

Chapter 16

Safety philosophy

August 1997

Safety fundamentals

Our general approach to safety and accident prevention starts from the apparently simple proposition that, in any field of human activity, accidents will always occur unless appropriate action is taken consistently to prevent them. In practice, however, very few accidents can be said to be ‘Acts of God’ or matters of pure chance. With hindsight it is almost always the case that most accidents could have been foreseen and their chances of occurring or having such harmful consequences could have been reduced to a very low level (or even eliminated) had the kinds of control been in place.

On the other hand, RoSPA does not subscribe to the notion of ‘absolute safety’ - however apparently desirable. (In our view safety is about reducing risks to a tolerable level). But we do believe passionately that safety has to come first. No matter what the area of activity, if necessary levels of safety are sacrificed in pursuit of other equally important personal, organisational or social objectives, the benefits to be gained by achieving those objectives will nearly always be significantly diminished.

We believe people have a right to expect to be ‘safe’ when exposed to other peoples’ activities (backed where necessary, by regulation) and thus the more control ‘risk creators’ have potentially over their activities, the greater the moral obligation they are under to protect those who may be exposed to them and to provide them with suitable and sufficient information.

As a general rule RoSPA does not favour banning activities simply because they could cause accidents. But we do believe that the benefits of doing something should always outweigh the risks involved and that otherwise it should be abandoned - even if the risks are small. Where harm can occur, limits should be set as to the maximum level of risk that can be tolerated before an activity has to be abandoned. Below this level, effort should continue to be made to reduce risks until a clear point of diminishing returns is reached.

Safety however is not a precise science. The nature and amount of control to be applied to prevent accidental harms is always a matter of judgement but such judgement needs always to be informed by a sound estimation - based on reliable data and good modelling - of the chances of harm occurring as well as its nature and extent (risk assessment).

Safety decision makers (whether individual or corporate) have always to tread a difficult path, taking care to ensure that preventive measures are neither excessive (leading to wasted resources) nor insufficient (leading to unnecessary risk).

We believe that it is always preferable, particularly where risks are high (the chance that harm might occur), to opt for elimination or control of hazards (the potential for harm) at source before simply requiring people to follow specific safety rules and procedures or by providing them with a last line of defence against hazards in the form of personal protective equipment. Preventing accidents is always preferable to simply trying to protect people from their consequences.

How safe things (e.g. activities and products) need to be (and conversely, how unsafe they can be before they become unacceptable) is essentially a matter of social rather than purely technical judgement and one on which various stakeholders like risk creators, regulators and those at risk, will nearly always have differing points of view.

Thus those responsible for developing safety decisions need always to work with all relevant stakeholders to get the maximum amount of agreement about: how risky things are; if and how they can be made safe; and how safe they should be made, taking into account people's safety ambitions and perceptions and their views about the amount of time, money, people etc available to achieve this. Safety decision makers should always strive to ensure that differences between stakeholder views on such issues are as small as possible.

Of course people's perceptions of risk are likely to be influenced not only by their estimates of the chances that harm may occur but by whether harms are likely to be ordinary or catastrophic, immediate or delayed or affect individuals or society generally and whether the hazards involved are: natural or man made; familiar or unfamiliar; controllable or uncontrollable; and whether exposure to them is voluntary or involuntary or involves benefit.

In our view, the 'safety first' principles should always mean that, if available evidence seems to show that significant harm can occur, there is a prima facie case for taking early precautionary action rather than waiting for absolute proof, for example, because of inadequate data. In this sense, those at risk should always be 'given the benefit of the any scientific doubt'. Also, when selecting control measures in such circumstances it is wise to opt for 'defence in depth' ('belt and braces') and not rely on a single method of control or a single safety approach which, if it failed, would lead to disastrous consequences. Thus, if consequences are likely to be severe, control measures (or combinations of such measures) should always be selected which will be as forgiving of error as possible and fail to a safe condition or protect especially vulnerable groups.

Having the right technical control measures in place is always critical but what ultimately assures safety is having an adequate general approach to risk management - whether it is a child having a systematic way of crossing the road or a business having the right policies, people and procedures in place so that its hazards are identified, risks involved are adequately assessed, appropriate control measures are in place and steps are taken to ensure that controls continue to be effective. We believe that, in all areas of safety, having robust risk management systems in place is the key to effective safety assurance and that such systems need to be integrated to the greatest extent possible into all other systems which may be in place for achieving other objectives.

October 1997

Risk literacy in the media

The Royal Society's (not to be confused with RoSPA) Study Group on Risk, made up of eminent professionals from a number of different disciplines, has shown quite convincingly that the dread which we experience when confronted by various hazards is not influenced simply by our estimates of the likelihood that harm may occur and its severity if it does.

Other equally important factors include whether effects are likely to be ordinary or catastrophic; whether they can happen immediately or may be delayed; whether they affect isolated individuals or society generally; whether the hazards involved are man-made or artificial; whether they are familiar or unfamiliar; controllable or uncontrollable; and whether exposure to them is something to which we agree to voluntarily, for example, because of the benefits we may receive from doing so.

Contrary to the impression which many media pundits seek to create, safety professionals do not advocate banning things simply because they cause unintended harm. RoSPA's mission is now defined as to improve the quality of life by exercising a powerful influence for accident prevention, we believe passionately in the need to take action to prevent accidents and tragedies before harm occurs. Whether it is a question of building a nuclear power station, organising a children's barbecue or climbing a mountain, unless those involved pay due regard to sensible safety measures, the benefits to be gained are likely to be severely diminished, if not negated, when things go wrong (as they often do!).

We believe strongly that the benefits of doing anything should always outweigh the risks involved, otherwise it should be abandoned. On the other hand, once it has been decided that a risky activity is worth engaging in, then decisions need to be made about upper risk limits and how far we have to go in spending time, money and effort to get risks down below such levels before a point of diminishing returns is reached.

In recent years, risk assessment has been developed as a powerful tool to help those who create risk, those who have to live with it and those who regulate it - to reach a consensus on the complex issues involved. But it is important to remember that such assessment techniques are only an aid to judgement and not a substitute for it.

When individuals or sections of society seem to be getting certain risks out of proportion, it hardly makes sense for our press and broadcasters to simply urge them to throw caution to the winds. The challenge must be one of patient dialogue and education, helping people to put risk in context and to make balanced judgements about how to deal with small but nonetheless worrying uncertainties.

Representatives of the media in particular also need to be urged to adopt a professional approach to reporting on and discussing risk, with a general obligation always to refer to relevant data and ensure a sense of proportion. The risk education task may be an uphill struggle but there really is no alternative.

Although there are those in the media who might like to portray all concerns about safety as fanaticism, in reality one would be hard pressed to find any serious safety

campaigners who subscribe to the idea of 'absolute safety' - however attractive such an idea might seem to be for evangelical purposes. The more mature view (and the one underlying most decisions about risk management) sees safety as a matter of reducing risks to a 'tolerable' level - although, in practice, the whole business of deciding what is 'tolerable' is fraught with scientific and political difficulties.

Often press reports focus on a range of low probability risks (toxic shock syndrome, the pill, etc). This gives the impression that all public (and perhaps all women's) concerns about safety can be dismissed as misplaced or at least over-done. However, there are many areas of risk where the public should be a great deal more concerned than they currently are and in which the media do not appear to be particularly interested.

For example, every year in the UK there are approximately 11,500 deaths from accidents - two per cent in fact of all deaths - and hundreds of thousands of disabling injuries. The human cost to individuals and families is unquantifiable. In economic terms, the annual cost to the country exceeds £85 billion - more than 10 per cent of Gross Domestic Product. (Compare this with the level of central and local government spending on accident prevention!)

For the most part, these tragic events, which happen year in and year out with sickening regularity, are not the result of exposure to novel or, as yet, poorly understood hazards. Their causes are generally well known and the vast majority could be prevented by the application of proven risk control measures.

While 'safety' has a major image problem, 'safety failure' is often deemed newsworthy (if enough people die together). By definition, safety success (that is, uninterrupted normality) is not. Also, while in social terms action on safety may be seen in positive terms as a way of ensuring freedom from harm for the population, at the level of the individual, having to comply with necessary preventive measures is often regarded negatively as a restriction on personal liberty.

Those who castigate the safety lobby for creating excessive anxiety about certain kinds of risk and urge us all to celebrate the value of risk taking, are throwing the baby of prevention out with their own somewhat murky philosophical bathwater. What they argue is that ignorance is bliss and that knowledge, rather than providing a basis for action, actually leads to no more than social paralysis.

March 1998**Ethics revisited**

When I came to RoSPA nearly four years ago, one of my aims was to explore what could be done to promote a stronger understanding of the 'business case' for health and safety at work. The HSE had published HS(G)96, The Cost of Accidents and they had also done major macro-economic work showing that the overall costs of accidents and ill-health to the UK economy were in the region of £16 billion or nearly three per cent of GDP. Bodies like the Engineering Employers' Federation had published their excellent awareness raising package, Safety Pays and the European Commission's Dublin Foundation had begun work on a new economic incentive model for improving health and safety. RoSPA too had convened one of its high level 'focus' seminars, exploring a range of options, including developing the role the insurance industry in 'incentivising' better standards of health and safety management. At the time this was necessary to help dispel the notion that health and safety was an unacceptable 'burden' on business.

Thankfully this view is now expressed less often but one of the effects of having had to repeat the 'Good Health and Safety is Good Business' message so often is that we seem to have forgotten that it was only ever a secondary and supporting argument for prevention.

The primary arguments for prevention must surely always be moral and ethical, based on the duty of care we have one for another and the unacceptability of human beings being sacrificed in the pursuit of productive - albeit desirable - endeavours.

One of the consequences of the dominant political ethos of the last 19 years has been that the only accepted case for action in any field was one rooted in the cash nexus and firmly grounded in 'the bottom line'. Thus when emphasising the costs of accidents, the focus has been almost exclusively on the largely hidden financial costs of accidents to victims, their families, to organisations and to society generally. The belief was that the language of money was the only one in which allegedly hard headed directors could be encouraged to tackle accident and ill-health prevention at work.

While the figures about the cost of accidents and ill health are dramatic, there are limits to the persuasiveness of such messages. For example, they give the strong - and offensive - impression that those bearing the message view employers in some sense as 'amoral calculators', only driven to act by pure cash logic. Despite the anti-regulatory and robust entrepreneurial attitudes that are to be found in many smaller businesses, the family atmosphere in such firms often means that there is also a strong sense of mutual care, although the knowledge about how to carry that into preventive practice is invariably weak or missing altogether.

I believe the time is now right to readjust the balance of the argument in favour of the primacy of the ethical case for action. In this context I believe new approaches are required to bring home the massive human (and by definition unquantifiable) costs of work related injury and ill health - including the wide ranging psychological as well as physical consequences which accidents and disease have for people affected, both directly and indirectly.

As RoSPA has pointed out time and again, accidents and cases of industrial disease rarely receive massive media publicity, unless they result in multiple casualties. Yet most harm due to work, particularly that occurring in isolated situations like homeworking, receives no publicity at all. Taken as a whole, it represents a tragedy of massive proportions, made worse by the fact that its victims suffer largely in silence and in isolation.

Also, accidental injury and work related health damage are generally much more prevalent in disadvantaged socio-economic groups. Major blocks of occupational health detriment which are now in the pipeline are heavily concentrated among those who are already heavily disadvantaged in health terms.

Current occupational health initiatives show a way ahead in raising awareness but do not deal adequately with the strategic question of delivery of necessary specialist services to the workplace. Neither do they link closely enough with future development of the wider community health system.

It is a sobering fact that those who are often considered to be least economically important, least visible and least articulate, receive the least amount of resources for accident and ill health prevention. In this sense improvements in safety and ill health prevention at work cannot be divorced from broader strategic action on wider social policy issues - such as overcoming social inequalities, creating jobs, providing new education and training opportunities and empowering people at work to become more involved in the management of their own working environment.

Unless arguments for fresh action proceed primarily from a human and ethical, rather than a purely financial, starting point there is no guarantee that additional effort will be made beyond that which is currently perceived as being cost effective.

One initiative may be for HSE to publish an anthology of victims' post accident and ill health experiences. We know however from several studies that a purely 'blood and gore' approach to raising awareness is ineffective. But a carefully crafted psychological approach could be much more successful. The idea would be to produce a powerful work which recounted victims' experiences and highlighted the costs of accidents in human terms, exploring the range and depth of trauma produced by accidents and their lasting effects on people's lives. Besides background information on the extent of accidents and disease, it could include a series of case studies covering, for example: injured employees in high hazard industries; ex-employees suffering from disabling or fatal conditions; the effect of witnessing an accident - either as a by-stander or as a member of the emergency services; the manager or business owner who has failed to prevent an accident and lives with the consequences; and so on.

What it would seek to illustrate would be exactly what accidents mean for people's lives - the massive reduction in quality of life which can occur as a result of only momentary failures in prevention.

June 1998

Does nanny know best?

Martin Gomberg writes...

Preventing accidents is not about preventing activity. If someone wants to expose themselves to hazards for fun, RoSPA's work should help to ensure that the risks are understood and controlled. If someone wants to bungee jump, RoSPA does not say 'don't do it'. What it does say is: 'understand the risk; control the risk; and enjoy yourselves'.

There are times, however, when an activity leads to a level of risk which is just too high. RoSPA's campaign to prevent the use of mobile phones while driving developed first from a hunch that the practice was unsafe, followed by checking the research literature for evidence to confirm that using a mobile phone while driving distracts the driver. Details of accidents involving mobile phones added to the evidence and the campaign was launched.

It stimulated a public debate about mobile phones and driving in which the impression was that more people agreed about the potential dangers than disagreed. After a while, some employers instructed their employees to refrain from such usage. Police forces announced they would stop motorists under the Road Traffic Act and the DETR joined in with an advertising campaign.

Like a thoroughly modern Nanny, the Society first identified the problem behaviour. Next it convinced people that there was a problem. Finally, after a sufficient number (not necessarily a majority) appeared to agree, enforcement started (e.g. employer to employee). Enforcement confirms the behaviour change of those who are doing the right thing, provides a framework to change the behaviour of the rest and sets the safety innovation ratchet forward another notch.

The compulsory fitting of plugs to electrical goods at the point of manufacture was achieved in the early 1990s. The people who needed convincing were those that set the standards and the manufacturers. The consumers were not primary players. When people purchase electrical goods now, most are completely unaware that they are being protected by legislation.

This is classic Nanny behaviour; people are being looked after and they don't even know it.

Changing the environment to 'design in' safety is about looking after people without necessarily seeking their consent. Enforcement is about telling people what to do, whether they want to or not, but for their own good. Education ranges from short term and close to the potential accident event (e.g. explaining to people why they should not use a mobile phone while driving) to long term and further away from the accident event (e.g. educating designers and manufacturers so that building in safety is given as much emphasis as building in reliability).

