of the

review, Professor Ragnar Löfstedt, will be backed by an independent advisory panel. The review will be asked to make recommendations for simplifying the current rules by autumn 2011.

# Occupational Safety and Health Consultants Register

All reputable employers recognise the benefits of providing healthy and safe working conditions for their staff. Sensible health and safety at work helps to maintain a productive workforce and contributes to economic prosperity and growth.

But health and safety legislation is complex and employers – particularly those in small and medium businesses – are often unclear about what they need to do to meet their legal obligations. While some larger employers have in-house health and safety advisers, and there is a lot of helpful advice and guidance freely available from the Health and Safety Executive (HSE), many employers turn to health and safety consultants for professional help.

Unfortunately, the standards of consultation currently available are variable. There are no minimum standards for health and safety consultants and no way for employers to ensure that the advice they are being given is accurate and proportionate to the needs of their business.

The Government will clamp down on the rogue health and safety advisers who cost industry so much money by giving them advice which bears little relation to the actual requirements of legislation. To achieve this we are launching a voluntary Occupational Safety and Health Consultants Register (OSHCR) for those health and safety practitioners who are properly accredited to one of the professional bodies in the industry.

All eligible health and safety consultants<sup>1</sup> are encouraged to join the register, which began taking registrations on 31 January 2011, and demonstrate their commitment to providing good quality, sensible and proportionate advice to business.

The register, which opens today, provides business with easy access to advice on health and safety matters from consultants qualified to a professional standard recognised by the participating bodies in the registration scheme<sup>2</sup>. Employers will be

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<sup>1</sup> Applicants must be a member of a UK health and safety professional body and have a degree level qualification, a minimum of two years experience and engagement with a continued professional development scheme. This is usually at Chartered, Fellow or Registered Member status.

<sup>2</sup> The professional bodies and other stakeholders involved are: British Occupational Hygiene Society (BOHS); British Safety Council; British Safety Industry Federation (BSIF); Chartered Institute of Environmental Health (CIEH); Health and Safety Executive Northern Ireland (HSENI); Institute of Ergonomics and Human Factors (IEHF); International Institute of Risk and Safety Management (IIRSM); Institution of Occupational Safety and Health (IOSH); National Examination Board in Occupational Safety and Health (NEBOSH); Royal Environmental Health Institute of Scotland (REHIS); and Royal Society for the Prevention of Accidents (ROSPA).

able to find a consultant according to keyword(s), county, industry or topic, free of charge.

Consultants will pay a fee of £60 to join the register and for annual renewal. An initial discounted fee of £30 is offered to those eligible consultants who join the scheme by the end of April 2011.

Registered consultants who fail to maintain the high standards of the register will be subject to the disciplinary procedures of their professional bodies and - if a decision to withdraw the membership status is made - the consultants will no longer be eligible to appear on the register.

A not-for-profit company limited by guarantee (CLG), consisting of the participating professional bodies, has been set up to govern the register. The HSE will be providing administrative support for the register in the short term but is expected to hand over full responsibility to the CLG by 2012/13.

The register can be accessed at <http://www.oshcr.org/>

# The new Health and Safety Framework

As the Prime Minister said in his preface to the recent report “Common Sense, Common Safety”: “Good health and safety is vitally important. But all too often good, straightforward legislation designed to protect people from major hazards has been extended inappropriately to cover every walk of life, no matter how low the risk”.

The HSE and local authorities, as joint co-regulators for health and safety legislation, have a vital role to play in ensuring that the regulatory system:

- is focused on better health and safety outcomes and not purely technical breaches of the law;
- makes it as straightforward as possible for business, and in particular, small businesses, to deliver a health and safe working environment;
- is enforced in a manner which is proportionate to risk;
- avoids placing unnecessary burdens on businesses which manage health and safety effectively; and
- maintains a strong deterrent against those who fail to meet their health and safety obligations and put their employees at material risk thereby also deriving an unfair competitive advantage.

## The Health and Safety Executive

The HSE will continue to play a central role in delivering the modernisation of regulation. It will contribute both to the Government’s forthcoming review of health and safety regulation and, as set out below, to a new pattern of enforcement and assistance to industry in meeting its legal obligations.

## Major hazard industries

Much of HSE’s manpower and technical resource is devoted to the major hazard industries. Hazardous industries such as those in the chemical and offshore oil sectors are essential to our everyday life but have the potential to cause large numbers of deaths or injuries from a single event as well as potentially catastrophic long term impacts on society, the environment or the economy.

