Chapter 1

Political strategy

July 1996

'H&S in the run up to the election'

As we move towards the clamour and turmoil of a general election, it is vital that politicians of all parties should be pressed to explain their plans for making Britain an even safer country in which to work.

In pursuit of its mission to '... exercise a powerful influence for accident prevention' RoSPA has prepared a discussion document - *Health and safety: options for future progress* - which it is sending to all the major political parties as well as other key institutions. The main point RoSPA makes is that the health and safety 'system' now in place (policy making, laws, workplace inspection, research, information, training etc) needs to be strengthened by involving and empowering other key players alongside the HSC/E. This means enhancing all the factors which are currently 'driving' the system, including: enforcement; claims for damages; workforce and public expectations; and business self interest (e.g. reducing costs to businesses due to accidents and work related ill health).

Despite some of the more obvious strengths in the 'system' (HSE's professionalism, the involvement of employers and unions and the growing importance of the health and safety professional), there are also many weaknesses. These include: understaffing of HSE; widespread ignorance about hazards, risks and control measures; low penalties; lack of economic incentives (for example, no link between health and safety performance and insurance premiums); lack of integration of health and safety into business development programmes (like BS 5750, IIP and MCI); and the growth in the number of small firms (95% of all UK businesses now employer fewer than 50 employees, accounting for over 45% of the workforce).

It is clear that, in the period ahead, there is going to be much less new legislation. While the 'architecture' of UK health and safety law will continue to be refined, the key to future progress is going to lie in finding new ways to enhance the implementation of existing requirements.

To make effective risk management a reality in every UK workplace what is needed now is not only a major resource injection into HSC/E but the development of new strategies and approaches which will encourage and empower other health and safety system players to exercise a much stronger health and safety 'promoting' role. In turn this means strengthening the leadership role of the HSC, expanding its membership to include representatives of other major players like health and safety professionals and setting up new high level advisory committees to examine issues such as small firms, research, training and health and safety services.

A new approach is needed to assist small firms to clarify what they are required to do by giving them the option of developing, with outside assistance, HSE and Local

Authority 'acknowledged' health and safety plans. Also key 'intermediaries' such as Business Links and trade associations need to be encouraged to provide more effective advice on health and safety management to their small firm clients and more HSC/E support is needed to expand and develop the role of local health and safety groups.

Minimum competence standards need to be set for managers. Mandatory periodic health and safety management auditing may be required, for example for higher risk businesses. New kinds of economic incentives (tax concessions, grants etc) should be developed to encourage and reward higher standards of performance. New corporate criminal liabilities may need to be created ('corporate killing') with more effective sentencing of offenders (for example, use of 'remedy orders' under the HSW Act). Also a voluntary code of practice should be introduced to encourage better coverage by companies of their health and safety performance in their annual reports.

A vital part of any new strategy must be the expansion of HSC/E's awareness raising role and addressing new risk issues such as occupational road risk, occupational stress, promotion of 'off-the-job' safety or tackling persistent problems such as under-reporting of accidents. New materials, databases and networks will be required to allow for more rapid exchange of information on problems and successful 'solutions' to risk elimination/control or to learn from 'exemplar' organisations through benchmarking.

All this means that HSC/E will have to have available adequate pump priming finance to activate and encourage collaborative development and demonstration projects - helping others to show 'how it can be done'. One such initiative might be the establishment of a network of risk assessment centres, allowing centres of excellence in this field to share experience and new thinking and to collaborate.

These and many other similar proposals are being suggested by RoSPA to stimulate debate on health and safety in the run up to the election. We would like to see new all party fora set up to allow for discussion about the way ahead, including better briefing for MPs and officials, more HSC/E 'consultation' seminars and possibly some kind of new kind of health and safety convention.

May 1998

‘National contract for better health?’

‘The devil's in the detail!’

Challenged and encouraged albeit tinged by a slight sense of frustration. These were my first feelings on reading the Government's eagerly awaited 'Green' (consultation) paper, *Our healthier nation - a contract for health*. Covering England (similar documents have been/are being produced for Wales and Scotland), the document sets out an ambitious and sophisticated view of what needs to be done to reduce illness and to enable people in Britain to live longer and lead better quality lives.

It presents a holistic view of the origins of ill health, not only people's behaviour as individuals but factors such as poor environments - whether at work, at home or in the community - or substandard diet, poor water and air quality or inadequate access to health and social services. It talks of responsibility for the causes of ill health being shared by Society as a whole and proposes a 'National Contract for Better Health'. This in turn is broken down into a series of contracts in which the causes of poor health are tackled by a range of linked programmes. It makes statements such as "Now we want to see more action on the things which damage people's health which are beyond the control of the individual".

The 'contract' idea is underpinned in major ill health areas by some fairly ambitious targets for improvement by the year 2010: a 35 per cent reduction in heart disease and stroke, a 20 per cent reduction in accidental injuries and in cancer and a 16 per cent reduction in suicides.

A particularly encouraging feature of the paper is its emphasis on reducing social inequalities in health - a matter now being examined in more detail by an independent inquiry set up by the Government under Sir Donald Acheson (former Chief Medical Officer) and to which RoSPA has recently submitted evidence. In its submission RoSPA emphasised points such as the contribution which action to improve health and safety in small firms could have in reducing ill health among employees from disadvantaged socio-economic groups. It has also drawn attention to the case for better rehabilitation arrangements in the UK since accidents and work related health damage to those without adequate compensation provision are themselves a significant cause of poverty and further ill health.

Yet perhaps because the scope of the 'Green Paper' is so broad, the relationship of better occupational health and safety and the overall improvement of the health of the nation end up being somewhat underplayed. The paper talks about businesses bringing new skills to bear "... including improving the health and safety of their own employees ..." and, in the section "A Contract for Healthy Workplaces", it does talk very briefly about the need for employers to have " ... excellent standards of health and safety management..." including reducing stress, creating flexible working arrangements, a smoke free environment and healthier choices in relation to matters such as means of commuting to work, canteen menus and so on.

It also makes mention of the Health and Safety Executive's 'Good Health is Good Business Campaign' (but without actually explaining what it is) and the need for both employers and employees to contribute to HSE's forthcoming consultation exercise on a ten year strategy for occupational health.

Of course, as ever, 'the devil is in the detail'. So the 'Green Paper' needs to be seen as an opportunity for all those concerned with occupational health and safety to write in to Secretary of State, Frank Dobson and Minister for Public Health, Tessa Jowell highlighting the major impact of work on health and the massive contribution which exists for workplace action to improve public health as a whole.

For example, while, as you would rightly expect, cancer prevention is discussed at some length in relation to reducing smoking, there is no mention of the asbestos disease tragedy (currently over 3,000 deaths a year and rising). On accidents, there is no mention of the impact the management of occupational road risk would have in helping to reduce the tragic toll of death and injury on our roads. On suicide there is no explicit mention of the need for employers to have better policies in place to combat stress at work and to promote good mental health.

It is to be hoped that all this will be covered in more detail in the 'White Paper' which will be published in the summer in conjunction with Sir Donald's report - when hopefully new ideas for tackling health and safety at work can be set out more fully.

For example, the 'Green Paper' talks about the idea of 'Health Action Zones' and the development of local improvement plans to be delivered via local partnerships This is surely an excellent opportunity for the eighty or so local RoSPA affiliated Health and Safety Groups to link up with other agencies and develop new synergies to promote better occupational health in the businesses with which they have contact as well as with new business start ups.

The idea of targets too needs to be taken into the workplace with every business being encouraged to consult its employees and agree its own targets for improvement in relation to matters such as reducing exposure to noise, dust and harmful chemicals, redesigning economically substandard workstations or reducing stress and sickness absence levels. Why not, for example, set a twenty per cent accident rate reduction target across-the-board in line with the proposed national target for accident reduction?

Also, and hopefully this too will be examined in more detail in HSE's ‘Ten Year Strategy’, a way has got to be found through the persistent failure of the primary health care system to deliver preventive advice and services to workplaces. Despite many good and continuing efforts to raise their awareness, it is still the case that the majority of GPs understand far more about how to make sick people better than they do about what they can do to stop them becoming ill in the first place.

Would it be appropriate, given the new expanded role envisaged for GPs, to include in every new 'primary care group' of practices, purchasing arrangements which would enable them to provide the services of health and safety professionals (advisers, OH nurses and hygienists etc) to local businesses in their area?

August 1998

Strategies, strategies everywhere...but no one plan in sight'

For the most part the motivation behind this kind of speculation seems to derive from a genuine desire to look forward and to explore both how the health and safety movement can respond to scientific, economic and social change and how it can explore new ways in which everyone concerned with preventing work related harms to people and the environment can work together in a much more co-ordinated way.

Examples of this kind of strategic thinking abound. Firstly, there is the Government's Green Paper *Our Healthier Nation* (which actually says little in detail about occupational health and safety - see my article in May's *OS&H*); then there is the HSC's 'Small Firms Strategy' and, related to it, the Commission's 'Contractual Relations Strategy' launched recently by HSE's Ex-Director General, John Rimington. (This is a positive attempt to harness the 'quality revolution' in blue chip companies to influence health and safety standards in smaller companies with which they do business in the supply chain - see July *OS&H* News). We also have the recent TUC/CBI/IOSH Study into the empowerment of the health and safety professional which seems to have produced a mass of fascinating anecdotage from health and safety advisers and others but has yet to result in any real analysis and conclusions or indeed recommendations.

Another example of the condition concerns an interesting draft paper to be found on HSE's website seeking views on the development of a ten year HSC/E strategy for occupational health. The fact that the paper had over 1000 visits in the first few weeks suggests a high level of interest out there as well as to the potential value of HSE using Internet more in the future as part of HSC/E consultation generally.

Building on HSE's earlier Health Risk Reviews (HRRs), the paper asks readers to look into the future and consider a vision of occupational health (OH), including what the subject might look like in ten years' time and what the decisive influences might be.

As those who have followed the 'Good Health is Good Business' campaign will know, HSE is keen to get away from the notion that OH is the sole preserve of occupational physicians and possibly OH nurses. They want managers to become more conscious of their role in helping to identify OH problems and to apply solutions. As with those like Bazalgette who, in constructing London's sewers in the last century did more than the entire medical profession to improve the health of the people of London, so in the next ten years it must be for those with the power to influence the way work is organised to make the biggest contribution to the improvement of OH.

If this is to happen however one major problem to be tackled is the generally poor grasp by many managers of what OH actually is. Many still have the BUPA 'salad and saunas' view of OH - focusing on some tangible aspects of lifestyle and staff welfare and not on key questions such as those formulated by the early pioneer, Sir Thomas Legge - including his famous dictum: 'is the job fit for the worker?' and 'is the worker fit for the job?'.