All these 'caring' activities can be described as characteristic of a Nanny. They have an element of 'We are doing this for your own good. We will do this whether you like

it or not. We know what is best for you.' Although we work to develop a consensus, in the end, we will seek to remove individual and corporate freedoms in the name of safety.

Political correctness addresses the issue of the way in which language carries meaning and calls for us to be sensitive about how different people understand and feel about words.

The word 'Nanny' has been used in a negative way to convey the sense of inappropriate over-protectiveness. But it is also used, duplicitously, to attack appropriate protectiveness. When faced with resistance often invokes the 'Nanny' accusation.

Therefore RoSPA and safety specialists need to be careful about the 'Nanny' word. But equally, it must be made quite clear that the underlying accusation that we act like a 'Nanny' is in fact quite correct. We should not automatically deny the epithet.

Roger Bibbings writes...

The problem with Nanny is that she has to be over-protective because if any harm comes to her charges, her job is likely to be on the line. Also, she is a bit of an authoritarian, probably both by background and training.

As the children grow up, Nanny imposed protection has to give way to her (and it is usually a her) charges being able to make their own informed choices about exposure to hazard and levels of risk control. They have to be able to make their own cost benefit analyses, weighing the cost to themselves of restrictions on their own freedom against the level of residual risk that they are prepared to tolerate. Thus when they go rock climbing or white water rafting, even though it is done according to best practice to keep risks to a minimum, Nanny - who hasn't yet taken this risk based decision making thing on board - is still likely to disapprove.

The whole point of this story is that Nanny RoSPA understands the need for individuals, groups or society as a whole to be empowered through understanding, information and debate to make their own decisions about risk control rather than having to take them like nasty medicine 'for their own good'.

In safety there are really very few areas where risk taking can be regarded as a purely individual affair and thus in most areas of life some degree of control or restriction of freedom of action is necessary not only to benefit the individual but to take account of possible costs to others. An example is not being morally entitled to go climbing alone in the Cairngorms in winter because of the costs and risks likely to be imposed on those who will come out to rescue you when you get into difficulties (whether you like it or not!).

What we have to emphasise strongly, is not so much the message, 'we are doing this for your own good - just stop whingeing and accept it' but 'we are here to help you, whether you are a risk creator, a risk taker or a regulator, to work with your fellow safety stakeholders to arrive at good risk control compromises'.

March 2000**Prevention in perspective**

In numerous policy fields the Government's agenda is continuing to focus quite correctly on prevention. Better to reduce harm and costs arising from accidents, ill health, suicide, crime, drug abuse, family breakdown, homelessness, environmental damage etc, than simply to spend resources on dealing with the consequences of such ills.

But the impulse to prevent, is, in most cases, a reactive and not a proactive one. In the immediate aftermath of dealing with unplanned dysfunctional events (fighting fires, admitting heart attack victims to hospital, tackling contamination of a water course) there is nearly always a recognition that something must be done to stop such things happening in future. Hence, the first dilemma: whereas prevention should always be seen as primary, in reality the first challenge is always that of coping with the consequences of the unplanned and the unforeseen.

This in turn raises questions of whether those whose role it is to act immediately 'post-event' can ever really be effective champions of prevention. For example: lawyers engage with the consequences of accidents in a search to prove or disprove blame. Insurers consider accident history to determine premiums. Emergency services secure the scene and deal with the injured. Physicians and surgeons seek to treat those who have already been injured or become ill. Social workers tackle the problems that arise from family breakdown.

And yet in all these areas the professionals involved are now expected to shift focus and resources from consequence management to prevention. Is this realistic? Is it possible? Will it work?

In theory those who routinely experience unplanned and unwanted harm or loss should be the most motivated to reduce or eliminate it. Also, those who deal with harm and loss ought to understand how it has arisen - both its immediate and general causes - and thus they should have a clear understanding of how to devise effective preventive strategies.

But the case for shifting just some of the resources currently allocated to reactive services to prevention, in practice, has several severe limitations.

Firstly resources in nearly all 'post event' functions are still very limited. For example, we should be able to prevent many cancers but, at the same time, we also need to increase investment in our cancer treatment services to bring them up to Western European and US standards.

Secondly, the 'post event' mind set is formed by and focused on 'post event' challenges. Fighting fires or treating diseases, invariably demand a singular concentration on the complexities of the presenting situation and not its antecedents.

In practice in medicine for example, you can either be a successful clinician or a successful epidemiologist - rarely can you be both!

Thus it seems that those who do have to focus on consequences, in practice, often fail fully to appreciate the true challenges in the preventive agenda. For example, among injury prevention specialists from a medical background, understanding of accident causation in terms of complex fault and event patterns within systems can often be quite superficial leading to simplistic ('last line of defence') prescriptions for prevention such as use of personal protective equipment. Or there may be a sense of fatalism that harms with complex origins cannot really be prevented at all. Or what is perceived as prevention may in fact only be consequence mitigation.

Where then in any field should the focus for ensuring prevention lie? Should it be with those whose role it is to deal with the 'abnormal' or should it be lodged within those functions or disciplines whose role it is to manage the 'normal' and the 'planned' aspects of life?

Viewed from this perspective those best fitted to actually prevent are those who, as part of their main roles, need to understand that error and unplanned dysfunctional events can and will occur in even the best laid and well founded plans. And yet what is often not really appreciated by many managers (who may like 'post event' people also be tempted to see prevention as 'bolt on' option) is that in fact prevention is present in practically everything we do as individuals or organisations. Enhancing prevention therefore is often not about importing something totally new but making more robust, systematic and transparent what is already going on, be it turning the experienced and prudent driver into a 'defensive driver' or helping the company already committed to quality and reliability to extend those approaches to the control of accident and disease risks.

Looked at like this the focus of preventing things going wrong needs to be clearly owned by those whose responsibility it is to see that things go right in the first place.

For example, in occupational health and safety we have seen a gradual strategic shift from reliance on intervention by the regulator, to internal policing by the safety department, to self regulation by the line manager. But to what extent has a similar shift occurred in other fields - where the main impulse for prevention is still external and not an embedded feature of the field or activity in which the particular harm is arising?

In an ideal world, who should lead prevention of diet related ill health - the health service, or the food industry? Who should lead the prevention of house fires - the people who build them or sell them or lend money to buy them or the fire brigades? Who should lead crime prevention - teachers or the police?

These may seem like false juxtapositions but the reason that so many institutions responsible for the 'normal condition' do not lead on the prevention of the 'abnormal' is not necessarily because they lack the necessary maturity to be fully proactive but because self interest and other constraints mean they are not inclined to exercise a truly preventive role. And of course, in reality, the scope for prevention varies enormously according to the level of organisation and expertise in any particular context.

What does seem fairly obvious, however, is that in so many spheres the impulse for prevention still has to come from outside the field of activity in which error and harm are occurring and from organisations which have no other agenda other than to promote the capacity of others to manage so that things don't go wrong. If that is so, and if prevention is truly to be the number one priority, then it's no good saying prevention is everyone's responsibility or in reality it will be no-one's! Any agency charged with promoting prevention, needs to be dedicated to that goal above all else and not have it as an adjunct to some other function or discipline.

November 2004

'Hypersafety' hysteria

There has been a growing trend amongst well-known columnists (such as Simon Jenkins, Christopher Booker and Jeremy Clarkson) to attack the Health and Safety Executive (HSE) - and safety professionals in general - for allegedly insisting on absolute or 'hypersafety' and for encouraging risk aversion and 'nanny statism', to the detriment of society. It is HSE, it is suggested, who are ultimately responsible for ambulance staff not moving stroke victims or for children not being allowed to go on school trips for fear of teachers being sued following accidents or for playgrounds having to have all conceivable hazards removed. The latest rash of press outrage of this kind has surfaced over the unfortunate affair of the Diana Memorial but it also comes at a time when certain sections of the press are obviously trying to foment revolt against other safety measures such as speed cameras and roads policing generally. So far as HSE are concerned, there have been determined attempts to insist that they are asking for hazard warning signage to be placed on mountains (as part of the Working at Height Regulations) and there have been several other nonsense safety stories where allegedly it has been HSE (rather than over-zealous response by advisers on complying with H&S duties) that has been the cause of local authorities ordering conker trees to be cut down and window boxes to be removed from council properties for fear of people being injured by falling objects.

This furore presents a strange contrast to coverage of risk in other parts of the media which still seem to be keen to over-emphasise certain risks - be it 'stranger danger' for children, pesticides in food or radiation from nuclear power plants - precisely because, by playing on readers' anxieties, they know that they are likely to be able to sell more copies. So there you have it. The safety experts are doubly guilty, conspiring simultaneously to cover up the true level of risk while stopping anyone from doing anything that might be at all risky!

In response the H&S community has, as ever, been moderate and measured and has sought to put the record straight (see '*Setting the Record Straight*' at <http://www.hse.gov.uk/press/record.htm>) by explaining that safety law does not require absolute safety but only 'sensible controls, sensibly applied'. Nevertheless, as with all good urban myths, those responsible for purveying this sort of negative stereotype of safety seem determined not to let the facts get in the way of a good argument still less a good story.

There is also the problem that safety is assumed by many journalists to be a common sense subject which cannot in any sense be informed by the contribution of professionals (safety yet another 'pseudo-science'?) and on which journalists without any grounding in basic safety concepts can express a perfectly legitimate opinion - precisely because they are journalists. That is not to say that journalists should be debarred from expressing views on safety or any other technical issue if they are not professionals. It is simply to argue for an informed approach and a recognition that safety can and should be addressed with intellectual rigour.

RoSPA has long campaigned for an address of safety and literacy to be built into schools education and indeed there are signs that this is now beginning to happen so that the adults of tomorrow will be able to recognise hazards and make informed

judgements about risk avoidance and/or risk control. If this is what we expect of school students, what level of understanding should we expect of journalists?

RoSPA's approach to safety

The following understandings inform RoSPA's approach to safety and accident prevention:

- 1) Hazards and accidents:** All human activity exposes people potentially to physical, chemical, biological, psychological hazards. Accidents will always occur unless appropriate action is taken consistently to prevent them. Few accidents can be said to be 'Acts of God' or matters of pure chance. Most have complex immediate and underlying causes – but most can be foreseen and their chances of occurring and/or their harmfulness can be reduced or even eliminated if the right kinds of control are in place.
- 2) Risk:** By 'risk' we mean the chance that exposure to a hazard will result in harm at some specified level. Risks can range from high probability events with low level consequences to the converse.
- 3) Safety:** Although in theory all accidents are preventable, in reality there is no such thing as 'absolute safety'. Safety is thus about ensuring that levels of risk are not intolerable and that steps continue to be taken to reduce them until they can be deemed to be broadly tolerable, although in practice this is a contentious and difficult concept.
- 4) Risk assessment:** Understanding risk in any situation means being able to assess the likelihood of things going wrong and the scale and nature of resulting harm(s) if they do. The nature and amount of control to be applied to prevent accidental harms in any situation is always a matter of judgement but such judgement needs to be informed by a sound estimation (based wherever possible on reliable data and good modelling) of the likelihood of harm occurring as well as its nature and extent.
- 5) Approaches to risk control:** It is always preferable, particularly where risk levels are high, to opt for elimination (or the maximum amount of control) of hazards at source before simply requiring people to follow specific safety rules and procedures or by providing them with a last line of defence against hazards in the form of personal protective equipment or ensuring that they have access to emergency and medical services. Preventing accidents, for example, by good design is always preferable to simply trying to protect or save people from their consequences.

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6) Balancing risks and costs: On the other hand, hazardous activities should not be banned simply because they could lead to accidents. Ideally the benefits of doing something should always outweigh the risks involved, otherwise the activity should be abandoned - even if the risks are small. Where harm can occur, limits should be set as to the maximum level of risk that can be tolerated before an activity has to cease. Below this level, effort should continue to be made to reduce risks until a clear point of diminishing safety returns is reached (risk/cost optimisation). Safety decision makers (whether individual, corporate or societal) have always therefore to tread a difficult path, taking care to ensure that preventive measures are neither excessive (leading to wasted resources or opportunities) nor insufficient (leading to unnecessary risk).

7) Managing risk in the face of uncertainty: Where data on risk are incomplete and available evidence seems to show that significant harm could occur, there is a prima facie case for taking early precautionary action rather than waiting for absolute proof of risk. In this sense, those at risk should always be 'given the benefit of any scientific doubt'.

8) Defence in depth: If levels of harm are likely to be severe, it is wise to opt for 'defence in depth' ('belt and braces') and not rely on a single method of control or a single safety approach which, if it failed, would lead to disastrous consequences. For high consequence risks control measures and systems should always be selected which will be as forgiving of error as possible, fail to a safe condition and protect especially vulnerable groups, for example, older people or young children. ('If it can happen it must not matter; if it can matter, it must not happen'.)

9) Understanding human factors: Experience suggests that the overwhelming majority of accidents are due in some sense to human error but such error can take many forms (slips and lapses; knowledge, skill or rule based mistakes; or intentional, situational or routine violations) and these can appear in various combinations. Personal and organisational errors can often interact so that 'latent pathogens' (such as a design or system weaknesses or failures) can express themselves when other defences are breached.

10) Risk perception: People's perception of risks are likely to be influenced not only by their estimates of the chances that harm may occur and its level of severity but by whether harms are likely to be ordinary or catastrophic, immediate or delayed or affect individuals or society generally and whether the hazards involved are: natural or man-made; familiar or unfamiliar; controllable or uncontrollable; and whether exposure to them is voluntary or involuntary or involves benefit.

11) Learning from prevention failures: If accidents are investigated systematically, they present unique 'windows on reality' through which vital lessons to improve safety can be learned. Accidents can only yield positive lessons for safety however if appropriate investigation techniques are applied, including appropriate approaches to gathering and integrating evidence, testing hypotheses, reaching conclusions and generating recommendations.

Continued....

12) Risk management and safety culture: Having the right technical control measures in place is always critical but what ultimately assures safety is having an adequate general approach to risk management underpinned by a positive safety culture. This is the case whether it is a matter of a child understanding the need for a systematic way to cross the road or a business having the right policies, people and procedures in place to manage its risks. In all areas of safety, having robust risk management systems in place (backed by positive attitudes) is the key to effective safety assurance, with such systems integrated to the greatest extent possible into all other systems which organisations or individuals may have in place for achieving other objectives. (Safety has to be part of how we manage our lives generally - not a 'bolt on extra'.)

13) The case for safety: From a moral standpoint safety should always come first. But no matter what the area of activity, if necessary levels of safety are sacrificed in pursuit of personal, organisational or social objectives, these will nearly always be significantly diminished by harms which could have been avoided. Investing time, money and effort in reasonably practicable measures to try and prevent accidents is invariably preferable to opting simply to bear their human and financial costs when they occur.

14) Risk and the law: People have a right to expect to be 'safe', particularly when exposed to other people's activities. Wherever necessary and appropriate, this right needs to be guaranteed by law. The more control 'risk creators' have over their activities, the greater the moral (and arguably legal) obligation they should be under to protect those who may be exposed to these and/or to provide them with suitable and sufficient information so that they can make choices about risks.