The Government believes the regulation of these industries to be soundly based and in accordance with best international practice and does not plan to reduce the current level of oversight. However, there will be a continuing programme of modernisation of regulatory approaches and co-operation between regulators to provide a consistent and proportionate approach for business. This includes the Government’s plans to

legislate for a new Office for Nuclear Regulation (ONR) to meet the requirements flowing from new civil nuclear build as well as existing plants and decommissioning.

Industry already bears much of the costs for regulation in these areas, in recognition of the inherent risks of these sectors and the comparatively high level of regulation required as a pre-condition for operation. It is the Government's intention to maintain and extend the principle that those who create risks should pay for their regulation.

## **Non-major hazard industries**

HSE regulates a further 900,000 non-major hazard workplaces. Some, although they are not classified as major hazard, nevertheless have a comparatively high rate of injury (including fatal injury) and/or occupational disease. These include construction, agriculture, some manufacturing, waste and recycling, and quarrying. Others have a relatively low rate of injury and ill health, such as university campuses and council office premises.

HSE will significantly change its approach to the totality of businesses it regulates by:

- increasing joint initiatives with industry to promote safe and healthy workplaces.
- targeting inspections more effectively on areas of greatest risk and substantially reducing the overall number of proactive inspections for businesses in lower risk areas who meet their legal obligations; and
- introducing the recovery of HSE costs from businesses that put their employees and the public at risk by flouting health and safety law. Responsible businesses will benefit from a lighter touch regulatory regime and will not face cost recovery.

## **Joint working with industry**

Most industries recognise the business and social benefits of good health and safety. HSE will build on and expand its joint working initiatives with industry to promote better health and safety and pass on good practice. For example, HSE as the regulator, has worked in partnership with the London Organising Committee for the Olympic Games and the Olympic Delivery Authority to facilitate a safe and successful London 2012 Games. The challenge of regulating one of the biggest infrastructure projects in Europe became an opportunity to drive up standards of health and safety. There have been no fatal accidents and few major injuries during construction.

HSE will also take forward initiatives to help businesses and in particular low risk small businesses, meet their health and safety obligations. In particular HSE will continue with the development of computer based risk assessment for low risk businesses which can be completed quickly and without the need for external



consultancy. Such risk assessments are already available for offices and are being consulted on in relation to classrooms, shops and charity shops.

## Targeting and reducing inspections

The Government has identified three categorizations of non-major hazard industries:

1. those sectors which present comparatively high risk and where, in our judgement, proactive inspection remains necessary as part of the overall regulatory approach;
2. those sectors where there remains comparatively high risk but proactive inspection is not considered a useful component of future interventions; and
3. those areas where proactive inspection is not justified in terms of outcomes.

The categorizations set out above will inevitably change in their composition over time e.g. as an industrial sector improves its health and safety record, or as new industries with new health and safety challenges emerge. However, based on current analysis, the categorizations would result in the following groupings:

- (i) Comparatively high risk areas where proactive intervention to be retained. The major areas for inclusion are currently considered to be construction, waste and recycling, and areas of manufacturing which are high risk e.g. molten and base metal manufacture;
- (ii) Areas of concern but where proactive inspection is unlikely to be effective and is not proposed e.g. agriculture, quarries, and health and social care; and
- (iii) Lower risk areas where proactive inspection will no longer take place. These areas include low risk manufacturing (e.g. textiles, clothing, footwear, light engineering, electrical engineering), the transport sector (e.g. air, road haulage and docks), local authority administered education provision, electricity generation and the postal and courier services.

HSE will reduce its proactive inspections by one third (around 11,000 inspections per year) through better targeting based on hard evidence of effectiveness based on these categorizations. As now, HSE will work closely with industry bodies to manage and control specific health and safety risks, looking to industry to take the lead so that HSE can concentrate its own interventions on those areas where it has a unique contribution to make. In both areas (i) and (ii), HSE will continue to undertake inspections for enforcement purposes or to follow up complaints when such an intervention appears to be necessary. The basis on which HSE follows up complaints from workers and the public about health and safety and investigates incidents will be unchanged.

No industrial areas will be exempted from maintaining good standards of health and safety. Employers who do not take the protection of their employees, or those affected by their work activities, seriously will still face intervention by HSE.