For too long OH has been the 'poor cousin' in the health and safety relationship. What is not well appreciated is that OH problems are now far greater than injury due to accidents at work. For example, early death due to past exposure to hazardous substances is at least an order of magnitude greater than death due to workplace accidents (even if deaths in 'at work' road accidents are included). Analysis of the results of the Labour Force Survey, for example, suggests some 2.1 million cases of ill health annually caused or made worse through work, compared with about 1.06 million injuries due to accidents.

All this justifies shifting the focus onto health at work. We need a vision of the future in which no worker's health is damaged in the course of their earning a living; in which employers take account of people's health so they can deliver to their full potential; and in which they are able to live longer lives, of better quality, than the previous generation.

What does not make sense however is to assume that a strategy to deliver better health at work (or indeed through work, if we are thinking of health promotion as well) can be developed in isolation from strategies designed to deliver better safety or better control of risks to the environment or indeed risks to consumers.

At the level of the organisation the essential ingredients are the same in all cases - knowledge of problems and solutions; the corporate will, competence and capacity to control; the capacity to monitor and review; and the capacity to feed back lessons learned and to improve both management inputs and process outputs.

What the HSE's 'Ten Year Strategy' therefore needs to address are all the current barriers to better OH management and the steps necessary to demolish them. In fact these are much the same for safety as they are for health. And the tactics are not just about better research and better information provision (although both are vital); and they are not just about changing attitudes (although there are still too many in positions of responsibility who 'know' but don't 'care'); and it is not just about deciding what the next 'asbestos' or 'stress' OH scandal will be in 2010.

To be really effective OH has got to it will be 'driven' by powerful internal and external forces, including traditional ones like regulation and workforce participation, emerging ones like the 'quality imperative', and novel ones like 'corporate social accountability' and higher social expectations generally.

A strategy is the 'overall plan'. Having too many plans is rarely a recipe for anything except chaos. Let's see some joined up 'strategising' otherwise we may have to put out an SOS!

November 1998

‘Overseas development’

‘The Overseas Development Agenda and occupational safety and health’

Last Autumn the Department for International Development (DflD) published the Government’s White Paper, *Eliminating world poverty: a challenge for the twenty first century*. This sets out future UK strategy for overseas aid, targeting the poorer countries. Yet, while it focuses heavily on important issues such as equal opportunities, environment arid employment rights, it contains no comparable discussion of the need to raise standards of health and safety at work.

In fact throughout the document the subject is not mentioned once - suggesting perhaps a complete failure to understand that economic development will create work related risks that need to be controlled and that developing countries do not have to repeat the occupational accident and ill health experience of countries such as Britain before they begin to put health and safety nearer the top of their development agendas.

There is on the other hand a commitment in the White Paper to create a 'forum' of key interests to build support for the objectives in the Government's overseas development agenda and to report annually. RoSPA would hope this would provide an opportunity to focus on what initiatives can be taken in the area of health and safety.

Whenever funding for major projects is provided by bodies like the World Bank, there does now seem to be a much stronger emphasis on issues such as waste management and environmental protection. What needs to be probed, however, is why this does not seem to extend to equally important areas of risk management such as ensuring the safety of those who are going to be working on such projects or of those who live close by.

In developing countries as elsewhere in the world, besides imposing unquantifiable human costs, work related accidents and disease are a major drain on economic performance. Yet this receives little attention, perhaps except in the wake of major disasters such as Bhopal, where catastrophic loss of life is accompanied by chronic long term health problems and environmental damage.

Rates of fatal and major occupational injury are substantially higher in developing countries than they are in the US and Western Europe. Despite the commitment of many major international companies to operate universally high standards of safety worldwide in conformity with principles of ethical investment, in practice they still experience real difficulties in achieving these in all the countries in which they operate.

Traditionally bodies such as the UN's International Labour Office (ILO) have assisted with the development of legislative and enforcement systems in developing countries and have delivered a wide variety of training and provided a means of exchange of information between labour inspectorates worldwide. The World Health Organisation (WHO) may also have involvement in this area. The overall picture, however, seems

to be patchy although the EU has recently been funding work in promoting programmes in Central and Eastern Europe, possibly because this is considered important in the context of future EU enlargement.

The only sustained input seems to have been by the international trade union movement, for example the training programmes organised by the Commonwealth TUC (CTUC) mainly for union officers in Commonwealth countries.

For its part RoSPA is anxious to consider a range of possible options for work in this area including:

- helping to establish health and safety promoting and providing bodies like RoSPA in developing countries;

- as part of this, setting up similar schemes to RoSPA's occupational health and safety awards to encourage improvement in local organisations' health and safety performance;

- helping set up health and safety exhibitions and congresses in such countries;

- establishing health and safety training programmes - with particular emphasis on training trainers and developing approaches appropriate to the industrial, regulatory, political and cultural environment of particular countries;

- similarly, developing driver training;

- facilitating funded consultancy work on specific problems;

- developing health and safety information services and means of information access and dissemination; and

- mounting specific development projects - for example, helping to establish voluntary health and safety groups on the lines of the network of groups affiliated to RoSPA in the UK.

While RoSPA already has some level of overseas involvement (mainly through consultancy with major clients where there is undoubtedly scope for developing 'good neighbour' health and safety activities at a local level), it needs good advice on how to identify and respond to new international development opportunities. The Society is currently undertaking a desk top study of problems, activity and opportunities in this field. A small reference group of relevant experts and contacts could be useful in this context. It might also be possible to work with a university department involved in development issues.

August 2002

‘Safety from the top’

In the wake of the break up of the DTLR into separate Departments focusing on transport arid the regions, consideration is being given as to where the Health and Safety Commission/Executive (HSC/E) should be now be 'nested'. HSC started life in the then Department of Employment (specifically not in DTI because of the perceived conflict of interest with its role as the Department sponsoring industrial production). Eventually HSC/E found its way into the Department of the Environment where, following the establishment of DEFRA, it ended up in DTLR. At the same time, a new integrated unit providing a focus for safety policy relating to fire, building safety and work safety was beginning to emerge in DTLR.

Apart from its role as a champion for tackling work related problems, HSC/E is a great national storehouse of expertise. Thus choosing its future home within Government is very important not just to safeguard its continuity but for the health of Government safety culture generally.

Where HSC/E should now sit also raises more general questions about how safety is addressed by various Government departments, which have safety responsibilities, and indeed how the whole question of safety is viewed by senior officials and ministers.

Safety is essentially about reducing risks. It's not about providing absolute assurances. Neither is it about banning things and restricting opportunities. It's about getting the balance right between risk and cost. It's about saving lives and money and reducing fear and anxiety. Safety is a benefit not a burden. Good safety is good business.

There is no doubt that the real social and economic costs of UK safety failures are truly massive. The costs of work related accidents and ill-health are estimated to be up to 2.6 percent of GDP. There needs to be a realistic costing of the consequences of accidents in all spheres: road, rail, buildings, fire, medicines, food, home, water and leisure etc etc. Such an aggregated costing exercise could do much to help enhance understanding of the price we currently pay for prevention failure in the UK.

Safety is not just a matter of taking ad hoc measures after the event. It has to be managed systematically - whether by organisations (e.g. work) or indeed by individuals (e.g. in the home).

In the business sphere safety is now projected by Government as a top priority board level issue (not just to be left to middle ranking technicians) with a clear presumption in favour of target setting and performance reporting by all major businesses. But to what extent can it be said that Government addresses safety as a matter of strategic priority? Does the Government really have a joined-up, proactive approach to safety? Is there really a safety management plan for ‘UK PLC’? Why, for example, is UK safety performance not part of the Government's annual report?

Although ideally safety should be entirely self-regulating (risk creators and risk takers behaving responsibly), history tells us that if safety is left to market forces people

suffer needlessly. Safety/risk management needs to be led by Government and, where appropriate, regulated.

Safety will not work if it is seen as a 'bolt on' or an afterthought; it has to be 'built-in' from the start. In business it is understood that safety has to be integrated into everything and thus into every decision. Similarly in Government, policy responsibilities for safety are spread across practically every Government Department and agency. Safety is not just the responsibility of obvious developers/promoters/enforcers such as the HSC/E. There are numerous Departments with major safety responsibilities.

Yet most Government Departments tend to lead safety in their areas by stewarding specific regulations within their purview rather than serving as a 'development agency' for their part of the safety system, helping all their stakeholders to work together to achieve continuous improvement in safety performance.

And there are still very different cultures and approaches in different areas of Government. For example, some Departments/Agencies have separate strategies coupled with headline casualty etc reduction targets, (e.g. road, work) but most others don't.

Also, there is an imbalance in ways in which safety and accident prevention across various areas of risk exposure are addressed. (For example, compare Government spend on occupational safety [450 deaths p.a.] with home safety [3,500 deaths p.a.]!)

Also, many Government initiatives can leave safety out entirely unless severely prompted to include it: (Overseas development projects, 'Investors in People' etc etc).

Arguably occupational health and safety in the shape of the HSC/E remains the pre-eminent powerhouse - both intellectually and practically - and has the most developed stakeholder approach. In many ways it needs to be seen as the 'safety department' in a company, championing, training, facilitating action across all divisions and departments.

HSC/E for example, have led cross-departmental approaches to risk assessment and have helped to create greater consistency of approach to safety through targeted risk/ evidence based approaches.

On the other hand, despite the work of the 'Better Regulation Unit' of the Cabinet Office, there are still pockets of prescriptive safety legislation emerging. Goal setting safety law should be the norm but sometimes safety regulation still goes 'over the top' (viz the new 'Care Standards' which may require many well run residential homes to close if they do not measure up to every particular!)

The central question is how are the various safety roles of individual Departments to be developed and how can they be linked via cross cutting teams which can help maintain a proactive focus on safety and risk management and not allow these vital issues to slip down the agenda or be lost sight of altogether?

This is not just about of structures. It is also about education and culture. There is clearly a need to continue to change perspectives about safely and to inform senior

officials and political representatives. Safety and risk education remains a high priority, not just for school students but for the media, academic leaders, the safety significant professions not to mention officials and even Members of Parliament!

Approaches to corporate risk management flowing from the Turnbull Report have started to generate a more coherent approach to risk, both in organisations and across Government departments and agencies but much of this is still quite formulaic. The risk message is getting across but still more work is needed to help key people see how it relates to questions of safety, particularly helping them to understand the complex and multi-branched nature of prevention failure. Rarely, if ever, are accidents simply 'freak' events with simple explanations!

As regards Government's responsibilities as an employer, there are certainly signs of greater co-ordination, for example, through the new '*High Level Forum*' established by Government Departments as part of the Government's '*Revitalising H&S at Work*' programme. Yet to what extent are Ministers being scrutinised to assess how well their Departments are working together to achieve a 'joined up' Government effort to control safety risks and drive down the current level of safety failure, harm and consequent loss across the UK as a whole?