15) Risk based policy making: How safe things (e.g. activities and products) need to be (and conversely, how unsafe they can be) before they become unacceptable is essentially a matter of social rather than purely technical judgement and one on which various stakeholders like risk creators, regulators and those at risk, will nearly always have differing points of view. Those responsible for developing safety decisions need always to work with all relevant stakeholders to get the maximum amount of agreement about: how risky things really are; if and how they can be made safe; and how safe they should be made, taking into account people's safety ambitions and perceptions and their views about the amount of time, money, people etc available to achieve safety objectives.

In recent time the HSE have invited various journalists to meet with them to discuss their concerns and to debate some of the propositions that are being made about the Executive (and the safety community generally) being 'hypersafe'. So far these offers have not been taken up and a sense of hysteria has been allowed to develop around the idea that the H&S community (along with 'no-win-no-fee' personal injury lawyers) are 'out of control'.

In response HSE, as first in the firing line, have put even more effort into explaining their approach to risk regulation as set out in documents such as '*Reducing Risks, Protecting People*', (R2P2) and statements on their approach to H&S law enforcement. It is perhaps now time to ask whether HSE should not commit itself to

campaigning the ideas in R2P2 much more vigorously and to challenging ill-informed accusations in the media in far more forceful terms. For example, should not HSE perhaps be inviting journalists to say whether agree that safety controls for particular hazards have been set at the right level and thus whether levels of residual risk (to safety or to health) are tolerable and acceptable? Journalists who believe they have a right to accuse HSE of being ‘hypersafe’ could be invited to express an opinion on whether the small risk of disease which is still present for some, for example, when statutory limits for exposure to noise, radiation or toxic substances are met – is broadly acceptable. Or they could be asked to give a view on the acceptability of the small risk of accidents which is still present when safety controls are in place to control the risk of falling from height or being struck by vehicles.

Of course, this may expose HSE to criticism from others who may say that, as the regulator, the Executive should be doing more and that existing standards are still not tough enough. On the other hand, not only do HSE need to show that they are quite definitely not a ‘hypersafe’ organisation but their journalistic critics need to be drawn into discussion about specific cases in which decisions about ‘how safe is safe enough?’ have to be made. In doing so they, the journalists, would find that the moral, political and technical issues involved are far from easy to resolve and that they demand a good deal more than common sense. HSE might just be able to persuade their columnist critics that they are not quite as safety and risk literate as they need to be.

Comments please to rbibbings@rospa.com

September 2005

Getting 'risk aversion' in proportion

On 13th July Lord Hunt of King's Heath, Parliamentary Under Secretary in the Department of Work and Pensions with oversight of occupational health and safety, convened a seminar in the House of Lords to which RoSPA and large number of other players in health and safety were invited. Together with Health and Safety Commission (HSC) chair, Bill Callaghan and HSE's Deputy Director General, Jonathan Rees, he announced the launch of a national debate on 'Sensible Safety' to address the problem of 'excessive risk aversion'. HSE have launched a new web forum (visit <http://www.hse.gov.uk/riskdebate/index.htm>) to allow stakeholders to have their say about how we should address risk, both in policymaking and daily risk management practice.

In his presentation Philip Hunt sought to follow up on the speech which the Prime Minister made to the Institute for Public Policy Research (IPPR) on 26th May (accessible at <http://www.number-10.gov.uk/output/Page7563.asp>) in which he urged the UK to abandon 'compensation culture', in favour of what he called 'common sense culture'.

The P.M.'s main theme had been that current approaches to risk in public policy making were seeking to eliminate all risk and this was having disastrous results for Society and for competitiveness. Further, the perception that organisations could be sued for the slightest harm was also leading to many being ridiculously overcautious with the result that the public was losing out. (For example, he pointed out because of a very limited number of accidents that had happened to children on school trips many teachers were now afraid to take part in such educational activities. Because of manual handling legislation, care staff, where they did not have hoists, were in some cases refusing to lift patients who had collapsed.) He did accept however that health and safety legislation was useful and had done a good job, that the so called 'compensation culture' was actually an urban myth (the Treasury having shown that numbers of claims and the size of settlements had actually declined) and that much of the pressure for very strict risk control came from Europe. Nevertheless he linked these allegations, which ran like a strong thread through the whole of his speech, with coverage at some length of the Government's deregulation agenda (see 'Parting Shot August' '05) suggesting that much of contemporary regulation was essentially restrictive of social and business opportunities and that this was a real threat in an increasingly competitive world. At one point he said and I quote, ***'We lose out in business to India and China, who are prepared to accept the risks'***. (Whether it was all risks or only small risks that the Indians and Chinese were prepared to take was not made clear.)

Up to that point I must say I was quite sympathetic to the main points which the P.M. was trying to make. There certainly are a worrying number of examples of badly advised duty holders (rather more than regulators perhaps) who seem to be going 'over the top' in the name of health and safety. The point about India and China however is that their approach to risk taking and to occupational safety (and road safety) in particular, far from being an advantage to them economically, is actually a huge source of inefficiency. (Accidents impose massive costs and are a substantial

drain on resources.) More worryingly, the huge toll of work related accidents and disease in the Chinese economy (its mining safety record is appalling and an absolute scandal) is a human tragedy of massive proportions. It is a myth that developing economies cannot afford safety and that they can only reach their goal of future prosperity by traveling along a road paved with the bones of the victims of accidents and diseases which they could not afford to prevent. The hard won lessons about how to protect the workforce, which were learned in the course of two hundred years of industrialisation in the West, are available today to the whole world via the Internet at the click of a mouse. And, in the vast majority of cases, the costs of the necessary measures are well within budget of most enterprises, even those in Africa, India and China. What is lacking is respect for human rights and the political will to put in place civilised working conditions.

If there is one theme which we in the health and safety community have failed to inject into the recent G8 debates it is the massive impact of accidents in developing countries as a cause of poverty. More people die annually around the world from accidents and diseases caused or made worse by work than die in wars. Globally more people die in motor accidents than die of HIV/AIDS. The impact of accidents on productive capacity, on families and on developing societies is huge and yet rarely if ever does talk of better safety figure in debates about 'sustainability'. Health and safety at work should be the starting point in deciding whether economic development is sustainable. If it is not sustainable for the worker, what chance is there that it will be sustainable for consumers or indeed the planet?

But to return to the debate on 13th June; in the discussion which followed the presentations I said that RoSPA certainly did not favour banning things just because they were dangerous. We were entirely in agreement with the need for 'sensible safety' and we had posted 15 points which guide our approach to safety and risk on our website (visit http://www.rosipa.com/aboutrosipa/rosipa_safetypoints.htm). We shared Tony Blair's concern about teachers getting risk out of proportion and refusing to take children on educational trips etc.. And we agreed that there were plenty of other examples of this sort of 'safety' nonsense which needed to be put right.

What I **did** stress however was that, from a wider perspective, we needed to be sure that, the Government were not getting the problem of 'risk aversion' out of proportion. In his speech to IPPR Tony Blair had said quite rightly that, in dealing with hazards, we should be trying to analyse the evidence and get some sense of balance between risks and precautions. At several points he emphasised the importance of adopting an evidence-based approach to risk and he warned, **'We allow the conspiracy theorists to dictate the argument without a basis in fact'**.

What I feel quite strongly is that the Government also needs to apply this same approach to the danger it sees of Britain becoming too risk averse. Yes, there are cases of poor safety decision-making; there is clearly a large amount of anecdotal evidence about risk averse practice and, on the principle of there never being smoke without fire, there is thus prima facie evidence of a problem. On the other hand, does it mean that British Society is becoming ever more risk averse and that health and safety really is beginning to sap the morale fibre of the Nation? I have my doubts.

We hear a lot about all the cases where people get the balance between risk and precaution hopelessly wrong but what about the great mass of people and

organisations who are making safety decisions daily and getting the balance broadly right? If we accept the need for evidence based policy making, then surely the scale, causes and consequences of this problem need to be bottomed out with some rigorous research rather than accepting anecdotal, however prevalent, as proof of a deep and all pervasive social trend.

To take an analogy, many people see offensive racist behaviour as proof that Britain is endemically racist. I wouldn't agree. There are some very nasty racist people out there but, on the whole, I tend to the view that we are a pretty fair and balanced society. (If this were not so the truly wicked bomb outrages on 7th July would have led to a massive xenophobic backlash.)

I suggested to Bill Callaghan and Philip Hunt that the Government could not launch a major public policy initiative based on anecdotal alone. It needed to be informed by a series of systematic investigations to establish whether 'risk aversion' is a general affliction or whether it just exists in particular pockets, such as with teachers and school trips (and whether, for example, the same teachers are taking all sorts of other quite significant risks in their daily lives without a second thought).

The other problem I drew attention to was that by focusing too much on 'risk aversion', 'over-regulation', the 'nanny state' etc, the Government might end up putting legitimate health and safety 'on the back foot'. The traditional message which one expects to come from the top (either in a company or in UK PLC as whole) is '*there's still an important job to do on safety*'. If it is perceived however that this has changed to '*the health and safety community are out of control*', many sceptics will feel emboldened to challenge quite legitimate, consultation-based precautions which are being promoted to tackle serious issues. For example, looking at HSC's current priorities:

- *Falls from height.* Some people are quite opposed to the any prohibition of working off ladders.
- *Slips and trips:* Some people see advice about sensible footwear at work to prevent slips as quite intrusive.
- *Site transport safety.* One way systems for safer site transport are the best option for preventing reversing accidents but often the work involved to reorganise site layouts is seen as unjustified.
- *Musculo skeletal disorders;* Manual handling training can be seen as irrelevant or unnecessary.
- *Stress:* Stress management measures are often seen as pandering to poorly motivated staff.

Tony Blair was obviously not inveighing against all safety regulation but equally the '**good health and safety is good business and helps competitiveness**' message (which his ministerial colleagues strongly support) did not get much of a look-in on the 26th May. Philip Hunt **did** mention this theme but T.B.s' emphasis was very much on the Government's commitment to roll back the tide of regulation and this was certainly designed to address the perception by many in business, (particularly in smaller businesses which lack access to professional advice) that regulation is 'out of control'.

Philip Hunt also put much emphasis on cutting back on health and safety related bureaucracy and paperwork (with which RoSPA agrees 101 per cent!) but on the other hand nothing was really said about the challenge of maintaining standards of regulatory protection in the process of simplifying regulation.

The other concern I voiced in discussion was that, in current debates about 'sensible safety', little or no use is being made by HSE (or indeed Ministers) of key safety and risk concepts which HSE have laboured so hard to develop over the last thirty years.

It was John Rimington when Director General of HSE who, in the context of the Sizewell 'B' public enquiry, helped to promote the ALARP ('as low as reasonably practicable') risk management triangle with its notions of 'intolerable', 'tolerable' and 'trivial' risk. It was HSC's Advisory Committee on the Safety of Nuclear Installations after Chernobyl who revisited so successfully the whole field of public risk perception. And it was HSE too who set up the groundbreaking Interdepartmental Group on Risk Assessment to look at harmonisation of approaches to risk across Government Departments (although latterly this baton has been passed to the Treasury and some of the early momentum may have been lost).

The fact that terms and ideas such as: 'tolerability'; the 'hierarchy of risk control options'; 'justification', 'risk/cost optimisation', 'risk limits'; the precautionary principle; defence-in-depth; factors affecting risk perception etc. have not been used in launching the current debate suggests that there may be a danger that this important conceptual framework will be glossed over, forgotten even.

In response to Lord Tunnicliffe, who asked if HSE were contemplating a rewrite '*Reducing Risks Protecting People*' (R2P2) (visit <http://www.hse.gov.uk/risk/theory/r2p2.htm>), Bill Callaghan said that, while he felt it was broadly sound, this document went over ordinary people's heads and might not be appropriate to current debates. He said that discussions about risk-based policymaking had been going on in too narrow a field. I would not disagree but equally the ideas in R2P2 are very powerful and should be promoted and popularised by applying them to current risk policy dilemmas.

The final point I made was that the whole debate needed to focus much more vigorously on the importance of enhancing safety and risk education. The way concerns about 'risk aversion' were being expressed and the terms in which the debate was being conducted, both pointed to the urgency of promoting effective safety and risk education across the Nation and at all levels: from workers, safety reps and managers in the workplace; to senior managers and directors in the board room; in colleges; in undergraduate education; in business schools; among teachers; among politicians and media commentators and; above all, in schools (integrating safety and risk as a spiral thread within the whole curriculum).

Safety education was a key theme raised in responses to the HSC's '*Revitalising..*' strategy but since then the slender resources devoted to this key issue in HSE seem to have been reduced even further. There is a need for a much more vigorous, high level and strategic approach.

T.B. ended his speech on 26th May with *'We cannot respond to every accident by trying to guarantee ever more tiny margins of safety. We cannot eliminate risk, we have to live with it.'*

Clearly there has to be consensus in any new policy area about 'de minimis' levels of risk but what such a statement is in danger of glossing over is the challenge we face in reducing substantially the human and financial waste associated, for example, with over 11,500 deaths in the UK annually from accidents of all kinds (to say nothing of accidents on a world scale). Many who have never investigated accidents at first hand do not realise just how preventable the vast majority are, often through the application of simple and highly cost effective control measures.

Bill Callaghan thanked those present on 13th June for their contributions and said that, in light of views being expressed, the debate had quite obviously begun. Philip Hunt accepted (in his own words) that it was not going to be 'easy peasy'.

Clearly the gauntlet has been thrown down and safety professionals in particular have a duty to get involved and to contribute their thoughts and suggestions. Send me your views or more importantly, post them on the HSE web forum at (<http://riskdebate.hse.gov.uk/ui/inovem.ti/group/riskdebate/view?objectId=878>).

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Fighting talk

► **As the Health and Safety Executive (HSE) publishes its 'principles of sensible risk management',** RoSPA's occupational safety adviser, **Roger Bibbings**, argues that in order to combat contemporary misconceptions about 'elf and safety', it is now time for those working in the H&S field to stop apologising for what they do and instead create a new sense of pride in their work and what they have achieved.

In many ways the HSE's 'principles of sensible risk management' (www.hse.gov.uk/riskdebate/index.htm) are not that contentious. To describe them as 'principles' however might be a trifle grandiose.

Designed as part of on-going efforts to combat allegations that Britain is becoming a hopelessly risk averse society (with disastrous consequences for economic life, personal liberty and education), the 'principles' are really only a series of reminders about well established understandings in safety: the need for proportionality in risk assessment and control; the need to weigh costs and benefits and so on.

They talk about the need to deal with 'real' risks etc, but on the other hand they do not help very much in understanding variations in people's perception of particular risks or why perspectives on risk vary between stakeholders.

At this level terms such as 'sensible risk management' and 'sensible safety' might not seem that contentious but arguably they are perhaps far too defensive if not slightly tautologous. Tautologous because by definition safety is not safety unless it is 'sensible' and balanced. Too little done to assure safety and residual risks remain too high. Too much done and resources are wasted which should be spent on controlling risks which are still unacceptable.