## **Cost recovery for breaches of the law**

The Government believes that it is reasonable that businesses that are found to be in serious breach of health and safety law – rather than the taxpayer - should bear the related costs incurred by the regulator in helping them put things right. A cost recovery principle will provide a deterrent to those who would otherwise fail to meet their obligations and a level playing field for those who do.

It is proposed that HSE will recover all of the costs of an inspection/investigation at which a serious, material breach in standards is diagnosed and a requirement to rectify is formally made, together with the cost of any follow-up work. Businesses that are in compliance with the law will not be liable for any kind of charge as a result of an HSE inspection and there will be no recovery in relation to purely technical breaches. An appeal system will be operated by HSE in relation to any disputes over cost recovery.

The Government also intends to allow HSE to cost-recover from business in relation to services it provides which are a necessary part of the process of land development. In consequence HSE will recover its full costs for acting as a statutory consultee for land use planning applications and hazardous substance consents. It is also proposed for HSE to charge where it provides initial advice to large development projects at the request of developers.

## **Local authorities**

Local authorities are responsible for health and safety regulation in around 50% of total business premises, generally lower risk areas like offices, shops and leisure activities. There are currently some 196,000 local authority inspection visits per year. The comparatively large number of local authority visits reflects in part the assistance that they are able to provide to businesses across a range of services and requirements.

The Government believes that it is right to apply similar principles to local authority health and safety activities. It will look to see a reduction of at least a third (65,000 per annum) of inspections and greater targeting where proactive inspection continues.

The Government will also encourage HSE and local authorities to increase their information provision for small businesses in a form which is both accessible and relevant to their needs.

# Making health and safety simpler

The current health and safety system in Great Britain came into being with the Health and Safety at Work etc Act 1974. The 1974 Act brought together a number of previous Acts into a single goal-setting piece of legislation, based on the sound principle that those who create health and safety risks in the workplace have the responsibility to manage those risks 'as far as is reasonably practicable'.

Over the following decades, however, a plethora of legislation has grown up, compounded by the introduction of European Union legislation from 1992 onwards. There are now 17 Acts owned and enforced by HSE, and over 200 regulations owned and enforced by HSE/Local Authorities.

All reputable employers want to do their best to meet their health and safety obligations and protect their workers and those members of the public affected by their work activities. But the sheer volume of health and safety regulation can lead to confusion and uncertainty for businesses - particularly small businesses without their own health and safety advisers - about their responsibilities under the law.

The Government wants to make it easier for employers to do the right thing. The HSE has already created online risk assessment tools for offices, shops, charity shops, and classrooms.

Today we are launching "Health and Safety Made Simple" – a single, easy to use, piece of guidance aimed at small and medium sized employers in low risk businesses. This takes them quickly through their basic health and safety duties describing in plain English "what to do" and "how to do it" including:

- appointing a competent health and safety adviser;
- writing a health and safety policy;
- completing risk assessments;
- consulting with employees;
- providing adequate levels of training and welfare facilities; and
- obtaining Employers' Liability Compulsory Insurance.

Where necessary, the guidance provides signposts to more detailed help and industry-specific advice.

"Health and Safety Made Simple" can be found on the HSE website at <http://www.hse.gov.uk/simple-health-safety>

# Review of health and safety regulation

We will also explore what opportunities there may be to simplify health and safety legislation and, in doing so, further ease the burden on business. To achieve this, the Government will set up an immediate independent review of health and safety regulation. As well as considering legislation with domestic origins, the review will re-examine those regulations originating from European Union Directives to ensure that, where the Directive has not simply been copied out into UK law, there is a sound justification for this and UK businesses are not being unnecessarily burdened compared to other member states. We will also ask the review to recommend changes that will clarify the legal position of employers in cases where employees act in a grossly irresponsible manner.

Professor Ragnar Löfstedt, Director of the King's Centre for Risk Management at King's College London, has been appointed to chair the review. Professor Löfstedt will develop the detailed Terms of Reference for the review. He will be supported by an independent advisory panel made up of leading politicians with appropriate experience, business people and employee representatives to work with and provide constructive challenge to the review. Professor Löfstedt has been asked to make recommendations by autumn 2011 and the Government will then decide what actions to take in the light of those recommendations.

# Conclusion

The Government believes that these steps – clamping down on the cowboy consultants, cutting down the number of inspections, charging those who break the rules, and launching a major simplification of those rules – will play an important role in freeing business from unnecessary constraints. It's time to change the health and safety culture in Britain, and restore common sense to the approach we take to protecting our employees.