Certainly there is much evidence of good technical liaison and networking but to what extent is this actually achieving a more coherent safety and accident prevention strategy for the whole UK?

RoSPA feels there is a strong case for a senior Minister to be tasked with reviewing how well the development, promotion and regulation of safety is being achieved across UK Government Departments. Also, following the analogy of safety management in business being led 'from the top' by the Chief Executive, there is a clear case for the Prime Minister to seen to be giving a much stronger lead by periodically making strong statements about the Government's safety goals and targets and issuing challenges to key safety stakeholders.

RoSPA feels that consideration should be given to appointing a senior Government minister as a 'safety supremo' with a wide safety remit, not just to help develop 'joined up' approaches to safety right across Government but to work with all key stakeholders to promote, link and strengthen a series of wider safety strategies to achieve a sustained improvement in national prevention performance.

Arguably this is a role that does not sit easily in any particular Government Department.

Seen as an essential feature of good management, some might argue that it should be nested in DTI but there are (as mentioned above) significant 'conflict of interest' issues here.

Seen as an educational challenge it could be located in the Department for Education and Skills (but, while they are important ingredients, education and skills are only part of the safety mix).

Seen as injury prevention one might imagine it sitting in the Department of Health. At present DoH is focused on preventing injuries rather than being fully focused on the much bigger challenge of preventing accidents. Nevertheless, creating a national lead for safety in DoH could theoretically have the advantage of making performance on prevention sit alongside performance on treatment (picking up the pieces!).

Alternatively, seen as flowing from the work of HSC/E, it could be argued that this role, together with the Commission and Executive, should now be located in the Department of Work and Pensions.

Nesting HSC/E in DoH would involve a conflict of interest with the latter's oversight of the NHS as Europe's biggest employer. Nesting it in DTI would mean it would end up as usual as just another Parliamentary Under Secretary of State portfolio and H&S would be conflicted not only by the industry sponsorship issues, but action on specific issues could also be subject to narrow economic tests which failed take account of the wider safety and business cases for prevention.

Or one could see it as an overarching responsibility at the level of the Cabinet Office.

Of course there are those who might be tempted to argue that making progress on safety is really a practical issue and that shuffling ministerial responsibilities is not likely to make much difference at ground level. Such people would do well however to re-read the reports into major disasters of the last few decades which, time and again, have shown the roots of prevention failure to have been located in inadequate institutional arrangements for safety research, development, promotion and regulation. Good policy governance of safety leads to sustained changes in culture and standards and in the end does save lives and money.

Poisoned chalice?

Then there might also be those who, observing the reluctance of some board level Directors to take on the 'Safety Director' role, would expect that ministers too would see the role of 'safety supremo' as a 'poisoned chalice'. Every rail crash would be laid at their door. Every enquiry into every disaster would uncover a litany of gaps in the safety regimes concerned which the 'Minister for safety' should have already spotted and closed.

Yet conversely, if the minister established her/himself as a national 'safety champion' and not a 'scapegoat', and recognising the extent to which safety permeates every issue and consideration, the 'safety supremo' role, far from being high risk/lower order, would in practice be extremely powerful and influential. In reality, the jealousies and resentments that this could create would be a far harder challenge for them to tackle than fear of blame for failure to prevent the next tragedy or reduce the current casualty figures.

Whether the idea of a 'supremo' is the right way forward or not, RoSPA is convinced that Ministers need to continue to examine the adequacy of current arrangements for safety policy governance within Departments and UK Government as a whole. If Government, like leading businesses, truly believes that safety is a matter of continuous improvement, then questions of safety policy governance should be a

standing agenda theme at Cabinet level. Finding the right answers means understanding the strengths and weaknesses of current safety strategies at Government level, identifying options for moving forward and taking action.

Do we need, for example, further Commissions like HSC, with independent chairs, for road safety and home safety? How can we achieve a joined-up approach to water safety and so on?

Remember, people who today are alive and unharmed will suffer needlessly unless these strategic questions are addressed effectively and coherently at a senior Government level.

November 2002

‘ELCI: crisis or blip?’

With Health and Safety Executive (HSE) input, Government officials in the Department of Work and Pensions (DWP) (the new home for the Health and Safety Commission/Executive) and the Treasury are understood to be discussing the crisis in the ELCI market as a matter of urgency - to assess the situation and to look at possible options. There are likely to be those who will argue for minimalist intervention (what might be termed 'tinkering') and that time is needed to help the market readjust. And there are likely to be those possibly who will argue that this 'crisis' should be taken as an opportunity to restructure (or 'transform') arrangements in the UK for work related injury and ill-health compensation.

The TUC, for example, made some innovative proposals in 2000, for restructuring work related injury and ill-health compensation arrangements in the UK designed both to improve compensation and improve rehabilitation arrangements following injury at work and also to raise OS&H performance by adjusting employers' contributions in line with their OS&H management performance and using compensation funds as a source of funding support for prevention work.

As part of the Government's and the Health and Safety Commission's plans for 'Revitalising Health and Safety' (RHS), HSE are committed to examining ways in which the ELCI market can be used to help incentivise better standards of OS&H management - although progress on this by HSE has been quite slow. Historically ELCI has not been a really powerful OS&H performance 'driver'. While some insurers have started to rate clients' OS&H management standards and have provided risk improvement services (mainly for higher hazards clients), ELCI premia have tended to be set actuarially on the basis of sector risk profiles and the clients' claims histories rather than with reference to their health and safety management capability.

This is not least because of the way cover has been sold as a 'loss leader' in a competitive market - typically in a basket of products covering lines such as, occupiers' liability, fire, product liability, motor fleet insurance etc. The cost of ELCI is rising sharply, not just because of what has happened in the insurance market post September 11th but because of longer term trends in injury compensation due partly to the asbestos legacy and the rising claims rate (particularly as a result of conditional fee arrangements) and re-assessment by insurers of future claims patterns, particularly for specific forms of work related ill health such as musculoskeletal disorders and stress.

Some would argue that, partly because of the way the market operated in the past, the true compensation costs of accidents and ill-health were underestimated and were, for the most part, absorbed in wider insurance business plans. All that is happening now is that the market is re-adjusting to real and future perceived costs. Two of the major ELCI providers. Royal and Sun Alliance and Zurich, however, are on record as saying that the present regime in the UK for work related injury compensation is unsustainable.

In other industrialised countries, in the EU and the Commonwealth particularly, there has been a much closer connection historically between insurance for workers' compensation for injury and ill-health at work and the funding of prevention services, for example, advisory, technical and training services. These arrangements have varied from the work of the 'BG's in Germany and the CNAM in France, to workers' compensation boards in New Zealand, and in individual states and provinces in Australia and Canada. There is also a range of public and private arrangements in the various states of the USA.

In contrast, in the UK the delivery of both ELCI and the provision of OS&H services has been left to the open market. In RoSPA's view RHS failed to open up a real debate on whether worker compensation arrangements in the UK might be restructured, not just to help incentivise better OS&H management performance but to help secure resources for promoting and supporting the development and delivery of OS&H services to employers such as technical advice (engineering, ergonomics, occupational medicine and hygiene etc), management advice (auditing etc) and health and safety training (for example, both manager and safety representative training and specific skills training).

The latter in RoSPA's view is still a major gap. Good employers invest in training. Poor ones do not. And the wider training regime does not address OS&H very well. 'Investors in People' (IIP), for example, does not address this in any real depth (by looking at the status of OS&H management systems and the results of risk assessment). While clearly focused on enhancing motivations such as the 'business case' for OS&H (costs of accidents etc) and extending HSE's contractual relations strategy to encourage large clients to influence OS&H in small firms, RHS was arguably weak in developing a critique of the current status and effectiveness of whole the OS&H 'supply side'. (In the light of this gap, RoSPA, the BSC and IOSH are to meet shortly to press HSE to carry out a strategic review of OS&H training.)

Whether the current state of the ELCI market is a 'crisis' or merely a 'blip', it clearly represents an opportunity for looking to the future. RoSPA would like to help develop the debate about options in the present context, not only to allow for continuing discussion about enhancing the role of insurance. As well as including the subject at its Scottish Congress, held in September this year, RoSPA is producing an internal briefing with help from the Association of British Insurers (who are represented on RoSPA's National Occupational Safety and Health Committee) to help the Committee and its staff gain a better understanding of the issues involved. The question arises whether and how a wider debate can be facilitated between key stakeholders. ABI are understood to be taking a lead, briefing Government officials and the CBI and the TUC but others need to involved as well such as IOSH, APIL etc).

RoSPA would be anxious for the debate to be as open, inclusive and as wide ranging as possible and to encompass such questions as: 'Why doesn't the ELCI market work?' 'Are employers paying enough to enable insurance to meet the real costs of accidents?' 'Can a private, competitive market be expected to deliver effective incentivisation linked to key ('input', output', 'outcome') measures of performance (e.g. management/culture, compliance with controls, reduction in error harm and loss)?' 'Can a private market be expected to deliver the support and development services needed by businesses and people at work (particularly small firms)?' 'Are small firms

paying too much and getting very little in return?' 'Can existing insurance arrangements help deliver the Government's plans for post injury rehabilitation - or is something new needed?' (Injured and health damaged workers need not just cash compensation but help to rebuild their lives!) To what extent are injured workers failing to secure effective compensation, thus transferring part of the cost of their impaired health to the State?' 'What alternative models are there?' 'What has been the experience of other countries?' 'What do major studies in other countries show about effectiveness and value for money?' 'How might alternatives to the existing ELCI regime be piloted in the UK context?' What would key stakeholders (particularly business and trades unions) like to see?'

These are major issues which need to be confronted and widely aired - not just by key players in OS&H but by key players in the wider health and social policy arena. The debate needs to be broad and imaginative. Bodies such as RoSPA and the British Safety Council especially, as well as the numerous providers of OS&H services (and the many intermediary organisations such as trade associations that help facilitate service delivery) need to discuss how their existing 'provider' roles could be linked (and enhanced) in any new system in the UK which sought to link insurance, rehabilitation and prevention.

Employers particularly need to think carefully about whether alternative, more cost effective and more user-friendly arrangements could be developed which delivered better value for money. (ABI estimate, for example, that about 40 per cent of premia go in administrative costs and legal fees.) Would less adversarial compensation arrangements also help to improve OS&H 'partnership culture', for example by removing fault issues from accident investigations? And unions too, besides addressing these considerations would also have to think about the consequences of spreading compensation resources more widely to cover those presently losing out (it is widely agreed that the present fault based system is a lottery) but at the same time also think creatively about how rehabilitation can be made part of more effective compensation packages and how their traditional advocacy and support role for their members (vital in an adversarial fault based system of compensation) could be maintained in any new regime.