But it is the defensiveness of the term 'sensible safety' which is perhaps most worrying because it implies that there is 'safety' which is not sensible. What this 'safety' which lacks wisdom is to be called is not clear, 'stupid safety' perhaps. Whatever term is selected to lend respectability to the

idea of safety, it risks fostering the idea that there is a lot of its opposite around.

It also panders to the idea that safety is just a matter of common sense when, as in most branches of science (pure or applied), most of the really powerful ideas that give us a purchase on the world are quite counter-intuitive. ('Common sense' can often lead you a merry dance when what you really need are hard facts and good analysis.)

Use of the term 'sensible' in this context, rather than promoting the cause of safety and accident prevention, may actually be sustaining the urban myth that Britain really is becoming timid, soft and soggy because of the work of health and safety professionals.

Perception

When the government and HSE kicked off this debate at a meeting which I attended in the House of Commons last year, they were clearly attempting to respond to a series of perceptions: that compensation claims were rising and everyone was about to be sued; that regulators and advisers in our field are "out of control"; and that safety is "stifling initiative"; and so on.

In contributing to the discussion I found myself in a quandary. I felt the need for RoSPA to support calls to differentiate legitimate H&S activity from silly stories appearing in the media. I strongly supported the Prime Minister's call for all stakeholders to adopt an evidence-based approach to risk. But the first challenge I suggested had to be to gather and evaluate the evidence that might support the contention that there was indeed a risk that Britain was becoming more risk averse.

The government accepted, even at that

time, that the idea that Britain was living in a claims culture was in fact a myth. The number and size of claims for personal injury were actually in decline. Its logic ran though, that since people believed we were living in such a culture this perception (fuelled by the tabloids) was indeed the political reality.

Something of the same Alice in Wonderland logic surrounds the term 'sensible' safety.

Recently, I was heartened that the House of Lords Economic Affairs Select Committee report on the government's management of risk (www.publications.parliament.uk/pa/ld200506/ldselect/ldeconaf/183/183i.pdf) found that there was little evidence that Britain is becoming 'more risk averse'. But the damage has been done and we in the health and safety professions are now 'on the back foot' as it were, defending ourselves as innocent of a charge for which there is not really any substantial evidence.

When asked at parties what we do for a living, it is with a sense of trepidation rather than pride that we reveal that we are involved in 'health and safety at work'. We immediately seek to justify ourselves by qualifying what we do and setting ourselves apart from the negative stereotypes which we are sure our job description conjures up.

Clearly this has got to stop before even more damage is done to the good standing of health and safety. Now is the time I would suggest for all H&S professionals to project a much stronger sense of conviction in the value of what we stand for and what we do.

We need to regain a sense of the nobility of our cause, stop apologising for safety, demand and expect respect and tackle head-

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on those who would seek to poke fun at health and safety and denigrate or belittle the importance of prevention.

Those who allege that most H&S requirements are over-the-top need to be reminded about the national priority themes (manual handling, workplace transport, slips and trips, falls from height, musculoskeletal disorders and stress). They need to be asked precisely which precautions to tackle these scourges they consider to be excessive.

Is it unreasonable to limit the weight of heavy loads? Is it wrong to try and separate vehicles from pedestrians? Is it absurd to try and tackle slippery surfaces? Should people who work at height not be protected from falling? Should we not try and design jobs which cut aches and pains? Is it wrong to try and control pressure on workers to stop them cracking under the strain?

One of the reasons that safety can be caricatured as an outmoded and unnecessary excrescence, a leftover from industrial times in a post industrial society (whatever that is), is that we have been so successful in reducing accidental harms. Yes, there is still much to be done, especially in the 'third world' of H&S which still exists particularly in many small firms, but the reality is that in Britain we have one of the lowest rates of fatal injury at work and on the road. The real challenge of course remains work-related health damage, where people die prematurely in thousands rather than in hundreds as is the case with accidents.

From a safety point of view therefore, the developed world seems rather a benign sort of place in which the blandishments of the safety professional are but the unbalanced wailings of a Jeremiah.

What is not appreciated is that the world is indeed still pregnant with possibilities for error, harm and loss but it is only the consistent (but largely silent and invisible) operation of systems of prevention that stops these turning to tragedy.

Successful safety is by definition not news precisely because it is all about keeping things running according to plan so that nothing untoward happens. On the other hand, much of what keeps us safe (especially safety that is inherent in design) cannot be seen and is therefore simply taken for granted.

In consequence the absence of accidents is not news but a commonplace. And it makes little sense to berate our media for not communicating more positive stories about the successful management of health and safety, since in a competitive news market this would hardly be the recipe for selling more newspapers or increasing

viewing figures! Far better to concentrate on disasters and, if there are none to hand, focus on those monstrous 'jobsworths', the 'elf and safety' people getting it badly wrong.

The reality of course is that for every case of the less-than-professional adviser being over-cautious or the teacher who refuses to take children on a school trip because they feel they might be sued, millions of safety decisions are being made in workplaces up and down the country every day which are both well balanced and highly effective.

What is not understood, nor indeed given enough credit by opinion formers and political representatives, is that it is those decision makers (bureaucrats often) who are the real safety heroes.

Managing risks

It is they who deliver 'primary safety', whereas what is deemed heroic in the popular mythology that surrounds safety are the actions of those involved in secondary safety (mitigation measures) or tertiary safety (the emergency services), both of whom have to try and prevent accidents converting to harm or even death when primary prevention has failed.

We in RoSPA see 'safety' as an essential set of safeguards which, far from diminishing life, actually preserves it; something that gives us peace of mind and enables us to enjoy our lives free from the fear of disaster (with life changing consequences) striking at any moment. We are not safety anoraks however.

Provided risks are not so great as to be intolerable (or cannot be justified by resulting benefits) safety is all about managing risks through the exercise of sound judgement. That is why we believe so passionately that, if we are to combat contemporary misconceptions about safety, our government must do so much more to create a joined up

approach to safety and risk education – from nursery school to business school, and dare I say, to Parliament and the Cabinet too.

If we are to go on to the offensive again as a profession then surely we also need to change the language in which the debate is conducted. Talk of 'sensible safety' perhaps should give way to 'necessary safety' or 'basic minimum precautions'. 'Risk aversion' should actually be commended when it is the justifiable reaction to risks which are clearly unacceptable or intolerable.

And there is a need to put the ethical and moral arguments for safety and the protection of people back at top of the agenda. The so called 'business case' for safety, saving money (mainly by preventing accidents which do not result in injury) is a useful argument in support of humanitarian arguments but to project it as the primary motivator assumes all dutyholders to be soulless, amoral calculators – something guaranteed to insult rather to inspire.

Terms like 'sensible safety' I would suggest are in part a reflection of our own timidity. While generalisation is rarely, if ever, justified, I am often tempted to see many H&S professionals as far too conservative; too often defending their employers' short term economic interests (when they know they should be standing their ground and arguing for what they know to be right); too siloed and not active enough in campaigning the case for better standards.

Of course we will not be persuasive if we simply hector people or preach. We have to persuade. But at the heart of persuasion is that self-evident sense of enthusiasm and conviction which any activist feels for their cause. Let's create a new sense of pride in what we are, what we deliver for society and what we have achieved. Without it, far more than our professional standing is at risk.

Comments to: rbibbings@rospa.com

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Risk education

► **The death of 14 year-old Charlotte Shaw** while training for the Ten Tors challenge in Devon earlier this year has again raised questions about the exposure of young people to risk in an educational setting. RoSPA's occupational safety adviser, **Roger Bibbings**, reflects on some of the issues surrounding our approach to safety and young people.

In recent months RoSPA, like many others in the safety field, has given its support to efforts by the government and the Health and Safety Executive (HSE) to combat excessive risk aversion and specifically fears among teachers about safety, which might be preventing them from helping young people to take part in outdoor education.

Understanding the outdoors, experiencing challenges such as climbing, orienteering, caving or canoeing, overcoming fear and developing self-reliance are all essential to children's development. Outdoor education makes a major contribution to fitness, to learning about teamwork and it also helps development of an appreciation of the natural environment. In short, it is what used to be called 'character building'.

The government and HSE have worked to develop new guidance on safety on school trips, recommending a sensible, non-bureaucratic approach to risk assessment, making sure predictable risks are controlled and emphasising the need for schools to monitor and investigate and learn lessons which will help them to improve planning in future. All sensible stuff and linked in the school context with an increasing focus on safety and risk education in the National Curriculum. (Indeed the government are currently consulting on how to embed safety and risk education more effectively in PSHE (Personal, Social and Health Education) for Key Stage 3 pupils).

Schools are also continuing to focus on things like pre-placement visits, looking at

health and safety issues as part of work experience. Beyond school, the Learning and Skills Council are endeavouring to deliver their *Safe Learner Framework* as an essential part of vocational training.

Nevertheless, despite all the focus in this work on the need for 'balance' and 'sensible safety', there is still an anxiety on the other side of the argument that we are creating a rising generation of hopelessly risk averse children that will not be prepared to take any risks in later life.

Allegedly this is encouraging a timid, sedentary lifestyle (increasing risks from obesity and degenerative diseases in later years) and is restricting opportunities for young people to explore and develop by taking risks in all sorts of spheres.

Concerns

One organisation committed to combating this 'alleged' trend is the Campaign for Adventure (see: www.campaignforadventure.org). With prestigious patrons such as HRH the Duke of Edinburgh, Tony Blair, Ray Mears, Ken Livingstone and many other individuals and organisations, it proclaims the need for children to be equipped to deal with uncertainty and claims to take a stand against those who would restrict the life chances of the adults of tomorrow by being overprotective.

The gist of these concerns has been summed up by one campaign supporter, the broadcaster Libby Purves who has said: *"Every week we have more evidence of the slimy, choking advance of jobsworth regulation which seeks to make us 'safe' but*

actually makes us weak."

Although RoSPA is sometimes bracketed with alleged safety zealots and extremists, we do not in fact support the idea of absolute safety – which is not only unrealistic and unattainable but undesirable (see: www.rospa.com/safetypoints). Indeed RoSPA strongly supports the idea that engaging with risk is an essential part of safety education for every child.

Through our work with the LASER community (Learning about Safety by Experiencing Risk – www.lasersafety.org.uk) and our work on playground safety (www.rospa.com/playsafety/index.htm), RoSPA is firmly committed to the idea that children and young people can only learn to deal with hazards by being exposed to them, although it has to be said in a controlled and acceptable way.

In a nutshell cuts and grazes, the odd tumble, failure indeed – are essential to learning. What we need to control are unacceptable risks to young people, particularly those with severe consequences.

Part of the problem of persuading teachers that controlled risks are essential to learning is that many, like the public at large, do not fully understand the idea of risk itself. This may affect their ability not only to communicate core concepts but to make good judgements about whether specific risks are justified and tolerable and, if they are, whether control measures in particular circumstances are adequate or are 'over-the-top'.

A Health and Safety Laboratory research report published in 2004 on the teaching of risk concepts to children in Britain's schools

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(www.hse.gov.uk/RESEARCH/hsl_pdf/2005/hsl0524.pdf) found that teachers tended to see risk education as synonymous with the teaching of safety rules (in itself not a bad thing) rather than empowering children to make their own judgements about risk and safety.

Parents obviously come into the equation too. Parents expect to get their children back again after a school trip in more or less the same condition as they were when they set out, although obviously minor bumps, strains and sprains are generally accepted as par for the course.

The possibility of death and seriously disabling injury, however, is a fear in every parent's heart and one with which they have to come to terms whether their child is engaged in outdoor activities, is learning to cycle, ride a horse and later on is learning to drive a car or ride a motorcycle or become an independent traveller.

Nothing is certain, all we can do is to teach children to be aware of hazards, assess risks and act prudently. And above all we have to recognise that ultimately, no matter how much advice and instruction we provide, young people have to learn for themselves, often through making their own mistakes.

Exposure

All this might seem pretty much like motherhood and apple pie but it should not be allowed to disguise the fact that in reality there are really tough choices to be made, particularly when one gets close to the intolerable or the unacceptable. When precisely do you decide that the going is getting too tough? Conversely at what point do you say a significant risk is still worth taking because the benefit young people will gain is so much greater?

These are not easy judgement calls and in practice much depends on the skill and expertise of adults supervising risky activities. Just because something serious could happen is not a reason for abandoning an activity. Likelihood and the adequacy of primary (e.g. training), secondary (e.g. protective equipment) and tertiary level controls (e.g. emergency arrangements) are also critical considerations.

One of the uncomfortable features of current debates about tolerable risks to young people's health and safety (or indeed the whole idea of tolerable risk) is that you cannot have controlled risk exposure without some level of residual harm. Even if sensible precautions are fully implemented and risk levels are low, given enough expo-

sure, some 'hard-to-prevent' harms will inevitably occur. This approach sits in contrast to the traditional goal of 'zero accidents' so beloved by many of our US safety cousins.

Of course, on investigation it is almost always the case that most of the accidents that do occur in areas such as outdoor education could have been prevented by relatively simple and well known precautions and avoiding them would not have required the kind of extreme, way-out, belt-and-braces type measures which critics often suggest the health and safety world are trying to foist on everyone in pursuit of 'absolute safety'.

Yet deaths of young people understandably give rise to much more social concern than do deaths of older citizens. The waste of years yet to be lived and the unimaginable and enduring agony of parents and close relatives put such tragedies in a quite different league. So it still seems quite callous to say that some deaths and serious injuries involving children may have to be accepted as part of the price to be paid for education or just growing up. This is of little relevance to the bereaved. And in any case such a proposition would only be relevant for virtually impossible to prevent accidents.

What is said by way of reassurance is that deaths of young persons in accidents are extremely rare compared with other risks (see HSE's risk education page at: www.hse.gov.uk/education/statistics).

For example in the workplace, over the last five years, out of a workforce of some 26 million, only 200-300 workers have been killed in accidents annually (excluding work-related road accidents) and, of these, only about ten were deaths involving persons under eighteen.

Nevertheless, considerable effort quite rightly goes into educating young people about the dangers of work and ensuring their safety – although much more still needs to be done to instil safe working attitudes and habits for the future (visit IOSH's *wiseup2work* campaign at: www.wiseup2work.co.uk). Young workers have much less familiarity with the workplace and they tend to lack the experience

and trained judgement which help to keep older workers safe.

Is it really the case that safeguarding young workers' safety and promoting risk education is having a corrosive effect on their personal development? Is it making them risk averse and over-cautious? Much anecdotal evidence is quoted but where is the research evidence to prove this?

For every young person allegedly chained to their computer for fear of venturing outside surely there is another yearning for excitement, witness the growth of interest in adventure sports. And very many young people still take quite unacceptable risks (witness the high casualty rate among young male drivers, injuries to youngsters involved in criminal trespass, teenage pregnancy, illegal drug use and so on.)

Reality

It would be a pity if efforts to put wise heads on young shoulders to prevent such problems were curtailed because of allegations about the creation of a culture of risk aversion for which there is very little hard evidence.