These are not new issues, but they are challenging and ones which present potential opportunities - which is one reason initially at least why the advice of the 'tinkerers' will need to be put to one side to allow for a much wider examination of bolder plans which could transform OS&H in the UK well beyond the vision set out in RHS.

Perhaps the best way forward would be for the Government to commission an enquiry under an independent chairperson who is skilled in drawing out stakeholder views, assessing the research evidence and weaving the various threads into a credible action plan.

January 2005

Slaying the compensation dragon

The Constitutional Affairs Secretary, Lord Falconer, has been sounding off recently about the need for personal injury (PI) lawyers to stop encouraging the so called 'compensation culture' by causing people to believe that they can claim damages for the slightest injury which was not entirely their own fault. His pronouncements follow hard on the heels of proposals by the Conservatives in August to limit individuals' rights to claim personal injury compensation and to exempt teachers from being sued altogether. Cabinet Office proposals would also increase the minimum value of compensation claims taken in small claims courts from £1,000 to £5,000.

Certainly there has been a dramatic growth in advertising by PI lawyers in recent years, not only in A&E departments etc but in cinemas, on local radio and on national television too. Of course, it's easy to blame lawyers as being greedy if not unprincipled (a prejudice I personally find hard to shed) but in large part the trend to make compensation services more visible has followed the Government's restriction of legal aid for PI compensation. As a result, PI lawyers have had to depend for their income on conditional fee (no win, no fee) arrangements and thus they have tended to become more commercial. Besides advertising their services, they have also become less inclined to take difficult, groundbreaking cases for fear they may lose and not get paid.

Although pub level anecdotage abounds with talk of people claiming for trifling inconveniences or unscrupulous employees saving up their weekend DIY injuries and reporting them as work related, it is in fact still quite hard to secure compensation. You actually have to assemble enough evidence to prove negligence on the balance of probabilities. In any case, if employees in some companies still think that injury compensation should represent a source of additional remuneration, is this so surprising if directors in the same organisations are retiring early with totally unjustifiable golden handshakes (the 'sauce for the goose' ethos)?

When one digs beneath the surface it is quite clear that the so-called 'compensation culture' is a bit of an urban myth. In the last year there was in fact a ten per cent decline in the number of PI cases being taken and the overall number of settlements has been reducing too. Much of this is contained in '*Better Routes to Redress*' published in May by the Government's Better Regulation Task Group (see http://www.brtf.gov.uk/responses/).

On reflection, no reasonable person can really hold that those who have been injured through the negligence of others should not be entitled to suitable recompense. This is not just about cash (never an adequate substitute for good health anyway) but also, wherever possible, about effective rehabilitation to help damaged people put their lives back together again. Of course, no one can support time being wasted by self evidently frivolous claims but there is a danger that action to curb this will impact adversely on those with legitimate grievances.

What is all the more ironic is that, while Charles Falconer rails on behalf of the Government against people making claims for relatively minor injuries - and would

also have lawyers' advertisements in hospitals or surgeries banned under new government measures - the Department of Health (DoH) are busy putting the finishing touches to a system of levies based precisely on this principle to part-cover some of the costs to the NHS of treating PI cases. They first consulted on this in 2002 to test response to idea of extending the system which has been in place for many years of charging for road accident NHS treatment costs (on a set scale) to all other cases of PI where the injured person (IP) is seeking compensation. Of course this is likely to have a major impact on employers.

Philosophically RoSPA broadly supports this idea because it aligns with the 'polluter pays principle' - although, the Society recognises that, in practice, this needs to be modified according to the apportionment of fault in particular cases. This is a difficult problem and there are some pretty arcane arrangements proposed in the DoH consultative document (visit http://www.dh.gov.uk/consultation/fs/en) to tackle this issue.

From the standpoint of strengthening perceptions of the business case for prevention it would obviously help if the full amount of charges levied were made clear to employers (particularly FDs). This could be done, for example, by saving up levies from individual cases and submitting an invoice to the business (rather than their insurer) on an annual basis rather than case by case. (This might be administratively cheaper too!)

In the first round of consultation on this topic RoSPA suggested that the NHS might also on occasions associate themselves as joint parties with employees who were suing their employers (or others) for compensation following injury. This path has not been followed but it should not be ruled out altogether, particularly in cases resulting in very costly long-term treatment, such as severe spinal and cerebral injuries.

What the DoH do not explain however is if and how they intend to recover costs to the NHS arising from treating PIs in cases where the IP decides not to make a claim. Despite what Lord Falconer of Thoroton might seem to suggest, many employees remain unaware of their rights to claim for preventable injuries or health damage at work. The Health and Safety Executive estimate that there are some 1.1 million workplace injuries and 2.2 million cases of ill health caused or made worse by work. Of course, not all these result in NHS contact. For example, they may be treated adequately by first aid or simply resolve through rest. Yet the majority of injuries do need treatment but the overwhelming majority of these do not go on to become the subject of a claim. This is particularly the case with diffuse work related health damage such as lower back pain, upper limb disorders and so on where causation can be both occupational and no-occupational but rehabilitation costs can nevertheless be massive.

One of the key questions that will arise therefore is how NHS staff will seek to establish the 'work relatedness' of injuries and work related ill-health and whether IPs are claiming. More training is needed here since too few medical practitioners seek in-depth information from their patients about their work. In cases where the IP does not intend to make a claim, will the new regime mean that in future it will be part of the role of NHS staff to encourage their patients to consider this? Because of the way the proposed recharging is constructed (i.e. levies on compensation cases only) NHS staff

might be seen as having an economic incentive to encourage claiming. At first sight this might been seen as running in the opposite direction to Lord Falconer and might not in any case be seen as a legitimate part of the job of a medical practitioner. Yet compensation packages (particularly where they include rehabilitation) can often make a big difference to long term clinical outcomes and thus also reduce calls on NHS resources further down the line. But clearly this will not happen to the extent it might if Lord Falconer gets his way.

RoSPA has in the past floated the idea of 'injury liaison officers' (employed in the NHS with support from the PI sector) who could counsel IPs about their options on an ongoing basis (not just in relation to compensation but on practical issues such as adapting living arrangements, transport, hobbies and so on).

What seems unsatisfactory about the proposals is that the bulk of monies will be collected from the insurers of good employers whose employees have access to legal support and advice (for example, as provided by many trades unions). What will happen with cost recovery in the case of the vast number of IPs who are self-employed, many of whom in practice will fall outside the scope of employers' compulsory liability insurance and who in practice tend to rely on personal income protection insurance to deal with periods of injury and sickness rather than making claims? Is it fair that employers who have normal employment and compensation arrangements will be levied (resulting in higher insurance costs) but those employing self-employed people on a casual basis will tend not to be charged? Further, with the increasing shift in emphasis in compensation away from monetary settlements towards rehabilitation (often undertaken via the private health sector) there are bound to be many businesses which will be resentful at paying levies for initial NHS treatment since they will argue that by paying for rehab (if only indirectly) they are in fact relieving some of the subsequent burden on NHS resources.

What DoH are proposing might even lead some employers and insurers to discourage the IP from making a claim and thus the IP might feel under pressure not to disclose that their injuries were sustained at work. Misperceptions about the levy system might even act as a further disincentive for employers to report injuries under RIDDOR. Clearly the operation of the scheme will need to be quite transparent for both employers and employees alike so that in practice it can be seen to be balanced and fair.

But to return to the alleged compensation culture; of course it is easy to win electoral support by playing to the gallery of popular stereotype and prejudice, particularly if your parliamentary opponents are already doing just that. But is it perhaps less than honest to dress as St George slaying the dreaded compensation dragon when another part of Government now obviously needs to keep that creature alive and well to siphon off as much cash as it can from this source? Perhaps the noble lord and his friend Dr John Reid at DoH can sort this one out?

August 2005

Cutting red tape and accidents?

In the Queen's speech on 17th May the Government announced their intention to introduce a major deregulation bill. This follows from concerns raised for at least two decades by business organisations in the UK about: the range and complexity of regulation affecting business; the rapid rate of change in regulations; the costs of compliance; and also the amount of time and other resources required to meet regulators' needs, particularly form filling and responding to inspections. Small and Medium Size Enterprises (SMEs) in particular have continued to complain that the amount of money (and more significantly, time) required to comply with regulations can lead to a disproportionate drain on their scarce management resources (see, for example, 'In their own words, red tape case studies from IoD members', Institute of Directors 2004: http://www.iod.com/intershoproot/eCS/Store/en/images/IOD_Images/pdf/RedTapeCaseStudies.pdf).

Over at least the last two decades successive Governments have sought to respond to these concerns with a variety of reviews of regulation, including a number aimed at the Health and Safety Executive (HSE) (most of which have given HSE a clean bill of health as a regulator). In October 2004 the Government's Better Regulation Task Force (BRTF), led by David Arculus, published their five principles of 'good regulation' (proportionality, accountability, consistency, transparency and targeting), updating a previous leaflet on 'good regulation' first published in 2000. In March 2005, building on this work, BRTF published a report to the Prime Minister ('Regulation – Less is More' – visit: http://www.brtf.gov.uk/reports/lessismoreentry.asp) which set out recommendations for improving business regulation in the UK, in particular by following the 'Dutch approach' of 'regulatory costing', adopting a 'one-in-one-out' rule for new regulations and, wherever possible, pursuing options such as deregulation, consolidation and/or rationalisation of existing laws.

Arculus's team have estimated that this will enable UK business to make an additional £16 billion contribution to GDP annually (for an initial Government outlay of about £35 million), promote innovation, productivity and growth and control the flow of new regulation while maintaining essential protections.

Alongside this Philip Hampton (chairman of Sainsbury's PLC) was asked by Chancellor Gordon Brown at Budget 2004 to look at the related question of improving the relationship between regulatory bodies and business, focusing particularly on issues such as data collection by regulators and inspection processes. The results of his review (to which RoSPA contributed verbal and written evidence) were announced as part of the 2005 Budget.

Hampton looked at some 62 separate regulators (although about 20 important bodies with regulatory functions were excluded for various reasons). The principal national regulators considered included: the Environment Agency; the Health and Safety Commission and Executive; the Rural Payments Agency; the Food Standards Agency (including the Meat Hygiene Service); Companies House; the Civil Aviation Authority; and the Financial Services Authority. His recommendations represent a

series of broad principles of inspection and enforcement. He recommends 'brigading' some 32 separate inspection bodies (covering environment, health and safety, food standards, consumer and trading standards, animal health, agricultural inspection and rural and countryside issues) into seven new inspection bodies. He also proposes that in future such bodies should base their inspection programmes on comprehensive risk assessment (to allow for inspecting businesses with the most significant problems) and that resources released from unnecessary inspection should be used to redirect advice to ensure better compliance by poorer performers. He also urges regulators to develop common approaches to issues such as inspection techniques and penalties and to continue to work to reduce burdensome data collection and form filling. (e.g. by avoiding separate collection by different bodies) and aligning this more closely with existing business processes.