Learning and risk however clearly go hand in hand but the dilemmas this poses for educators, regulators and safety professionals can only be solved at the practical rather than the theoretical level.

Ideally the learner should be exposed to hazard without this involving significant risk. A child climbing a rock face protected by a top rope or a trainee using potentially hazardous work equipment but with suitable training and personal protective equipment would be obvious examples.

Yet it is probably true that many young people only take safety lessons to heart after a close shave or witnessing directly what can go wrong if safety precautions are ignored. Youth is endowed with a strong sense of its own invulnerability and often it takes a salutary reminder from the real world to instil a sense of caution.

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Email: rbibbings@rospa.com



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As safe as necessary?

► **Concerns** over whether safety targets are too low or too high – or indeed whether regulation is required at all, are concerns often raised by a variety of stakeholders, including industry, regulators, safety campaigners and the general public. RoSPA's occupational safety adviser, **Roger Bibbings**, considers the challenges faced by those trying to get the balance right.

RoSPA, like most other organisations in the safety world, has had to find effective ways of countering the impression that it is always demanding total safety and is thus obstructing the lives of ordinary people by insisting on safety standards that are wholly disproportionate to risk.

Those with a stereotypical view of safety people as brown-suited, blue-shirted, sueded-shoed 'jobsworths' would love to be able to bracket RoSPA as the honorary nanny in the nanny state – the organisation that prevents comedians from throwing sweets to children at pantomimes, bans conker fights, prevents children going on school trips, and generally stops people having harmless fun because of 'elf and safety'.

If we are feeling in a combative mood, then to those who would have it that we in RoSPA are responsible for 'elf and safety' having gone too far, we point out that last year, for the 12,000 or so people who died in accidents in the UK (most of which were easily preventable), it didn't go far enough.

For the relatively few examples of idiocy in the name of H&S that make tabloid headlines, there are literally hundreds of thousands of

cases of poor safety practice which lead to people suffering real harm. RoSPA argues this point endlessly and with passion to try to get some sense of perspective about hazards, risk levels and accidents, and the need for effective safety measures where they are really needed.

Accidents are real and they really do wreck the lives of real people. They also impose massive financial costs on families, communities and the State.

Challenge

Part of the communication challenge is finding words and phrases which can get across clearly what we are trying to say. For example, RoSPA's leisure safety team last year coined the phrase "as safe as necessary not as safe as possible" to help crystallise its position. This phrase is designed to get across the idea that we see no sense in arguing for layer upon layer of safety once an adequate level of protection has been achieved. Use of the phrase in relation to play safety attracted a great deal of media attention around the world last year.

But, of course, all short phrases have their limitations and in some cases it may be that the level of safety needed actually involves

doing everything that is technically possible, if not a bit more. And on occasions, the highest possible level of safety achievable may still not be safe enough and the activity has to be abandoned. Remember the old adage, 'if it can happen it must not matter; if it can matter it must not happen!'). As the risk level rises, so too does the need to achieve a virtually zero probability of failure.

It is interesting to compare the "as safe as necessary" concept with phrases that are commonly used in relation to workplace health and safety.

The idea of "as safe as necessary" is quite loose and may be less testing than "so far as is reasonably practicable" – the standard which underpins the *Health and Safety at Work Act* and which requires a point of gross disproportion to be reached before further safety effort can cease.

And "so far as is reasonably practicable", of course, is still not quite as strong as "as low as reasonably achievable", which describes the reliability limits imposed on nuclear, offshore, CoMAH sites etc.

But the idea of "as safe as necessary" is not so broad that it could encompass any point on a scale from best practice down to the just above the level of performance



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below which a prosecution for corporate manslaughter might succeed.

In general, RoSPA has always favoured a good practice approach to safety standards. We have tended to regard mere legal compliance as "the level from which people and organisations should seek to rise as opposed to the ceiling to which they aspire".

On the other hand, if a specific legal minimum requirement actually represents the point of balance between the cost of safety and residual risk, it can be argued that good practice is by definition over-the-top and a waste of resources and/or opportunities. (This view has often been cited with some vigour by the CBI.)

Proportionality

When trying to express the need for proportionality in safety decision-making, the idea of "necessary safety" is probably better than HSE's "sensible safety" which can be taken to imply that all safety is just common sense whereas, as many hard cases prove, a good deal of research and deep thinking is often required, and at a level well beyond that at which the traveller on the top deck of the Clapham omnibus might still feel comfortable. Indeed, many safety decisions are quite counter-intuitive.

The important point, however, is that use of terms like "necessary" or "sensible" implies clearly that some element of judgement is required to determine when safety limits have been reached. What is less apparent, perhaps, is that in the majority of safety decision-making scenarios there will be a range of possible end points suggested by different parties/stakeholders.

Given that safety decisions, particularly those made in a publicly accountable context, are nearly always 'a bargained compromise' (albeit based on evidence and sound judgement), safety campaigners would be naive if they did not pitch their demands at a somewhat higher level in order ultimately to secure a level of safety that was broadly acceptable. RoSPA's policy position papers are full of such aspirational targets, although they remain evidence-based and proportionate.

But on occasions this may also create a credibility problem for organisations like RoSPA because the public come to expect their advice/positions on any issue to reflect a higher level of ambition than that expressed by other parties. RoSPA must almost by definition be in favour of going somewhat further than what will eventually be agreed otherwise it would not be doing its job – in other words, its starting point will tend to be more ambitious than that of some of the

other people around the table.

The question of whether safety targets are too low or too high – or indeed whether regulation is required – comes most sharply into focus when considering the risk-taking behaviours by individual citizens or groups of citizens which do not endanger others.

There is a strong presumption (with which RoSPA agrees) that individuals should be free to take their own risks. But, of course, society still has to pick up the pieces when things go wrong, and this, in itself, is an issue that raises questions. Should voluntary rescue organisations, for example, have to foot the bill for going to the aid of people who set out hill walking completely unprepared and get into difficulties or should there be some system of recompense?

Society also does not allow people to take risks voluntarily which other parties, such as employers, are under a legal obligation to control – you cannot, in these instances, waive your right to be protected.

Where others are put at risk by risk takers, the common law – if not specific Acts of Parliament and regulations – tend to bite and then the argument is all about how tough regulatory controls should be. There is a spectrum of options.

At the high hazard end, there may be a case for licensing (from nuclear sites to activity centres) or registration; or regulations may be quite prescriptive (to guarantee necessary standards where duty holders may lack clarity), or they may be goal setting and underpinned by risk assessment and guidance (for example, to allow flexibility of response). And it may not be the State that regulates; adequate outcomes may be secured through various forms of self-regulation. Further, there is an ever-growing lexicon of official (or semi official) guidance which is characterised as 'regulation'.

In general, there seems now to be a presumption that statutory regulations are not a good thing. There are too many – certainly far too many for ordinary people to be aware of, let alone remember. And 'regulation' is also taken to imply unnecessary red tape, bureaucracy and a generally undesirable restriction of individual and corporate liberties.

Trying to regulate every risk out of existence and to supervise every activity of the citizenry is perceived as meddling and nannying – and something which is also leading many of us to become hopelessly risk averse. Indeed, there is a fear that regulation may be undermining our national sense of self-reliance, entrepreneurship and personal responsibility. Currently, this view seems to be quite dominant in government circles.

Yet, equally, it can be argued – and just as convincingly – that regulation is often needed, not just to guarantee certain socially desirable outcomes, but also to help and guide individuals and organisations along paths that they would want to follow anyway. And in practice, regulation and official guidance may be a lot more efficient than simply allowing safety standards and practices to be set on the basis of case law, legal precedent and counsel's opinion – all of which, as experience has shown, can lead to excessive and contradictory requirements being imposed. Even self-regulation in the market can be just as, if not more, bureaucratic than State regulation.

Key messages

Part of the problem in engaging non-safety people in fruitful discussion about these issues is avoiding getting pigeonholed by use of language. As soon as words such as safety or risk or regulation are mentioned, the moral hackles are likely to rise or at least the intellectual nostrils will flare. All kinds of assumptions – if not prejudices – will be dusted down – and before very long the safety campaigners and their opponents will be talking past each other, generating more heat than light.

There is certainly no magic bullet when trying to communicate key messages or engage key audiences, be they the wider public or professionals. Despite their limitations, neat terms, phrases and formulae can obviously help get key ideas across.

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Email: rbbings@rospa.com
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Preventability

➤ **RoSPA's** occupational safety adviser, **Roger Bibbings**, considers whether there is a need for the introduction of a 'scale of preventability', not only to help assess safety performance properly, but also to help employers undertake more meaningful assessments of risk using accident data.

At a recent meeting where I was presenting on directors' health and safety responsibilities, a member of the audience came up to me afterwards and said: "Accidents will always happen! By trying to prevent all accidents, health and safety professionals are straining after the impossible. It's unfair to pillory directors every time things go wrong."

The word 'accident' of course has different meanings to different people. In origin it derives from the Latin verb 'accidere', literally 'to come about, happen, occur'. Yet to many people it implies things falling out in ways that are not just generally unforeseen but unforeseeable. In this sense, many are tempted to see accident risk as a purely probabilistic phenomenon, simply a matter of chance – the devil casting his darts at a target and now and again scoring a bull's eye. There is little you can do. Accidents in this sense are seen as a force of nature.

At one level this might be interpreted simply as a modern day expression of medieval fatalism. Yet equally most of those who might be tempted to take this view of accidents would recoil from the idea that such events are in some sense predestined.

There are annually over 1,000 car driver deaths in road crashes. In a population of 30 million licence holders this might equate to an annual risk of fatal injury of one in 30,000 or, over a lifetime, about one in a thousand. But we know for company car drivers there may be a four times higher risk per mile covered – company car drivers travel on higher speed roads, are under greater time pressures and so on. Similarly the accident rate for novice drivers is significantly higher than for experienced motorists.

Data on accidents in specific populations tell us that accident risk is not purely stochastic (i.e. a random probability distribution or pattern that can be analysed statistically but not predicted precisely). Accidents are not a matter of pure chance. Accident risk is not the same as walking into a totally random hail of bullets on a battlefield, many factors, including organisational and personal behaviour modify risk levels. Indeed the extent to which we seek to exercise some degree of control in the face of hazards and uncertainties, to achieve desired outcomes without loss, testifies to the fact that we actually believe quite strongly in the possibility of offsetting the effects of pure chance.

Foreseeability

Whether we are at work or on the road, at home or engaged in pastimes or leisure activities – or whether we operate complex systems such as process plant or transportation systems – we know that the chances of things going awry – and the scale of consequences if they do – are in large measure affected by the way we behave. But at the same time we also have a sense, justified by experience, that however hard we try, there will always be some chance linkage of events and circumstances leading to accidents that we have not adequately foreseen. As Robbie Burns said in his famous poem 'To a mouse', 'the best-laid schemes o mice an men gang aft agley...'.

So as we become ever more successful in driving down accident statistics, this instinct tempts us to believe that those accidents which continue to occur must be overwhelmingly hard-to-foresee and hard-to-prevent events, the result of the malevolence of the

gods and not our own failings.

On the other hand, those who have investigated accidents professionally (especially those who have used structured methods) will testify readily to the way in which necessary and sufficient conditions have to combine for such events to occur.

They understand that most of the time latent accidents do not occur because the chain of causation is broken – or because organisational, technological or behavioural barriers prevent problems escalating to a point where things tip over into disaster. They don't happen because the last few links do not line up; the essential ingredients for a successful accident trajectory are missing – although, if we are honest, most of the time this is due more to good luck rather than foresight, good judgement and timely preventive action.

So if we are to assess safety performance properly or undertake more meaningful assessments of risk using accident data, do we not need some scale of preventability?

Would it not be useful to construct a simple five point 'preventability scale' running from 'very- easy-to-prevent' (one on the scale) through to 'very-hard-or-virtually-impossible-to-prevent' (five)? This might then help us establish how close to the irreducible number of accidents we really were or just how low risks could be driven, for example, for those engaged in high hazard activities. My suspicion is that use of such a scale, however crude and in no matter what the setting (road, work, home etc), would tend to show that the number of accidents falling into categories four and five are actually quite small.

With about 230 notifiable work-related fatal injuries occurring annually to workers



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in a working population of 26 million in the UK (even accepting that this figure excludes about 500 to 700 fatal work-related road injuries), some casual commentators might be tempted to assume that this figure represents a level of harm which cannot be reduced further and thus may need to be accepted, albeit reluctantly, as part of the price of modern economic life. And yet, given that in a substantial proportion of these cases enforcing authorities are able to mount successful prosecution for breaches of health and safety law, such a view is clearly as naive as it is fatalistic.

Absolute safety?

Just as naive is the temptation to base safety decisions on average risk figures which are usually of quite limited value. For example, statements such as motorcyclists are twenty times more likely to be killed per mile travelled than car drivers say nothing about the shape of the risk distribution curve.

Knowing that some 40% of motorcycle crashes do not involve other vehicles and clearly involve a large element of violation (or other sorts of fairly gross rider error) suggests that not all motorcycle accidents are matters of pure chance. And even where collisions do involve errors by drivers of other vehicles, defensive riding skill can do much to prevent near hits becoming real accidents. Which begs the question, just how safe can motorcycling ever be? Most of the accidents that occur are quite easily avoid-

able. But how many are not?

It has become fashionable – if not politically necessary – to assert that absolute safety is as unachievable as it is undesirable. For example, HSE stresses that health and safety law does not require us to reduce all risk – only to ensure absence of risk to safety and health ‘so far as is reasonably practicable’ (SFAIRP). This is difficult to define in practice but broadly speaking equates to risk levels that are not unacceptable and which continue to be reduced until a point of clearly diminishing safety returns is reached. But how does the philosophy of SFAIRP relate to ambitions for safety performance objective setting or commonly expressed corporate safety goals such as ‘target zero’?

One of the problems with simple numerical accident reduction targets is that they are capable of being met whether the accidents that still occur are at point one or at point five on the ‘preventability scale’.

How therefore might one assess preventability? The answer is obviously – imperfectly. But by interrogating competent reports on accidents it ought to be possible to ask and scale responses to questions such as: To what extent was the hazard(s) foreseeable, understood, and capable of being adequately assessed? To what extent were suitable control measures available? To what extent were there barriers to implementation of control measures and so on? The answers to such questions might then be integrated to help place the event on a scale of preventability.

One pitfall to be avoided, of course, is simply stating that because most accidents are due to human error, they are by definition eminently preventable. As the work of those such as Professor James Reason shows, human error is a highly complex phenomenon and understanding it is intellectually very challenging. Further, organisational and individual human errors (slips and lapses, mistakes and violations) combine. On no account should error be oversimplified.

Diverse factors

Looking beyond the immediate circumstances of any accident it is clear that preventability is influenced by diverse underlying factors such as organisation, technology, attitudes, culture and so on. And beyond that these in turn are influenced by political and social factors. So just how far back should or can one go? For example, lack of training might be cited as a significant factor in an accident, but poor attitudes to risk taking due to lack of early safety education might be harder to establish.