A key goal of Hampton is to reduce inspections by up to a third (one million fewer inspections) and to reduce forms sent out by regulators by one quarter. His broad aim however is to achieve a more business focused approach to regulation while responding to Society's needs and expectations for protection.

Regulation and 'red tape' are still widely perceived as being wholly antithetical to competitiveness and innovation, a point made forcefully for example, by Digby Jones of the CBI in a speech to the IoD Annual Convention in April. However concerns about the costs imposed by regulation are not always well differentiated between those associated with compliance with measures required and the administrative costs of responding to specific requirements. At the same time, there is strong support in the business community for notions such as HSE's 'Good H&S is Good Business'. This underlines the very important point that much protective legislation (which exists to meet social expectations which cannot be guaranteed by the operation of the market) can also be good for businesses, for example, helping them to avoid accidents, health damage (see www.hse.gov.uk/businessbenefits), environmental problems, consumer complaints etc.

In this sense Hampton is not anti-regulation but he does challenge regulators to become more business focused and more 'business aware', adjusting their practices to help support successful business outcomes. In this respect both Hampton and Arculus seem to see HSE as a model for others to follow. This is probably going to mean more and better training for regulators' staff, possibly via secondments of inspectors to individual businesses - although this in turn raises important questions such as possible conflicts of interest or even 'regulator capture' by business.

In general Hampton seems to be favouring a shift away from enforcement action towards the giving of advice. While this is usually to be preferred as the initial response by regulators to less serious problems, it can be argued that businesses themselves should be required to employ or have access to their own professional advisers. (Indeed, in the area of health and safety this is a legal requirement.) Is it the job of regulators to provide detailed advice to business or should they be facilitating the development of enterprise or industry based advisory services where business bears the cost?

Hampton's suggestion that regulators should focus their inspection efforts on poorer performers seems to align with similar ideas in HSE's September 2004 consultation

document 'Regulation and recognition'. This suggested that higher performing businesses could be put on trust to 'self regulate' so that more inspector time could be freed up to concentrate on higher risk businesses. The trades unions have opposed this idea, pointing to questions which it raises in relation to transparency, accountability and public confidence. While some in business feel ‘on trust’ status could enhance their corporate reputation, others are aware of possible disproportionate reputational damage if it were ever lost. If risk based inspection were to lead to a growth in third party certification, this could in practice lead to even more bureaucracy. Furthermore, many in business actually welcome contact with inspectors to provide them with confirmation that they are ‘doing the right thing’.

Clearly implementation of Hampton is not going to be all plain sailing. Many of the regulators to be brigaded together have different cultures and sectional interests. While they may be able to co-operate over things like surveys and distribution of information, they will still tend to have different approaches to inspection and investigation. Some forms of inspection are focused on physical conditions, some on management systems - raising the question of what should be inspected and how.

But perhaps the area in which the Government will encounter the greatest opposition to their de-regulation proposals (particularly given their reduced majority following the recent General Election) is not around the principle of regulatory modernisation or reducing the amount of paperwork but around specific de-regulatory proposals which may reduce standards of protection. It is unclear what general principles will be used to test whether or not standards of regulatory protection are being maintained. In the area of health and safety the provisions of Section 1 (2) of the Health and Safety at Work Act are still in place. This section requires any new measure to maintain standards in existing law. There is every possibility that campaigning groups may seek judicial review if they feel that de-regulation moves are failing to meet this test. In March the Centre for Corporate Accountability made clear their intention to oppose any reduction in inspections by HSE and Local Authorities in favour of the provision of advice.

There is one area of bureaucracy associated with regulatory compliance which Hampton has not been able to address and which arguably adds considerably to the perception that regulation is burdensome. That is the information required by a whole host of third parties to satisfy what they perceive to be the requirements of the law. Although regulators may be anxious to lighten the burden of filing, form filling, record keeping etc., businesses' own advisers (who are often conscious of possible civil liability) may still tend to give 'gold plated' advice. Inspectors may demand less but others such as clients, local authorities, insurers, training bodies, investors etc. may still cause businesses to be too bureaucratic and thus incur unnecessary costs.

There is a clear need, for example, to look at issues such as the proliferation of 'H&S passport' schemes (supposed to simplify access by competent contractors to client’s sites), over-complex contractor selection procedures, over-detailed and repetitious scrutiny by training providers, and various forms of performance assessment tool aimed at small firms.

RoSPA’s aim is to help make workplaces safer and healthier but we are also anxious to promote discussions about reducing bureaucratic burdens placed on SMEs in the

name of health and safety. For some time, for example, we have pressed for arrangements in the UK similar to those which have proved successful in Ireland where small firms only have to have simple 'H&S action plans' instead of complex written safety policies and risk assessment records. The essential point in all this is that bureaucracy and administration are only to be justified if they deliver the desired result, namely safe workplaces and systems of work. Too much paper (or too many complex electronic forms) and the perception grows that health and safety is simply a bureaucratic chore.

How to cut red tape and maintain and improve protection is the central challenge. If this strikes chord with readers perhaps they would like to Email me at rbibbings@rospa.com with their observations and suggestions. I look forward to hearing from you.

Debating society

➤ **Questions of health and safety risk management** go right to the heart of everyday working life, so it is necessary to spend quite a lot of effort to secure agreement on the practical steps that need to be taken to tackle injury and disease prevention successfully. RoSPA's occupational adviser, ***Roger Bibbings***, discusses what can be done to enrich and reinvigorate the whole process of health and safety policy development and consultation.

It does not require a lifetime spent in politics to understand that it is far preferable (and indeed far more effective) to achieve one's objectives through consensus rather than dictate. No more is this so than in the field of health and safety at work where there are many stakeholders, principally employers, workers and of course, regulators, but also others with particular points of view. As my friend, one time colleague and, until recently member of the Health and Safety Commission (HSC), Owen Tudor, remarked at one of our congresses, 'You can only do health and safety *with* people, not *to* them!'

This value underpins one of the fifteen key points which guide RoSPA's approach to safety (see: **www.rospa.com/aboutrospa/rospa_safetypoints.htm**).

Point 15 – ***Risk based policy making*** – states: *"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 and the wider public 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 time, financial and opportunity costs of achieving specific safety objectives."

So differing perspectives need to be acknowledged and explored but there are at least three other important reasons why consultation is important to health and safety policy makers.

- Firstly, regulators almost by definition have imperfect knowledge and are relatively powerless unless they can tap into the detailed knowledge of those who create and work with specific risks.
- Secondly, only by involving those directly affected by regulatory decisions do regulators stand a chance of securing the latter's commitment to the scope and detail of any policies eventually decided upon; and
- Thirdly, (as an extension of the last point) consultation is necessary, not just to test the acceptability of any particular policy or standard, but to begin to transfer ownership of policy from governor to governed.

It is very much because of the detailed and technical nature of many health and safety issues and the need to involve the other two sides in the risk policy triangle (namely risk creators and risk takers) that the Health and Safety Executive (HSE) has managed not only to preserve the tripartite structure of the HSC but has also developed possibly one of the strongest cultures of policy consultation of any government department or agency.

In February, the government's Better Regulation Unit launched a new code on consultation (**www.cabinetoffice.gov.uk/regulation/consultation/code**) setting out six key criteria to be followed by all government departments in policy making. In his foreword to the code, the Prime Minister says there is "a need to make the process of consultation less burdensome and easier for people to engage with".

So far as the code is concerned, HSE may not seem to have much catching up to do compared to other government depts. It not only consults informally but publishes many discussion papers on specific issues and strategies, as well as many consultation documents on proposals for new or amended legislation (although it is increasingly important that the HSE flags up consultations by other departments that affect health and safety).

It seeks views from an extensive system of advisory committees and working parties. It holds open meetings and publishes the minutes. More recently it has organised 'stakeholder meetings' as well as web-based debates.

In part, of course, this is because consul-

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tation requirements are built into HSE's primary legislation.

So far in 2006, HSC/E have published or closed consultation on over a dozen public consultation exercises (visit: **www.hse.gov.uk/consult/live.htm**). But does this mean that their consultation regime is as near perfect as is possible? I would like to suggest that there is still a lot of room for improvement.

Despite maintaining quite extensive consultation lists and sending documents to key organisations, the volume of comment received back is often quite limited. Too often this lack of response is seen as signifying either neutrality or even positive assent. There are many reasons for this lack of engagement or response. Firstly, there is the perennial problem of health and safety professionals and others having insufficient time to read, discuss and respond.

Also, there is often a feeling, particularly where consultation is about implementing E.C. directives, that the detail has already been decided in Brussels or Luxembourg and that the scope for influencing is very limited. There is also a more general lack of motivation for many professionals to engage.

Too many health and safety professionals see their job as just focusing on training or implementation, rather than trying to influence new measures by lobbying and campaigning at an early stage.

Small cogs

If we do not like all that emerges from HSE/C or what many like to characterise as 'the Rose Court sausage machine', then can we really complain if we have not sought to get involved?

On the other hand, even if we do decide to contribute, as individuals we may feel that we are only very small cogs in a big machine and, as such, that we are relatively powerless, feeding our carefully considered thoughts into a bureaucratic void from which there is little or no feedback.

But I do believe that in HSE, in particular, there is a genuine desire to engage and to get 'real' people's views, especially from those at 'the sharp end' of health and safety (this can be seen in HSC's latest consultation on increasing worker involvement in H&S management).

There are several practical steps which I believe could greatly help to enrich and re-invigorate the whole process of health and safety policy development and consultation.

Step 1: We need much better information via the web on the 'state of play', not just on formal consultation on regulations but on guidance and policy initiatives generally, giving summary details (such as those included with the worker involvement document) of the measures proposed, closing date for comments, when the measures are to be considered and so on. Also where consultation is restricted to the web, it is vital that the HSE tells people of it.

The information on current and closed consultations on the HSE website (**www.hse.gov.uk/consult/live.htm**) is still too narrow and arguably, with the two new dates of effect for introduction of regulations (6th April and 1st October) agreed as a result of the Hampton Review (**www.hm-treasury.gov.uk**), the HSE should now be upgrading and extending this sort of easily accessible policy timetable data base.

Step 2: Besides simply publishing consultation and discussion documents, the HSE should also be organising more consultation conferences or web debates to provide briefing on the main issues and to allow contributors to develop their views in the light of what others are saying.

Simply saying 'the document has been published and you have three months to reply' is not really good enough. A lot can be done, for example, by encouraging other organisations like RoSPA and IOSH wherever possible to timetable consultation debates into their calendar of events, conferences seminars etc. Also, easily downloadable presentations and speakers notes on specific proposals can help contributors to explain particular consultation initiatives to wider audiences.

Step 3: As part of this process of more informed debate, HSE should be encouraged to publish initial views from various contributors on the more difficult features of particular consultations, so that those responding can get a sense not only of which features are more controversial but what the span of views is in each case.

Step 4: to avoid rejection of proposals out of hand, HSE might also 'reality check' some of their proposals prior to publication or discussion at the HSC by use of panels or 'citizens juries'. A lot of informal consultation does of course go on and many of HSE's proposals emerge from advisory committees and working parties but equally there are occasions when, prior to going to press, HSE fails to tap into knowledge and views of which it may not be fully aware.

Step 5: There is also a need to feed back thanks and information on follow up to each contributor, not just through what is obviously a standard letter, but a bespoke response to views expressed.

Step 6: There is a need to deal with the suspicion, which many have, that all too often HSE/C are only inclined to take on board comments which support policy positions on which they have already made up their minds or on which deals have already been done informally with some of the more influential stakeholders.

Scrutiny

The whole process of public consultation, especially on major policy issues, needs to be underpinned by a system of scrutiny by independent verifiers who can attest to the fact that the specific questions to which HSC/E seek responses in any document are indeed the most relevant, and that all views received are given proper consideration and are not sidelined if they seem to be too awkward or 'off-piste'.

All this suggests the need for more time and money to be spent on policy consultation when the whole civil service is under increasingly severe financial constraint. Better consultation is however essential for 'better regulation'. Notwithstanding the government's new code, better consultation will only happen in reality if the consultees themselves speak up.

From this point of view, the single most important step which any organisation can take is to ensure that it timetables discussion of relevant HSE consultations in any arena where health and safety are being discussed.

Every workplace health and safety committee, every local health and safety group, should appoint someone whose job it is to prepare a short presentation on current and relevant consultation exercises and to challenge their colleagues to give feedback.

In RoSPA we will endeavour to support this by developing a better system for monitoring 'state of play' to help our members track policy development. We shall continue to flag up our initial views as soon as possible, not only through the pages of this journal but via press releases and our website – to let people know what we think and to feedback views from our National Occupational Safety and Health Committee (on which the main H&S system stakeholders are represented).

It's often been said that we get the government we deserve. Health and safety professionals have a special responsibility to ensure their views are heard so that new or amended regulation is better and more effective than that which it replaces.

Readers' comments are welcome, email: **rbibbings@rospa.com**

PartingShots

Risky ruminations

➤ **At the end of last year,** the government's Better Regulation Commission published a major report which argues that the UK is going much too far in regulating a whole range of risks. RoSPA's occupational safety adviser, ***Roger Bibbings***, looks at what is covered in the report and – importantly – what is not.

The Better Regulation Commission's (BRC) report *'Risk, Responsibility, Regulation: Whose Risk Is It Anyway?'* argues that the UK is going much too far in regulating a whole range of risks (www.brc.gov.uk/publications/risk_report.asp). It suggests that we should be placing far more responsibility for managing risks on the shoulders of individual citizens.

Cases cited of alleged over-regulation include: banning the food dye, 'Sudan Red'; licensing adventure activities centres; new regulations on compulsory child car seats; new regulations on gangmasters; the MMR vaccine; controlling genetically modified organisms; the *Dangerous Dogs Act*; MoTs on vehicles after three years; gas safety regulations; controls on nanotechnology; the over-thirty-month rule and BSE; road signs in city streets; and track inspections following the Hatfield rail crash.

BRC's contention is *"Our national attitude to risk is becoming defensive and disproportionate; the way we try to manage risk is leading to regulatory overkill. There is an over reliance on government to manage all risks yet it is neither possible nor desirable to control every risk in life. Personal responsibility and trust must be encouraged. Britain must safeguard its sense of adventure, enterprise and competitive edge."*

The report recommends a public debate about the management of risk but specifically calls for clear and unambiguous leadership from government to:

1. change our national approach to risk;
2. empower individuals to take more personal responsibility for risk;
3. provide high quality training in risk management for Ministers and senior civil servants; and
4. establish FARO (the Fast Assessment of Regulatory Options) an independent, ad-hoc panel for expert, dispassionate, evidence-based examination of urgent calls for government intervention.

I've been writing about risk and regulation in this column for quite a few years now and the general drift of the BRC is not new. What is new, however, is the stridency of its view that much contemporary regulation has got the balance between risk, costs and benefits badly wrong.

Nevertheless the report does raise some very important issues about approaches that are adopted by government bodies to the regulation of various kinds of risks of harm, including issues such as when to regulate and when not to and also how tightly safety standards should be set.

In some areas the state may indeed go 'over the top', responding to emotion rather than facts. In others however, it often refuses to intervene when clearly this is necessary and would produce major safety gain.

The main problem with the report, however, is that although it is obviously written for a lay audience, it seems to have been worked on by people who are not entirely familiar with basic risk concepts, including much of the existing extensive literature on this subject.

Terminology

Reference to 'risk aversion' throughout the report as 'a problem' is arguably quite telling. Risk aversion is actually the right response when risk levels are intolerable or unjustified; it is inappropriate risk aversion that is the problem. This terminological sloppiness could be excused as shorthand or it could be seen as a sign of the report's authors not having grasped key ideas about 'risk tolerability'.

In this context there is no reference either in the report to basic guiding ideas about risk such as:

- consequence/probability matrices and their use to describe high, medium, low risk etc;
- the process of 'risk triage' that is contained in the Health and Safety Executive's (HSE) ALARP ('As Low As is Reasonably Practicable') triangle;
- the basic risk management doctrine of 'justification, risk limits', risk/cost optimisation';

- the hierarchy of preferred risk control options and the distinction between primary, secondary and tertiary safety (the term 'risk control hierarchy' is used incorrectly in the text); or
- the key factors that account for differences in risk perception.

Neither is there any discussion at the beginning about the whole idea of risk, for example, operational risk versus speculative risk such as in business risk management flowing from Turnbull, the Combined Code etc.

Perhaps the most worrying thing about the report is that it seems to have failed to acknowledge all the work which has gone on over a long period (and is still going on), within government and outside, to tackle all the thorny issues that surround the regulation of risk.

For example, there are few, if any, references to core documents such as HSE's – *Reducing Risks, Protecting People* (so called R2P2) – nor indeed to well-established concepts relating to risk and its management.

There is no reference to the important earlier work on of the Interdepartmental Liaison Group on Risk Assessment (ILGRA) led by HSE which looked at approaches to risk assessment across various departments and agencies.

There are no references to existing guidance from bodies like HSE which govern their approach to regulation. Neither are protocols for Regulatory Impact Analyses (RIAs) by government departments reviewed and specifically methodologies used for assessing costs and benefits of new measures.

There is no reference to the seminal report of The Royal Society Study Group on risk (originally from 1983) or other initiatives currently underway to tackle inappropriate responses to risk such as the DCA Committee on Risk and Affordable Insurance (www.rsa.org.uk) etc.

It reads as if none of this existed and the BRC were the first on the scene.

Most worryingly the BRC make the basic mistake of mixing up 'risk regulation' and 'risk management', creating a false proposition, namely should the state manage risks or should this be left to individuals/organisations? In practice, however, it is hardly ever a case of 'either or'.

Whether or not there are specific regulations, risk creators/risk takers need to exercise judgement and manage risks sensibly (and, in so far as their actions are affected by the law of tort, the hand of the common law is always on their shoulder as it were).

The state on the other hand, in consultation with experts and stakeholders, has to decide if and when it in turn needs to regulate that management or to supplement it some way.

There is insufficient discussion in the report of the full spectrum of possible regulatory interventions: from fully developed 'permissioning' regimes (such a major hazards, nuclear offshore 'safety cases' etc) to licensing, notification, type approvals etc through to specific prescriptive regulations.

Also, there is insufficient recognition of the extent to which regulation of safety risks arises from our membership of the EU or other international, treaty-based safety arrangements.

Response

A further problem is that the report does not distinguish sufficiently between, allegedly, inappropriate responses to risk required by regulators as opposed to inappropriate, over-the-top responses to regulations (or indeed the common law duty of care) by duty holders and more particularly their advisers.

There is no counter-balancing analysis of where regulation for health and/or safety purposes is working.

Had such an analysis been included, it would be clear that in practice most safety regulation is well balanced, works well and goes largely unnoticed (and is actually the reason we do not have more accidents and disasters than we do!).

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 (many underpinned by safety law) are being made up and down the country every day which are both well balanced and highly effective. This silent, quite unremarkable, but highly effective assurance of safety (particularly where it is delivered by design, for example) is not even recognised.

The BRC call (quite correctly) for an evidence-based approach to managing risk – by government, organisations and individuals – but then they clearly fail to bring forward rigorous evidence to confirm or reject their assertion that so called 'risk aversion' is a growing problem in the UK. (A recent report of the House of Lords Select Committee on Economic Affairs found this not to be the case. The DCA committee has accepted evidence that there is no upsurge in common law damages cases for personal injury.)

Before launching a crusade against regulation of risk, surely good research evidence is needed to test the conjecture that risk regulation is indeed stifling innovation, learning, competitiveness, fun even? Anecdotage, however apparently extensive or alarming, is really not good enough.

The idea of a central (Fast Assessment of Regulatory Options) committee seems to be the main kite that has been tossed into the air by the BRC. Again, however novel and interesting this might seem, one only has to consider the plethora of committees which deal just with risk-based decision making in relation to the toxicity of substances and the setting of exposure/dose limits etc to see how absurd and totally impractical such an idea would be.

No central committee could possibly encompass all the areas of high level expertise and stakeholder representation that would be capable of addressing competently every conceivable hazard whose risks might merit regulation, limit setting etc.

The report does raise, however, the very important issue of better training in risk for key civil servants (see *Recommendation 8*) but then it fails to go wider and argue the case for a much more extensive educational effort to enhance safety and risk literacy at all levels in British society, for example, by building on steps already taken to address risk in the National Curriculum and in higher and further education.

Ultimately it is only by building risk education into subjects such as 'Citizenship' and 'Personal, Social and Health Education' that we will be able to encourage more personal responsibility for risk, especially where it is individuals who are the ones in control.

RoSPA has already developed 15 points which guide its approach to dealing with risk and safety issues (**www.rospa.com/aboutrospa/rospa_safetypoints.htm**). An important principle we follow is that (Point 14) … *"People have both a duty to act responsibly to protect themselves and others and conversely a right to expect to be 'safe' when exposed to other people's activities. Wherever necessary and appropriate, this right needs to be guaranteed by law."*

My comments on this report might seem a bit harsh and clearly we all need to support a competent approach to risk by regulators, but ironically the BRC have failed to display sufficient competence themselves in assessing the current scene and arriving at workable conclusions.

Have a look at the report and let me have your views. More importantly, send them to the BRC. Email: **rbibbings@rospa.com**

Construction commitment

➤ **The first meeting of the Construction Safety Forum** organised by the Department for Work and Pensions took place in September. The forum has one aim – to reduce the number of worker fatalities in the construction industry. RoSPA's occupational adviser, ***Roger Bibbings***, was there.