Despite all these difficulties, however, some agreement about how degrees of ‘preventability’ could be established might still be useful, if for no other reason than to help remind sceptics just how readily preventable most accidents really are.

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Freedom fighters

► **RoSPA's** occupational safety adviser, **Roger Bibbings**, considers how do health and safety professionals convince the wider public and influential sceptics that safety actually means freedom and not constraint.

With no let up in the drip, drip of 'silly stories' in the media about the dreaded effects of 'elf and safety', safety professionals now need to say clearly 'enough is enough' and start going on the attack. The key battleground is the notion of freedom.

Of course we must continue to promote the idea of 'sensible safety', and differentiate ourselves from the stereotypically daft behaviours which are projected in parts of the media as the norm for our trade. But it's time to stop being too defensive – apologetic even – about what we do for a living and begin to explain ourselves as freedom fighters, defenders of people's freedom to live life free from injury and free of the fear of injury.

Safety based on proportionate measures frees you from the threat of disaster, death or life long injury striking at any moment. And it frees you and your family and friends from the misery that these give rise to.

Safety knowledge frees you from being at the mercy of the random interplay of hazards and pure chance.

Safety based on risk assessment gives you, the risk creator or risk taker, freedom to make sound choices based on the real threats you encounter.

Managing safety and risk is actually a key

life skill, something that enriches life, indeed makes life possible. And it has applications well beyond the prevention of mere physical injury. It empowers people to tackle all kinds of potentially harmful uncertainties. (That is why getting safety and risk accepted as an integral part of Personal, Social and Health Education – now to be a compulsory part of the National Curriculum – is such a big step forward.)

So why then is it so hard to communicate an image of the accident or disease preventer as a highly positive kind of human being – someone we should admire and cherish? Why has safety taken on such a highly negative aura?

Is it because 'elf and safety' is now seen as too '1980s' for the brave new world which allegedly beckons. Has it unwittingly become a symbol – something that stands as a proxy – for all that is now rejected about collectivist social policy in the last century?

Is it because it can seem impenetrably technical, supporting the impression that it is in the hands of a technical caste (us) who have it in our power to step in at any moment and ban things or impose requirements, the case for which is beyond the comprehension of most lay people?

Fear of the technical, I believe, may explain why the extent of people's hostility to health and safety is often in inverse proportion to

the depth of their knowledge of the subject. The less they know about safety, the more ill-disposed they are to it. (As in all areas of life, ignorance is not bliss but only fuels bigotry and prejudice.)

Or is it because people feel over-protected by those they see as small minded, unimaginative rule-bound 'little Hitlers', imposing constraints and requirements which erode personal responsibility and restrict initiative? Take the following quote from the BBC broadcaster Libby Purves: *'Every week we have more evidence of the slimy, choking advance of jobsworth regulation which seeks to make us "safe" but actually makes us weak.'*

In such an atmosphere simply apologising for what we do, appeasing the myth makers – or explaining that we are not quite as we are portrayed in certain newspapers – will not do the trick.

We need to tackle head on allegations about the alleged high cost of safety (including perceived costs to personal liberty). We have to ensure that the benefits are made more visible.

Our core problem here is that testimony to our value is the normal condition. Nothing untoward happens. So, as prevention specialists, in contrast to fire and rescue personnel or paramedics whose personal resourcefulness and heroism is often highly



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visible, we have to work much harder to communicate the fact that we are actually saving many lives. We are the people who are actually responsible for preventing the millions of accidents which never happen. Those who are alive and well as a result are seldom aware that they owe their wellbeing – their existence even – to the patient work of dedicated safety professionals who continue with their business despite all the fun and brickbats thrown at them in the media and elsewhere.

We have to confront head on those sceptics who, rather than praise the fact that lives have been saved and injuries reduced, want to see falling casualty figures as evidence that there is no longer a threat. To them the world has now become more benign – proof that all this safety stuff is just a left over from days gone by. Fewer accidents, they say, means we need less regulation and greater scope for individuals to make their own choices about how they behave.

Of course in a freedom loving society this latter thought is actually very important. Regulation should never be introduced unless it is generally agreed to be necessary. But equally, when individuals chose to take risks, we need to be sure that it is only they that are affected and not their families or the wider community that has to pick up the pieces – or indeed that others, who might see their behaviour as a role model, will not feel encouraged to engage in intolerable risk taking.

Interpretation

Unfortunately, it is always possible to turn up examples of safety requirements which do seem to go over-the-top or impose unreasonable limits. We need to argue clearly however that, in comparison with the millions of sensible, effective – and thus quite unremarkable – safety decisions that are made every day, these ‘silly stories’ about safety are actually a vanishingly small number. And where these ‘silly stories’ turn out to be

true, they invariably turn out to be result of over-zealous interpretations, not of statutory regulators but of third parties, often on the basis of false perceptions of the expectations of other parties such as insurers. Yet all that is like fine print in the public’s mind. Any obviously disproportionate requirement is likely to be seen as a requirement of the *Health and Safety at Work Act* itself.

How then as H&S professionals do we start to convince not just a wider public but influential sceptics that safety actually means freedom and not constraint? How do we start to counter the steady stream of insidious half truths which leads everyone to believe there is a massive problem of ‘safety over-kill’ out there when there isn’t?

Personally I think we have to start by turning some of the many stereotypical perceptions on their heads.

- It has been said that we are ‘living in a healthy and safety culture’. What do we want then, a disease and injury culture? Obviously not.
- Similarly, it is often said that we are living in a ‘compensation culture’ (even though government data show that claims and settlements have levelled off). So do we actually want fewer claims – or do we want proper recompense for those accident victims whose injuries are caused by negligence but who do not bother (or do not know how) to claim? Are we really saying that people injured through the fault of others do not need financial help to put their damaged lives back together?
- Trying to prevent accidents is unrealistic. Is it? Accident injuries have come down dramatically, especially at work and on the road. Organisations that take safety seriously have dramatically better results. Investigations rarely ever conclude that an accident was not preventable, and usually by fairly simple measures. Accident prevention works (and it saves money too).

- Has action on health and safety gone too far? Or is it not the case that, for the millions of people who were injured in largely preventable accidents last year, it did not go far enough?

Challenge

So, is it not the case that we need to stand up for safety with greater confidence and pride? Is it not the case that we need to challenge complacency or hostility to safety? Shouldn’t we challenge the people who think:

- that speed enforcement is only there to help make money for the government?
- that it’s OK to work at height off a ladder rather than using safe access equipment;
- that the risks of asbestos have been exaggerated;
- that it is now time to ‘sunset’ outdated H&S regulations: OK then, but which ones?

Some might say that the danger in taking this approach is that a sharper or sterner tone, rather than making people stop and think again, might only confirm their suspicions that health and safety people are indeed authoritarian and inflexible. There is always that danger obviously. But the important thing here I think is that clarity, conviction and passion have to shine through. If as professionals we do not understand the case for safety ourselves we will not be able to explain it to others. If we are not convinced, others will soon sense our doubts. If we do not have a sense of anger and frustration at not being able to get improvements sooner, others will not be inclined to share our sense of urgency about the need for action.

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Goldilocks rules, OK?

► **Reasonable practicability is a cornerstone of the UK approach** to regulation of work-related risk. But for some dutyholders finding the right balance between risk/cost optimisation can be challenging. Information and competence are key argues RoSPA's occupational safety adviser **Roger Bibbings**.

Among the questions posed in his call for evidence as part of his review of health and safety regulation, Professor Löfstedt asked: "To what extent does the concept of 'reasonably practicable' help manage the burden of health and safety regulation?" (see question 6 at: www.dwp.gov.uk/docs/Lofstedt-call-for-evidence.pdf).

There is much confusion about the concept of reasonable practicability (RP) and its application in practice. It is nevertheless a cornerstone of the UK approach to regulation of work-related risk and has been successfully defended against legal challenges from the EU which claimed that it undermined or weakened European health and safety law because it allowed for the consideration of cost when assessing compliance with legal requirements.

As is widely recognised, the RP principle was originally established in the now famous common law judgment of *Edwards Vs the National Coal Board* in 1949. Lord Justice Asquith said: "Reasonably practicable is

a narrower term than 'physically possible' and implies that a computation must be made... in which the quantum of risk is placed in one scale and the sacrifice involved in the measures necessary for averting the risk (whether in time, trouble or money) is placed in the other and that if it be shown that there is a great disproportion between them – the risk being insignificant in relation to the sacrifice – the person upon whom the obligation is imposed discharges the onus which is upon him."

In practice, what this means is that, provided that residual risk levels are not intolerable, an employer's duty to continue to provide additional preventive and protective measures is exhausted once a point of gross disproportion has been reached between the cost of such measures – in terms of time, money and trouble – and further reductions in risk. In other words, for things to be considered safe 'so far as is reasonably practicable' (SFAIRP) you have to go on trying to make them safer until you reach a point where it is not worth doing more (a point of diminishing safety returns)

– AND the risks which still remain must not be too great.

Making such safety judgements with confidence is often quite difficult. If the consequences of failure are high, uncertainty about the efficacy of measures to reduce its probability of occurrence will tend to result in a precautionary ('belt and braces') approach. And there is often confusion about costs. Many people seem not to appreciate that the affordability of specific measures does not relate to the financial status of the individual dutyholder but is a broad social judgement, eg. looking at what might be generally affordable, say across a sector. You cannot plead poverty and get away with a lower standard of safety.

There is also often confusion about the extent to which – and in what way – opportunity costs can be factored into risk/cost computations, for example, the longer term costs of restricting a particular activity or of unintended consequences such as risk transfer. But such costs are often very real considerations.

Critics say that the SFAIRP concept allows



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too much flexibility and leads to weak or inadequate precautions being taken. Evidence suggests, however, that, properly applied, RP guarantees a high standard of safety. Investigations, for example, tend to confirm that very few accidents occur where RP measures have been taken.

The real importance of the concept is that it allows scaling and proportionality of response to risk, taking account of relevant variables. The alternative to this might be a rising scale of prescriptive solutions laid down in statute but this would be very cumbersome and might well lead to both 'under-hitting' and 'over-hitting'. RP allows for fine-tuning.

On the other hand, making sound judgements about risk/cost optimisation can pose real challenges for those dutyholders who lack necessary skill or access to professional expertise, particularly where options have to be chosen from a range of possible solutions set out in guidance. For example, to take a case related to public safety, RP water edge treatments to ensure prevention of drowning can vary from little or no action, to shelving and/or planting edges, signage, through to extensive physical barriers. Factors such as population density and foreseeable behaviours can influence whether control measures are minimal or otherwise. The uninformed can sometimes have difficulty in understanding why maximum measures have been taken in one setting but not in another.

What is useful about RP, however, is not only that it allows for flexibility and thus avoids extensive prescription to cover every circumstance but it provides a constant reminder to risk creators, risk takers and regulators that safety is not an absolute but always a matter of judgement. In RoSPA we try to express this simply by saying that things need to be *'as safe as is necessary, not necessarily as safe as possible'*.

On the other hand, RP can give rise to conflicting responses. On the one hand firms tend to welcome the flexibility it provides but when faced with lack of clarity they can then turn round and demand official advice about exactly what would constitute a minimal standard of compliance.

Although the Robens philosophy of health and safety regulation was to move away from prescription (unless it was really necessary) and to promote a goal setting/general duties approach (thus reducing the volume of detailed law), the demand for clarity and certainty about compliance has led to a proliferation of official HSE and industry guidance about

'reasonably practicable' standards.

RP standards in health and safety tend to be agreed in consensus guidance developed jointly between stakeholders on the basis of the best evidence. Such guidance, however, is often wrongly perceived as having prescriptive (regulatory) force and in turn this can induce a marked reluctance by many dutyholders to adopt alternative approaches, even though in practice these may be just as suitable and guarantee a similar – if not a better – standard of safety.

Assessment

The fundamental ideas in our health and safety law about risk/cost optimisation had their origin in the philosophy and practice of radiological protection developed in the 1940s and subsequently. Here the core doctrine was *'justification, optimisation, risk limits'*. In other words: **1.** If an exposure is 'tolerable', is it justified by sufficient benefits?; **2.** Has exposure been optimised? (in other words, has a point of diminishing returns been reached in terms of further dose reduction?); and **3.** Have upper bounds been set? (or put another way, have suitable dose limits been established?). This approach can be applied to all kinds of risk decision-making in health and safety.

In practice, the workability of an RP approach to safety depends on skill in undertaking suitable and sufficient risk assessment. Initially this means establishing if risks are trivial, moderate or high and – if they fall into the last two categories – deciding if control measures are adequate or if more needs to be done (including, in the extreme, terminating the activity). Assessments also enable dutyholders to prioritise risks for attention and they can be generic, specific and/or dynamic.

In many cases, however, those managing risk may actually carry out very little real assessment. Much of what is called 'risk assessment' is really little more than hazard identification and involves minimal exercise of judgement as to the probability or consequences of failure. If this simple approach enables standard but quite satisfactory solutions to be selected from the overall health and safety guidance lexicon then this does not necessarily matter, particularly if it leads to people adopting sufficiently safe systems of work. On the other hand, there is always a danger of 'over-hitting' if the level of risk actually presented by the hazard is trivial and the standard solution selected is substantially more than is really required.

Duties in health and safety law qualified

by RP include those that relate directly to control measures (guards, values for controlling harmful exposures etc) as well as procedural duties, for example, the steps necessary to achieve the right level of organisation, training, information provision etc. In other words, the essential things that need to be done to enable hazards to be successfully identified, risks assessed, the right measures selected and implemented and so on).

Grappling with what is RP when dealing with 'the software' of health and safety management is often more intellectually challenging than deciding on the level of physical risk control measures to be adopted. A simple approach to finding the right balance is what I have called 'iterative triage' or 'The Goldilocks Principle'. (In her search for porridge and beds, Goldilocks found examples that were too hot/hard and too cold/soft and this enabled her to find ones that were 'just right'.)

What all this demonstrates are two awkward truths. These are: **1.** That there is probably no practical regulatory alternative to a goal setting approach supported by RP, especially in the complex risk environment of our contemporary world of work; and **2.** If an RP approach is to be successful in practice, dutyholders need to be suitably informed and competent or have access to suitably competent advice.

Competence

Those daunted by the challenges posed by an RP approach to work-related health and safety often demand regulatory simplification or a return to 'common sense'. The reality, however, is that the risk profile of even apparently benign settings such as shops, offices and schools can often be quite variegated and complex; the devil is invariably in the detail and the right solutions are sometimes quite counter-intuitive. In other words, an RP approach to regulating and managing health and safety risks is undoubtedly a more mature approach than one based on prescription but it is one that only works in practice if the challenges involved are matched by necessary competence.

Getting health and safety judgements right is not always easy but if they help to save lives, reduce injuries and safeguard health – without wasting scarce resources – then the effort involved is surely worthwhile.