On 17th September I attended, as an observer, the Construction Safety Forum called by the Rt Hon. Peter Hain, Secretary of State at the DWP. Newly appointed to the Department, which has oversight of health and safety, he has been faced with a 28% increase in construction fatalities being reported for 2006/7 (up from 59 to 77 deaths).

To put this in perspective, the UK construction industry employs about 10% of the UK working population, making it the country's biggest industry. It has an annual turnover of £250 billion pounds, which is 8% of UK GDP but in 2006/7 it accounted for nearly 32% of notifiable fatal injuries.

A major part of this increase was due to a rise in fatal injuries in the housing sector, where activity is due to expand over coming years. 37 men died building new homes and working on existing domestic properties in 2006/07. A background paper circulated before the meeting included an analysis of twelve such 'new build' incidents. It revealed the following insights:

- the incidents were widely spread geographically without any link to hot spots of house building activity or the types of home being built;
- sizes of site ranged from the very large (four) to private domestic new build (two) – on seven of the sites the output was more than 50 units (the National House Building Council (NHBC) consider 30 units are an 'average' development);
- large clients predominated – national house builders and housing associations were the client for seven of the 12 sites;
- large national and regional principal contractors predominated;
- the deceased persons were generally directly employed by contractors – large national firms in the case of utilities contractors and a crane hirer, but micro or small firms (employing fewer than 15 people) in six of the incidents;
- membership of trade associations by the firms varied from strong, active participation to no known involvement;
- in terms of the incident types, transport (use of construction plant) was the largest category (four incidents), cranes and other lifting issues (three), collapse of structural elements (three) and an asphyxiation (affecting three men) and one explosion;
- none involved a fall from height, an issue long associated with construction risks; and
- only two incidents were specific to housing (a wall panel fell and hit a worker as a timber framed house was being constructed; and a canister of expanding foam sealant exploded).

Discussion

By inviting a small group of influential people, with lead roles throughout the housing supply chain, Peter Hain's aim was to see what could be done to develop a more concerted effort to cut the death and injury toll across the construction sector, particularly since construction activity is set to rise, not just in housing and refurbishment but with more major infrastructure projects in the pipeline as well as the Olympics (an area where the Olympic Delivery Authority has already established an ambitious framework for ensuring that the 2012 facilities are built without loss of live or injury to people and the environment).

The forum was attended by Government, the Health and Safety Executive, trade unions, industry bodies (including the Construction Confederation and the Major Contractors Group), and representatives of suppliers, and contractors. Key people round the table included: John Spanswick, group chairman Bovis Lendlease (and chairman of the Strategic Forum Health and Safety Group); Stewart Baseley, executive chairman of the Home Builders Federation; Alan Ritchie, general secretary of UCATT; John McClean, GMB national health & safety officer; Stephen Williams, HSE head of construction and representatives from the 'Families against corporate killers' and 'Hazards' campaign.

Everyone agreed that the increase in the number of fatal accidents in the construction industry was completely unacceptable and that the provision of a safe and healthy working environment was an absolute priority for Government, the construction industry and the trade unions. The primary role for ensuring health and safety lay with those who created risks; there was an important role of inspection and enforcement by HSE; the way forward was for all stakeholders to develop a greater understanding of health and safety issues and to work together through consultation and full engagement on the basis of mutual respect.

Peter Hain made the point that every worker had a right to a safe, healthy workplace and to return home safely at ➤

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the end of the day. Communities too had a right to be safeguarded. Workers had a responsibility to work safely and take action in relation to unsafe acts. But they also had the right be heard and to influence their working conditions.

The key point – which arguably could have had more emphasis in the discussion – was that the client was the key driver in achieving best practice. If they set the right conditions then impressive health and safety results were possible. Their influence could guarantee the involvement of all parties from an early stage, in the planning and development of a project. This allowed for a high level of commitment on standards not only on health and safety but for welfare provision, training and education. In fact the client's influence in ensuring a fully integrated supply chain with a legitimately (and wherever possible) directly employed workforce, was central to improving performance.

Action

Obviously quite a lot of preparation had gone into the meeting and participants had worked out in advance what they wanted to say. But the overall message was very clear; the toll in terms of human life and the impact on families was unacceptable. A *'Framework for Action'*, which had been agreed in draft with the key players beforehand, was circulated. (The full Framework for Action is available from: **www.dwp.gov.uk**). Some of the main planks include:

- sharing best practice – working to agree standards of health and safety to be achieved on house building and domestic repair/refurbishment projects;
- raising levels of competence – extending the requirement for all site workers in the house building sector to carry a Construction Skills Certification Scheme (CSCS) card or be able to demonstrate their occupational and health and safety competence to the same or better standard; and ensuring all workers receive induction training before they start work on a new site;
- encouraging worker involvement – ensuring that all projects include trade union or worker representatives;
- integrated working – ensuring that site specific planning and induction is provided to all those in control of tower crane erection, operation and dismantling, with an emphasis on appropriate risk assessment The entire supply chain from clients, their suppliers and advisers through to those who work on site must be engaged in bringing about behavioural change in the industry; and
- steps to drive out the informal economy in the sector, which can adversely impact health and safety.

Peter Hain agreed to take away certain ideas, including resurrecting the Workers' Safety Advisers' scheme and the feasibility of disseminating health and safety information via builders' merchants (an idea which I remember was floated some twenty years ago when I sat on the HSC's Construction Industry Advisory Committee but which may be worth re-exploring). He also agreed on the need to gather and disseminate reliable data on injury performance.

Everybody seemed to accept however that there was no single solution – no silver bullet. The challenge was to keep up pressure on competence and behavioural change and also to aim to reach SMEs in the 'grey' economy. Several people stressed that Government, as perhaps the biggest client and funder in construction, had a decisive role to play in setting and monitoring health and safety management standards. This is obviously a continuing challenge for Peter Hain as the Secretary of State to deliver on via his ministerial colleagues in other departments whose plans are boosting the overall UK construction effort.

It is anticipated that follow-up action will be channelled through the Strategic Forum led by John Spanswick. In the post meeting networking, I stressed to Peter Hain how much we welcomed this initiative by him personally and hoped that he would underline his leadership role by following it up with a further meeting in say, six to nine month's time, calling all the key players to account for what they had done.

I also mentioned the role RoSPA could play, for example, in expanding take up of our H&S awards scheme in the house building sector (encouraging winners to disseminate good practice) and encouraging safety groups to reach out to SMEs in construction. In fact, Lord McKenzie, Minister of State in the Lords with responsibility for H&S at DWP – who was also at the meeting – expressed an interest in the Safety Groups UK construction groups. I said that both RoSPA and the Groups wanted to continue to focus on construction H&S as an area of significant need and opportunity, and that it would be good if we could encourage the formation of further construction groups (visit: **www.safetygroupsuk.org.uk**).

Change

Obviously the key to lasting change is not just raising H&S awareness and developing basic skills. It is above all about changing the way work is managed and supervised on site, the inherent safety of design, the general culture around safety, and the whole approach to training and communication. But these things need to be robust enough to withstand the realities of life on a project, for example, when time pressures and financial considerations put commitment to safety to the test.

Clear and consistent leadership on H&S, particularly through times of corporate or operational change is vital, not just from senior directors but right down the line where team leaders and supervisors have such a key role in making health and safety happen.

But of course the industry does not operate in isolation which is why the wider influences stemming from government policy, the commercial market and HSE, as well as social expectations voiced by local and national political representatives are so important.

The industry is on notice and major commitments have been given. Now we must all play our part to ensure delivery. Workers lives and their families depend on it.

Readers' comments welcome.
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Serious politics?

➤ **In the rough and tumble of politics**, health and safety is an easy target. But politicians and political commentators often find it harder to put forward new solutions for reducing deaths and injuries, argues RoSPA's occupational safety adviser, ***Roger Bibbings***.

One Saturday lunchtime a few weeks ago, I was listening to the re-run of the previous day's *'Any Questions?'* on BBC Radio 4. It has always been a favourite of mine – the civilising influence of debate on the Beeb. In the light of record levels of national debt the discussion turned inevitably to which areas of public expenditure panellists would cut first were they in the next government.

Predictably there was mention of cuts in defence, abandoning ID cards and slashing government bureaucracy generally, but I was shocked when one panel member, the respected columnist and former *Daily Telegraph* and *London Evening Standard* editor, Sir Max Hastings, singled out the Health and Safety Executive (HSE) as the *'… most popular institution to wind up'*.

I was aware that there had been a bit of spat between Sir Max and HSE in the past about examples of health and safety silliness, the blame for which he had laid at their door; but I must say I was still shocked at his suggestion that HSE should be seen as a prime candidate for cost saving abolition.

My concern about Max Hastings's casual and throw away remark (which disturbingly seemed to draw quite a lot of applause from the studio audience) was that it was so much at odds with the serious and thoughtful way in which he treats virtually everything else. In fact it got me thinking. If a wise old bird who normally writes and talks much good sense has such an adamantly negative view of HSE, surely all of us who devote our lives to trying to control work-related risk are in serious trouble.

Of course we all have our views about what HSE should be doing more or less of. For most of us, that is part of the process of friendly dialogue with our particular regulator.

Yet, whatever our pet whinges, most of us accept that on balance HSE is 'a good thing'. And whatever our party political persuasions we tend to share a positive view of the thirty-five-year old Robens regime steered by HSE, characterised as it is by employers and employees working together to meet the requirements of goal setting health and safety law, supported by good guidance and backed when and where necessary by the sanction of enforcement action to deal with the unacceptable.

Such a view continues to be shared by professionals, trade unions, parliamentary select committees, lawyers, insurers, indeed anyone close to the business of trying to manage work-related risks in a balanced and proportionate way. Indeed those who create work-related risks and have to manage them – especially in larger organisations – know there is no real alternative.

Industry has always supported HSE and the Robens approach, a fact that was harnessed so effectively by John Rimington, the HSE director general during the Thatcher years when virtually all other consensus bodies in government were biting the dust. Yet as the influence of larger industry wanes in an increasingly small firms economy, will such traditional patronage still be enough to preserve an all party approach to health and safety at work?

In October last year there was something of brouhaha between David Cameron and health and safety professionals when, during his speech to the Conservative Party conference, he inveighed against the danger of Britain *'… living in a health and safety culture'*. I am sure that in his heart he was not wishing that we should live instead in a 'disease and danger' culture, but rather one where judgements about preventing avoidable harms are sensible, balanced and effective. His words might have come out alright for the Tory faithful but they jarred with those engaged vocationally in health and safety.

Nevertheless, one senses in all this that there is a touch more than politicians simply

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playing to the gallery and connecting with sentiments which used to be smouldering embers but which are now real flames fanned to fierce heat by prejudice and sensationalism in much of the popular press.