Readers' comments are invited.
Email: rbibbins@rospa.com

A sense of proportion

► **RoSPA's occupational safety adviser Roger Bibbings** says HSE's new myth-busting panel needs to be seen as only a small part of a whole series of steps required to create a more risk intelligent society.

The endless drip, drip of silly stories about 'elf and safety', particularly in the tabloid newspapers, is a problem that just does not seem to go away. Not only does it lend support to the general idea that efforts to prevent accidents have gone too far (when accidents are actually going up in areas like the home) but it gives legitimate safety a bad name.

Too often the stories, most of which relate to safety rather than health (I wish people would not use these terms together unless they are actually talking about both), are about some quite trivial risk. Many are apocryphal and others turn out on closer investigation to be not quite as reported. And often it turns out that 'elf and safety' is being used as a convenient excuse to stop something quite innocent happening when other reasons cannot be found.

RoSPA has continued to call for everyone to adopt a balanced approach to safety. We stress that safety is not an absolute; it's all about using good judgement. Our guiding mantra is that *"life should be as safe as necessary, not necessarily as safe as possible"*. If a safety requirement looks daft and over-the-top, it probably is. But if there

is a risk, even a small one, the basic challenge should be to find a consensus between what would be too much safety at one extreme and at the other what would be too little. Consensus about where these two points lie often enables both those who create such risks and those who are exposed to them to find the middle way.

In our recent submissions to government reviews of health and safety by Lord Young and latterly by Professor Ragnar Löfstedt, we have called for everyone to have the right to challenge safety or health restrictions which they feel are unreasonable. The Government has already given the right to citizens to challenge local authorities which restrict public events unnecessarily, and the Health and Safety Executive (HSE) has set up a Regulatory Challenge Panel (RCP) (www.hse.gov.uk/contact/challenge-panel.htm) to enable people to take issue with HSE advice which they think is either excessive or inadequate. And more recently HSE has set up a Myth Busters Challenge Panel (MBCP) (www.hse.gov.uk/contact/myth-busting.htm) to enable organisations or members of the public to seek independent review of safety decisions by non-regulators which they consider are excessive or totally inappropriate. It will draw on a pool of

experienced professionals, be serviced by HSE and be chaired by HSE Chair Judith Hackitt, with HSE board member, Robin Dahlberg, as the Vice-Chair.

The difference between the MBCP and the Regulatory Challenge Panel is that the latter will consider complaints about specific advice given by a health and safety regulator such as HSE or a local authority. Complainants are asked to try to challenge that advice locally before approaching the panel, just as they would under existing HSE and LA complaints procedures. The new MBCP on the other hand will be more flexible.

The new panel has RoSPA's full support but it is still early days and how often it will be called on to give rulings and on what sorts of issues is not yet clear.

It could be argued that to be seen as completely independent it might have been better if this new panel had been set up entirely outside HSE. Indeed, in our evidence to Löfstedt we argued that any safety decision-maker, not just HSE, but any local authority, insurance company, client or even an event organiser, for example, should, where appropriate, have their own such panels or at least be prepared to explain the basis of their decisions if asked to do so.

The press release about the MBCP says:

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"The panel will look into complaints regarding the advice given by non-regulators such as insurance companies, health and safety consultants and employers and, quickly assess if a sensible and proportionate decision has been made. They want to make it clear that 'health and safety' is about managing real risks properly, not being risk averse and stopping people getting on with their lives."

If it is true that there really is a massive amount of excessively risk averse behaviour out there (although no one has actually tried to measure this) then there is a danger that the panel will be flooded with requests for rulings. To avoid this, RoSPA has argued that, like the RCP, the MBCP should ask complainants to first raise their concerns with the primary decision-maker. That way the mere existence of the panel may bring some pressure to bear on hopelessly risk averse people and organisations who insist on precautions being taken to deal with trivial risks. Interestingly, the pro forma on the HSE website for making a challenge to the Myth Busters Challenge Panel does indeed ask for complainants to state if they have made contact with the originator of the decision or advice and to state what the outcome was.

Investigation

The cases that are likely to come to this myth-busting panel will often be where the issue is not clear-cut and where the name of health and safety is being misused. It may, of course, on occasions prove difficult for those doing the background work to track down exactly what has been said and in such cases the panel will probably just have to pass their opinion on the facts of the case as known to them. They are also likely to consider cases that are received through press stories and correspondence coming into HSE, but it will be important nevertheless for sufficient investigation to take place to establish the facts about these cases rather than just accepting press reports at face value.

The press release announcing the MBCP lists HSE's top ten silly stories as:

1. Children being banned from playing conkers unless they are wearing goggles
2. Office workers being banned from putting up Christmas decorations
3. Trapeze artists being ordered to wear hard hats
4. Pin the tail on the donkey games being deemed a health and safety risk
5. Candy floss on a stick being banned in case people trip and impale themselves
6. Hanging baskets being banned in case people bump their heads on them
7. Schoolchildren being ordered to wear clip on ties in case they are choked by traditional neckwear
8. Park benches must be replaced because they are three inches too low
9. Flip-flops being banned from the workplace
10. Graduates ordered not to throw their mortar boards in the air

How this list was arrived at would be interesting to know as would how many of these cases ever had any basis in fact. Indeed, perhaps as their first exercise the MBCP panel should say which of these stupidities were ever actually imposed, when and by whom and which are, as the title of the new body says, purely urban myths. Many, like the wearing of goggles to play conkers, never actually happened as reported but have taken on a viral life of their own, for example, as a result of being repeated uncritically by the popular press many times over.

In contrast to ruling on these sorts of totally over-the-top cases, what is likely to be far more challenging for the panel is addressing allegedly excessive requirements imposed by 'semi-regulators' (insurers, clients, assurance bodies etc) to deal with small but nevertheless significant risks. In the occupational safety setting there seem to be many examples of where clients and others demand more than one belt as well as several braces to deal with problems that can be solved by simple measures.

Too many, for example, demand endless, ritualistic repetition of the same safety training etc when there is no obvious need or proven benefit. And then there are firms that for example insist on all staff, contractors and visitors holding the handrail at all times

when walking up and down stairs at their premises. Holding the handrail is good practice to help prevent falls of course, but is not always absolutely essential and it is certainly not a statutory requirement, although what bearing not holding the handrail might have in any civil proceedings for damages for an injury sustained on stairs is hard to say. How will the panel judge between what is good practice from a civil litigation standpoint compared with minimum action needed to comply with statute?

Some of these sorts of issues which are at the margin between regulatory requirements and good (or best) practice may prove quite tricky, and the devil is often in the detail. The MBCP might choose to be quite selective in deciding what sorts of issues it rules on. It'll be a case of suck it and see.

More generally though, the new challenge panel needs to be seen as only a small part of a whole series of steps required to create a more risk intelligent society, as advocated strongly in the Löfstedt review. A sense of proportionality is key, including about the problem of excessive risk aversion itself. It may be giving legitimate action on safety and health a bad name but it is actually quite a small problem compared with the massive amount of work still to be done to tackle major risks that are still not properly controlled in many areas. A lot more work is also still needed to improve understanding of safety and risk, from nursery school to business school.

Watch this space.

Readers' comments are welcome.
Email: rbibbings@rospa.com

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Mythlea

► **HSE's Myth Busters Challenge Panel has been busy** highlighting overzealous or disproportionate decisions made in the name of health and safety, but RoSPA occupational safety adviser **Roger Bibbings** asks, is it now time to shift focus slightly and examine what can be done to improve safety understanding and risk literacy generally?

In August, the Health and Safety Executive (HSE) issued a report on the work of its Myth Busters Challenge Panel (MBCP) which was set up in 2012 to provide quick rulings on overzealous or disproportionate health and safety decisions by insurance companies, local authorities, employers and excessively risk averse consultants. The case for a panel on these lines was actually something which RoSPA argued for in its evidence to the Lord Young review of health and safety in 2010, primarily to help people to get a sense of what good health and safety decision-making looks like. (Too little safety and people get hurt; too much and you waste time and money, deny people opportunities, create frustration and give legitimate safety a bad name; get it right and you hit the sweet spot somewhere in between these two extremes.)

Since its launch, the panel, which is chaired by HSE chair Judith Hackitt and has twelve members from various backgrounds (www.hse.gov.uk/myth/myth-busting/meet-the-panel.htm), has seen its role as bringing 'common sense' back into decision-making and combating misuses of health and safety legislation. It has received over 200 cases. In some cases it has upheld safety decisions referred to it as sensible but most of its rulings have found that the 'safety' decision in question was made without having any basis in the *Health and Safety*

at Work etc Act 1974 (HSW Act) or related regulations or guidance.

Recent cases have included: under three-year-olds not being allowed in a chip shop in Aldeburgh; a children's soft play centre in Oxfordshire stating "customers must not consume their own food or drink on the premises due to health and safety reasons"; patrons of a village hall in Burford in Oxfordshire using the hall for private parties being told they must use a dishwasher as a requirement of health and safety; a leading DIY store refusing to help a customer cut a piece of timber in store; a gym stating that for health and safety reasons, members are requested to only use the hair dryers for "hair on the head"; a hotel that refused to provide toilet brushes in its bathrooms for patrons on the grounds of health and safety; a table tennis table used by factory workers in break times being removed after it was deemed a health and safety risk; a department store in London which told a customer he couldn't have a fried egg "for health and safety reasons"; an overzealous racecourse steward who confiscated a sun parasol from a racegoer because he said it "posed a health and safety risk"; and a Chinese restaurant that wouldn't provide finger bowls "for health and safety reasons". As Judith Hackitt has said: "The stories just keep on coming in – you just could not make them up..."

The HSE chair has stressed that she wants people to stop using health and safety as an excuse for unpopular decisions, when the decision has in fact been made on

other grounds – such as fears about cost or complexity or worries about being sued. She wants decision-makers to be specific about their reasons for banning an activity on health and safety grounds rather than just hiding behind the catch-all term 'health and safety'. In support of the panel, Minister for Employment Mark Hoban has said: "It's time businesses and others stopped hiding behind health and safety when the simple truth is that they are either jobsworths or giving poor customer service. Their attitude gives health and safety a bad name and it undermines good health and safety which keeps people safe..."

Exaggeration

No one could argue that tackling totally disproportionate advice is vital to restoring confidence in the true purpose of health and safety – saving lives and preventing injury and health damage in the workplace. But there is also a danger perhaps that the perceived problem of health and safety overzealousness – if not downright perversity – might, as a result of all this publicity, become exaggerated and not balanced against the much greater volume of bad health and safety decisions at the other end of the spectrum. After all, for every one case of health and safety nonsense reported on in the 'red tops' there are probably ten times as many cases where basic rules and precautions are being totally ignored (and not being reported at all, even in the more serious newspapers).



ding?

Clearly health and safety laws exist to provide safeguards against people being seriously injured or made unwell at work and are not there to hamper everyday activities. But in press coverage of Judith's recent statements about H&S myths she has been quoted as saying that the HSW Act and subsidiary regulations are mainly about worker safety in 'heavy industry'. HSE has confirmed that she is actually being misquoted. But why one wonders?

The 'heavy industry' angle (not that we have much of it left in the UK!) seems like yet another crude attempt to suggest that the HSW Act is only about 'industrial' as opposed to 'occupational' H&S. Lord Young tried to advance the idea that most modern workplaces are now 'low risk' and that H&S is only really an issue for workers in areas such as manufacturing and construction. He seemed to ignore the fact that the majority of workplaces with significant hazards like farms, hospitals, universities, warehouses, fairgrounds etc (the list is very long) fall outside this definition. And he failed to grasp that, not only are there major cross-cutting issues like slips and trips, musculoskeletal disorders – not to mention occupational road risk – which affect workers in all sectors but that work-related injuries affecting the public are very much a service sector phenomenon. For example, latest HSE statistics show that while 148 workers were killed in 2012/13, 119 members of the public were also killed.

Clearly the panel have been very busy and they could go on being just as busy dealing for a very long time with what looks like a steady stream of absurdities that shows no sign of abating in the near future. But perhaps now is the time to shift focus slightly and to examine what can be done to improve safety understanding and risk literacy generally.

One of the issues on which I have suggested the panel could give guidance is whether

in practice civil liability requires more of dutyholders than statutory H&S duties do.

It is often said that businesses are much too cautious because of today's 'compensation culture' in which anyone allegedly can be sued at the drop of a hat. In fact, in chapter 9 of his review (*Reclaiming health and safety for all*) Professor Ragnar Löfstedt commented that "...the 'compensation culture' (or the perception of it) in the UK has been the subject of several reviews over the last few years, but no evidence has been presented for its existence". He suggested though that "...the belief in a compensation culture is still having a significant impact on the behaviour and outlook of business...".

He went on to comment that: "There is also evidence to suggest that employers do not make a distinction between health and safety regulation and civil law. So what happens within the civil justice system can affect the perceived burden of regulation. Court judgments that appear inconsistent can add to the confusion over the scope of health and safety law and lead to unnecessary over-compliance."

Many people think being sued and being prosecuted are the same and do not understand that when an employer is found to be liable for an accident in the workplace their liability can be divided into two different types. These are criminal liability and civil liability. (Professor Löfstedt pointed out that many employers cannot distinguish between the two.)

In criminal litigation, the State must prove the defendant's guilt 'beyond a reasonable doubt'. In civil litigation on the other hand, where only money as opposed to liberty is at stake, the plaintiff has simply to prove their case 'on the balance of probabilities'. The effect of this difference in many areas of risk may be to cause both employers and third parties (such as their insurers) to 'play it safe' by requiring safety actions which go beyond

what HSE or local authority inspectors might expect to see.

For example, as a condition of cover, insurers may require the fitting of sprinklers when such a measure might not be part of fire precautions required by the H&S regulator. In a free market, of course there is nothing to stop insurers and their clients agreeing whatever terms of contract they might choose between them. The State can make it an offence for citizens not to obey legal safety minima but they cannot punish them for agreeing to go further. On the other hand, if you have been refused cover because you cannot meet one insurer's standard safety conditions there is always a chance that others will refuse you too. Where this is the case, arguably it can turn insurers into semi-regulators.

The panel needs to give a ruling on this perhaps, based not on opinion or anecdote but on rigorous study of a representative sample of decided civil cases for different kinds of injury. It would be useful if it could be established, for example, that for most risk scenarios, sensible precautions to comply with HSW Act duties are actually all that is needed to avoid being sued successfully for negligence. If this is not the case in some areas, such as slips and trips or manual handling injury, for example, then consideration will need to be given to options for closing the gap. In general though, the 'reasonably practicable' standard of safety required by the HSW Act ought to be sufficient, not only to prevent nearly all injuries but to avoid having to pay out if injuries do still occur. And if third parties still demand more, perhaps, like HSE, they should have their own independent appeals panels to give a ruling.

Health or safety?

My final plea is one that I have made in this column before, namely that the panel should discourage people from talking unthinkingly about health and safety all the time unless, that is, they are actually referring to simultaneous threats to both. Often what is being referred to is actually a perceived threat to safety rather than to health as well. Yet this couplet is now so deeply embedded in the contemporary lexicon – and so widely used in everyday discourse – that people have ceased to think at all about the meaning of each separate term.

Other than that, Myth Busters Challenge Panel, keep up the good work!

Readers' comments are welcome.
Email: rbibbings@rospa.com

Proportional & prudent

► **The Health and Safety at Work etc Act 1974** demands that employers ensure absence of risk to workers and others '*so far as is reasonably practicable*'. It is a very sound principle but much misunderstood, says RoSPA occupational safety adviser **Roger Bibbings**.

In my October column I commended the work of HSE's Myth Busters Panel but also challenged them to now move on to look at how to help improve risk literacy in our society – from nursery school to business school. This is not just a question of helping people to recognise dangers or understand risks but to be able to decide how safe is safe enough.

In RoSPA we say that things have only to be made '*as safe as necessary not as safe as possible*'. We do this to communicate to a diverse audience that we are not safety zealots but understand that safety is a matter of judgement which takes into account a variety of considerations.

Of course we understand that, on some occasions, what is 'necessary' for safety may be everything that is 'possible', otherwise things cannot be allowed to proceed. But the main reason we highlight this phrase is because there are just too many stories in the media of people taking over-the-top action to deal with trivial risks. And at the same time there is not enough coverage, of course, of those people that are still not doing enough to deal with really serious risks. Lack of action among welders and painters to cut their risks of occupational cancer (which kills thousands every year) would be one such issue where too little is being done and we also hear too little about it in the media.

As a campaigning safety charity we are

keen that this formulation in defence of proportionate safety, especially when encountered for the first time, is not read superficially. It is designed not just to make people think but also to get them to raise their sense of safety ambition.

We want people to understand that, when deciding how much to do to avert an accidental harm associated with any activity, they need to take measures which will ensure that its probability is sufficiently low, depending on potential severity of the events and consequences they are trying to avoid. But we also want them to realise that they do not need to do more.

The '*as safe as necessary, not as safe as possible*' maxim, however, is not a minimalist doctrine and should not be confused with the slogans of the infamous Manchester mill owners in the 19th century who, in arguing against too much safety, vigorously resisted the guarding of overhead shafts and belting above 7 feet. They said the cost was too high and workers would not be hurt if they obeyed the rules. Individual investigations of horrendous machinery accidents and the determination and courage by the early Factory Inspectorate, for whose dismissal the owners lobbied vigorously, eventually proved them wrong and guarding of the moving parts of all machinery was made an absolute duty.

Today the law does not demand absolute safety and the removal of all risks, however small. The *Health and Safety at Work etc Act*

1974, for example, demands that employers ensure absence of risk to workers and others '*so far as is reasonably practicable*'.

It is a very sound principle but much misunderstood. Critics, including the EU, have wrongly interpreted this qualification of our legal duty to protect people from work-related harm as putting a price on a human life, and the UK has had to fight hard to fend off challenges from the European Commission designed to make us eliminate this idea from our national health and safety law.

Neither does this principle mean that the extent of action to control risks can be allowed to vary according to the level of the employer's bank balance. What is 'reasonably practicable' (safety has to be practicable but reasonably so) is a matter of social judgement and all risk creators have to meet the required standard regardless of their means.

Neither is it a weak standard. The case from which current interpretations stem (*Edwards versus the National Coal Board 1949* – http://en.wikipedia.org/wiki/Edwards_v_National_Coal_Board) says essentially that employers have to go on trying to make things safer until they reach a point of gross disproportion between the measures they take and any resulting safety gain. If properly applied, it provides a high standard of safety. The vast majority of accident investigations show that, had SFAIRP measures been taken, the accident would not have happened.

HSE's document, *Reducing risks protecting*



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people, explains that risks need to be 'tolerable', 'justified' and 'optimised' (TJO – a doctrine that came originally from radiological protection). Risks that confer no benefit (even if they are low) or that are just too high – should be avoided. But below a level of risk that might be considered intolerable, effort has to go on being made to make things safer until a clear point of diminishing safety returns is reached.

This is quite a complicated idea and, in practice, people's understanding – let alone the availability of adequate data – do not permit finely honed marginal calculations to be made.

In RoSPA, when arguing about where to draw lines when developing a safety case, we tend to rely on the 'Goldilocks principle' (beds and porridge too hard/hot, beds and porridge too soft/cold, in the end enable her to find ones that are 'just right'.) Too little safety, people still get hurt. Too much safety and time, money and opportunities are wasted (and as already mentioned, sensible safety gets a bad name too).

Of course it would be easy to advise people when making a safety decision to simply try to find a mid point on an imaginary horizontal scale between these two extremes and assume that this is the 'sweet spot' that will satisfy the law. In practice, an SFAIRP standard of safety – one likely to satisfy a court – is likely to be somewhat further towards the right. In other words, adequate safety is not an imaginary line down the middle of the road but a line drawn somewhere between that line and the right hand kerb.

The law of our country seems in this respect to favour the precautionary principle (adding on a little bit more), perhaps because

it is ever mindful of human frailty and our inability to predict the future exactly (as shown, for example, by numerous previously unforeseen accidents which happened despite the existing rules being followed). Adding a bit more for safety's sake, being on the safe side, adding more defence-in-depth or enough redundancy to a design, for example, are natural instincts of the wise and the protective. Yet because such additional precaution usually involves extra cost, often imposed at a point where those having to pay feel that the disproportion test has already been satisfied, it inevitably tends to elicit their opposition.

What further complicates risk decision-making in this context, particularly where SFAIRP safety measures are not sufficient to allow things to proceed, is how to factor in 'opportunity cost' to the calculation. Clearly the cost of safety measures has to include the costs of any benefits which have had to be foregone as a consequence of safety restrictions. (This is often called a 'risk benefit' calculation.) But care has still to be taken to ensure that, where substantial potential benefits are going to be denied simply because of concerns and uncertainties about allegedly small residual risks, those on the sharp end do not end up being denied the level of protection they rightly deserve.

In this sense, people exposed to risk ought always to get the benefit of any significant scientific doubt.

Where there are big controversies about safety decision-making it often looks like a devilishly tricky business. It should not be forgotten, however, that most safety decisions in everyday life (looking carefully while driving, fitting cleats to tie up blind cords to stop small children being strangled, or a thousand other simple precautions) are actually pretty low cost. They only become controversial to the extent that people have to divert

momentarily from doing other things. But when higher costs are involved (money or lost opportunity especially) things can easily become more heated.

Like it or not, whether it's agreeing a new exposure limit for airborne crystalline silica, choosing the right number of teachers for a school trip, deciding on the height of a balustrade in a new building or agreeing any kind of new safety limit – safety decision-making (acting with sufficient prudence in the face of hazard and uncertainty) is a compromise and is inherently imperfect. Although it can look highly technical, ultimately it is a matter of social judgement informed by the best available science and one in which representatives of risk creators, those exposed to risk, and risk regulators and advisers all need to be able to participate.

Commentators like Simon Jenkins, who generally speaking feel that modern health and safety law has made us all too risk averse, have said that our '*As safe as necessary, not as safe as possible*' formulation lacks any real meaning. Knowing his libertarian antipathy to safety, perhaps we could take that rather neutral condemnation as a reassurance that we're on the right lines – or alternatively we could see it as a sign that we are not being challenging enough.

'*As safe as necessary*' has got to be the right approach but when helping people to understand how to understand what 'necessary' looks like in real life, they also need the knowledge and skills to decide what is safe enough to be sure that they are actually '*erring on the safe side*' without at the same time going too far.

Most safety is not too difficult but sometimes fine-tuning it can be quite challenging.

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Taking stock

► **After 20 years as RoSPA's occupational safety adviser and regular OS&H columnist, Roger Bibbings is stepping down. Here is his parting shot.**

As some of our readers may have already heard, on reaching 65 I have decided to retire from my current role as RoSPA's occupational safety adviser. I have a new part-time role, helping RoSPA with its National Occupational Safety and Health Committee work, with the Safety Groups UK movement and a number of other things. Through these pages I want to say a big 'thank you' to all those friends and colleagues who have helped me so much over the years. Safety is a team effort and I have been privileged to have been surrounded by so many outstanding fellow players throughout my working life.

Stepping down from the full-time role,

however, is nevertheless an opportunity for reflection.

If you were to believe the image of safety that is projected in the media as something incredibly technical, detailed and boring, you might think that a career in safety spanning nearly 40 years would indeed be a life sentence. In fact, for me the very opposite has been the case.

I got into the OS&H field quite by accident when the late Baron Stratford – or Tony Banks as he was then (as head of research in the AUEW) – asked me to answer letters from shop stewards about health and safety issues – and from there it led on to 17 years in policy work at the TUC before coming to RoSPA in the spring of 1994.

In fact, I count myself extremely fortunate

to have ended up where I did – because safety is not a narrow thing in itself; it's a basic requirement in life, in living, in any endeavour and it takes you into almost every sphere, into all kinds of organisations and into so many fields.

Safety decision-making is a point where science and people – and thus politics – meet. I have been frustrated, baffled, angry even – but I can honestly say I have never been bored, even in the slightest. Every day has had a new challenge.

To have been able to work in RoSPA for almost half of my time in safety has also been a real privilege.

I have no hesitation in commending the people of RoSPA as a very civilised cohort of fellow citizens in what is, in many ways, still a

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rough and uncaring world. That is in no small measure because RoSPA's mission, 'To save lives and reduce injuries', is actually a civilising mission, a golden thread in the warp and weft of social improvement in this country but an element in our social history which is rather overlooked in my view.

In the way we teach social history to children, improvements in education, health care, housing, justice, political representation and so on are all up there – quite rightly – but safety, whether at work, on the road, at home or at leisure is actually one of the most fundamental of all human needs, and perhaps the most basic human right.

RoSPA's good friend, David Eves, has just completed a truly excellent short history of OS&H (*Two steps forward, one step back*) which will be coming out online very soon. It shows that we have indeed come a long way since the beginning of the 19th century but not without much effort and many temporary reverses.

And we still have some miles to go of course, especially in areas such as work-related road safety, in occupational health and also outside the UK. Just look, for example, at health and safety performance on projects like Sochi and Rio compared with what was achieved on the London Olympic build.

I also believe passionately that, when it comes to better safety, independent charities have a key role to play – bodies like RoSPA – not just as 'the people's friend' providing help through information, training and services and so on but as the 'people's bugle' too – working out with everyone involved what needs to be done and persuading those in positions of authority – be they a mum at home or a minister in Whitehall – to take action.

So, over the next 18 months, true to this tradition, RoSPA's National Occupational Safety and Health Committee (NOSHC) will be undertaking an in-depth inquiry and interacting with key people and organisations to get perspectives on what now needs to be done to further improve UK OS&H performance.

This will be based on a call to the main OS&H system stakeholders (as well as to the wider public, via social media possibly) to submit evidence on key issues. Key contributors will be invited to condense their cases into 'Parting Shot' pieces to be published in this column. A 'core group' of NOSHC members will also be formed to guide the process and help stimulate/ elicit contributions.

After a time, we will then start to write up the results in a concise fashion, focusing down onto key issues in UK OS&H, developing solid and well argued medium and longer

term recommendations on the way ahead. The aim will be to get the focus of national debate in our field back onto performance improvement – after too long arguably spent by ministers on the question of 'burdens'. It will also follow up on the issues emerging from the Martin Temple Triennial Review of HSE (just published) and hopefully provide an education for all colleagues about the really critical issues in today's OS&H policy landscape.

One of the issues rightly identified by Temple has been the need to coordinate action between all the players in UK OS&H to combat the scourge of work-related health damage. We have been successful in reducing fatal and serious injuries but even the more conservative estimates suggest there are over 12,000 early deaths annually due to past exposures to hazardous agents in the workplace, such as asbestos and other carcinogens, as well as dusts and fumes generally. And these hazardous exposures are continuing in many areas despite solutions being available. But why one might ask?

Part of the answer must surely be the persistence of negative perceptions of OS&H in many quarters, including in some parts of business, politics and in the media. 'Health and safety', allegedly, is still very unpopular. Our subject has now assumed a strange status – the butt of jokes and jibes and media stories about a whole litany of absurdities.

In reality the antipathy which many seem to feel towards health and safety is probably not anything to do with their critique of the subject matter itself. Negative perceptions of OS&H probably have much more to do with how certain people feel about the subject rather than their knowledge of it. Indeed it appears on occasions that some critic's depth of opposition to H&S is in almost perfectly inverse proportion to the depth of their knowledge of the detail.

By way of contrast I find that in businesses with good health and safety records and culture – informed by training and involvement – workers' attitudes to health and safety do not reflect the anti OS&H views that are commonly expressed, for example, in the newspapers they buy or on the radio shows they listen to.

On the other hand, after the three recent Government commissioned reviews of H&S (which have, broadly speaking, given it a clean bill of health) opposition to 'elf and safety' among its fiercest critics remains as strong as ever. I have a strong feeling that the pro and anti health and safety communities may actually be talking past each other. The antis are not inclined to study the detail (where they feel they will always be at a

permanent disadvantage). We, for our part, may not feel inclined to try to get inside the skins of our critics and to feel about the subject the way they do.

So part of the work of NOSHC over the next year will have to be to look at what sorts of new approaches might unlock this impasse, particularly around threats to health. Safety Groups UK, for example, are continuing to raise awareness via their 'Health risks; do you know yours?' campaign (www.safetysgroupsuk.org.uk/topics/health_risks_at_work.htm), focusing on the 'high five' threats (to breathing; feeling and touch; muscles and joints; skin; and well-being). Rather than just relying on patient explanation, perhaps we need to begin to use the kind of emotional tactics (such a practised by safety champions like Ken Woodward and Jason Anker) to begin to win zero tolerance among workers and employers for unhealthy working conditions.

And perhaps a better starting point might be to engage with those who previously were sceptical about workplace health threats but who have now changed their minds. We could learn a lot by listening carefully to their personal stories. Rarely, for example, will it be the case that, as an allegedly cash driven, amoral calculator, an SME suddenly sees the light and takes on board 'the business case for occupational health' just to make a few bob. Much more likely is that they get called to account for their approach to OS&H by a partner organisation or they have experienced an easily preventable health tragedy.

OS&H is indeed a 'hearts and minds' battle. But at root, it is a battle for the mind, not just the mind of people at work but in wider society where accidents and easily preventable ill-health remain a much greater scourge that most of us (including most politicians) choose to realise. Yet as in most great endeavours, the way to the mind is through the heart not the head.

So my 'Parting Shot' to RoSPA colleagues and our readers is quite simple, 'Never stop fighting the good fight for better health and safety. Never stop studying, never stop thinking, persuading, communicating what needs to be done to save lives, reduce injuries and safeguard health'.

As you will have gathered, it's not really goodbye from me after all, just so long for now!

Many thanks again to all friends of 'OS&H' for all your help and support.

Readers' comments are welcome.
Email: rspencer@rospa.com