The irony of course is that HSE's stock (and that of health and safety generally) has fallen to a record low just at a time when all those committed to prevention have achieved their best results ever. Figures recently released by HSE show that the provisional figure for the number of workers fatally injured in 2008/09 is 180, which corresponds to a rate of fatal injury of 0.6 per 100 000 workers and represents a statistically significant decrease compared to the average rate for the previous five years – 22% lower in fact than the average for the past five years which was 231.

Casualties have been falling on Britain's roads too. The number of people killed in road accidents reported to the police fell by 14 percent from 2,946 in 2007 to 2,538 in 2008, and, in total, the number of people killed or seriously injured on the roads in 2008 fell by seven percent.

Of course there have been many influences at work here – not just the activities of regulators – but what is disturbing is that rather than seeing these data as proof of the value of national institutions which are there to save lives and reduce injuries, the public mood is encouraged to be increasingly hostile.

Little is heard from the mouth of any politician about what practical steps might actually help to drive the casualty figures down further. The underlying feeling is that H&S has gone too far, not that it actually needs to go further to reduce the number of eminently preventable accidents which are still occurring because those involved are failing to adopt civilised standards.

In my time in health and safety (I started in late 1973) the HSE has been subject to at least half a dozen major reviews, not just to prove that its regulatory regime was fit-for-purpose but on occasions to identify whether it should continue to exist at all. Again, the irony has been that, far from being found to be over bureaucratic and out of date, HSE has repeatedly shown itself to be a model for other regulators to follow – a lesson to emerge yet again in the last few years in the results of the Hampton review. The problem for combative politicians, no matter from what party, is that this is another bit of good news which they could well do without.

I remember once in the late 1980s being in a meeting with Eric Forth MP – who was then a junior minister covering health and safety at work in Mrs Thatcher's government – to discuss removal of a huge list of the old *Factories Act* local orders which covered long since defunct trades such as herring gut scraping and the like. He showed us a draft press release with words to the effect that the government was proposing to scrap 70 percent of health and safety regulations. I pointed out that while the proposal might have covered 70 percent of the titles in the relevant annexe to the Act, in reality it represented less than half of one per cent of the content of health and safety law. His response, which I remember to this day, was *'I'm in politics my boy'*.

It would be naive in the extreme to believe that any subject – however fundamentally important, be it health, defence, education, transport or indeed health and safety at work – should be excluded from the rough and tumble of party politics. But in the period between now and the next General Election, especially when the electorate are looking for better and more serious political debate, it is not unrealistic to expect that our subject should be treated with informed respect rather being either lampooned by would be libertarians or oversold by its traditional supporters who tend to believe too fervently that regulation is the only answer to any safety problem.

Rather than allow politicians or political commentators to assume we have the safest workplaces and roads in Europe and that somehow the limits of prevention have been reached, we who work in safety need to be much more direct and ask them to spell out what they think would help to get the casualty figures down further. If, on serious reflection, they honestly think that scrapping HSE might be part of the solution then they could conceivably just be on to something, but we need to insist that they do their homework first and be prepared to explain why.

Readers views welcome.
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Keeping an open mind

➤ **In June,** the Rt Hon Lord Young of Graffham was asked by the new coalition government to carry out a review into health and safety law and practice. Here, RoSPA's occupational safety adviser ***Roger Bibbings*** pens an open letter to Lord Young.

Dear Lord Young,

I expect you are now pretty busy with the review which the Prime Minister has asked you to carry out into health and safety law. You report that you are getting views from many quarters. We in RoSPA have been around for over ninety years, helping to tackle the scourge of accidents – and with some success – so I'm sure you will understand our eagerness to contribute.

We actually welcome this initiative but we do feel bound to point out that there have been at least half a dozen major reviews of health and safety law over the last 35 years. These include general reviews commissioned by the government of the day – such as Hampton – and there have been several internal departmental ones too. Each was tasked to establish, inter alia, whether UK H&S law was unduly burdensome.

What should be reassuring, in our view, is that while each exercise was commissioned from a position of concern (if not scepticism), without exception they all came out in support of the goal-setting general duties approach of the *Health and Safety and Work etc Act 1974* (HSW Act) informed as it is by risk assessment and good guidance. Hampton, in particular, saw the Act and HSE's approach as one which other regulators should follow.

So the first suggestion we would make is that you take some time to see how these questions have been addressed in the past. That said of course, we acknowledge that times change and there does seem to be much concern – especially arising from some media reports – that too many people are acting in a wholly disproportionate way in the name of health and safety. The concern seems to be more focused on the way health and safety is allegedly affecting the public rather than workers.

On the latter point it is worth noting that in 2008 HSE commissioned research (www.hse.gov.uk/research/rrhtm/rr536.htm) which found that there was little evidence that employers were going over the top on worker safety.

HSE has done a lot of work in recent years to promote sensible risk management (www.hse.gov.uk/risk/background.htm) while continuing to stress the need for higher standards. As you acknowledge, we in the UK are world leaders in safety at work but equally I am sure you will agree that the current figures for injuries and work-related ill health confirm that many employers in the UK have still quite a way to go to get the right level of protection in place.

We feel quite strongly that this latest enquiry needs to be properly resourced to enable it to get to the true facts, get things in perspective, and put this matter to bed once and for all. Despite all the stories of health and safety nonsense (many of which are exaggerations or facts taken out of context) there can be no substitute for good objective research evidence to establish the true extent of problems in this field and to help identify possible solutions.

We agree 100 per cent with the Prime Minister when he says we need *"...a system that is proportionate and not bureaucratic"*. It cannot be emphasised enough that good safety is all about:

- good judgement;
- avoiding the intolerable;
- ignoring the trivial; and in between
- getting the balance right between risk and the cost of precautions.

Benefits need to be considered too as do issues like operational costs. Although, of course, there is the perennial problem of dealing with uncertainty, especially when managing high consequence risks.

But in our view (and this has been backed by all previous reviews) there is nothing essentially wrong with the HSW Act itself which has proportionality right at its heart. The problem is in its application.

In practice, too many people are still getting the balance between safety and cost

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wrong. Some may be going too far (although many stories about over-the-top safety turn out on examination to be myths). In many other cases people are still being hurt in easily preventable accidents because not enough is being done to ensure safety.

In general, the latter problem, in our view, is a still a much bigger problem than the former.

Remember, last year over 13,500 people died in accidents of all kinds in the UK. Over 12,000 people died from work-related health conditions and health and safety problems cost the UK over £30 billion every year or over two per cent of GDP. So it is a mistake in our view to suggest that occupational health and safety is a problem that has now been largely solved or that health and safety law is something that should henceforth be limited to the traditional industrial sectors. One of the great strengths of the HSW Act is that it applies to all sectors and also protects others affected by work activity such as visitors or customers.

Every kind of undertaking has its own hazard and risk profile. The office might seem benign but there are still problems like slips and trips, there are ergonomic issues (not to mention stress), then there is the perennial problem of fire, not to mention legionnaires' disease, asbestos management, occupational driving and so on. Alternatively, in the school setting, the well maintained classroom may not be a particularly hazardous environment but care is needed obviously in areas such as laboratories, workshops or outside adventure activities.

As disasters large and small continue to demonstrate, you cannot manage effectively without managing safety. In the small, lower risk firm it needs to be kept fairly simple. In the higher setting more rigour is needed. Managers need to lead health and safety as a business performance issue and get all their employees involved.

So, despite the term being used somewhat pejoratively by the Prime Minister, we actually see *'a health and safety culture'* as a very good thing – saving lives, preventing injuries and helping to cut costs and promote efficiency. The challenge is to encourage and enable everyone to focus on the priority issues, ignore trivia and get the balance right between sensible measures and those small residual risks which just have to be accepted.

This philosophy is just as valid when it comes to the emergency services. Saving lives does not mean throwing all caution to the wind but it does mean that judgements about what is tolerable in an emergency have to shift as the stakes increase. So, while our emergency workers still have the right to be protected, their operational managers need our support when they have to make tough judgement calls under pressure.

One question that clearly needs to be tested – and through research and rigorous enquiry rather than reliance on pub level anecdotage – is the extent to which some people are totally risk averse because they fear they might be sued. If this problem exists, I know you will accept that it is primarily one of perception rather than fact. As government research has shown, claims and settlements are fairly steady. The feeling is however widespread that advertising by personal injury lawyers, offering conditional fee services to secure compensation for injury due to fault, has skewed public perception. RoSPA's understanding is that securing compensation is still actually quite hard and that less than half of those who could claim successfully actually do so.

It would be a mistake in our view to seek to limit people's right to seek redress for personal injury due to negligence in the hope that this might then shift these misperceptions and the erroneous behaviours that may follow from them. People need to be reassured that if they act reasonably they cannot be sued.

I'm sure you will also agree that, when it comes to ensuring the safety of the public as customers, we must ensure that they are properly protected from significant risks (say at fairgrounds or from unsafe products). But equally everyone agrees that people should not be prohibited from having fun in ordinary community, sporting or leisure events where risks are small and those involved take part voluntarily.

It's all about knowing the hazards and taking sensible precautions. Yes, common sense can help but equally when it comes to hazards like electricity, chemicals or complex machinery, expert advice can help too.

So our main plea in this enquiry is for you to keep an open mind, be guided by the evidence and avoid the temptation to go for quick fixes. In our view the problem of getting safety right is one that needs to be solved through better education, not more legislative change. And this is not just a task for bodies like HSE. Everyone has a part to play. That said, we do need to bear down on unnecessary bureaucracy.

We in RoSPA have helped, for example, to stimulate action to cut down on repeat health and safety assessments of contractors that want to get onto tender lists (www.rospa.com/news/releases/detail/default.aspx?id=699). This exercise confirmed that when it comes to health and safety, it is not so much the regulator that is tying people up in knots (HSE struggles hard to simplify matters) but third parties, many of whom seem to have a vested interest in making matters far too complicated.

Repeat pre-tender assessments, duplicatory health and safety passport schemes, repetitious training – all these things can waste precious time and money and also serve to damage the health and safety 'brand'. In our input to the Risk and Regulatory Advisory Council, set up by the last government but now disbanded, RoSPA called for a permanent body to be set up to receive reports about, investigate and take action on disproportionate response to health and safety.

As ever, RoSPA stands ready and willing to help tackle these issues. We could, if you thought it might help, facilitate visits for you to some of our 1,750 award-winning organisations so you could hear their views and see at first-hand what sensible safety looks like.

Yours sincerely,
Roger Bibbings

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

A sense of balance?

➤ **Lord Young's health and safety review** is due to be published soon. He has already said that health and safety is affecting profitability and jobs. Following up on his open letter to Lord Young in the August edition of OS&H, RoSPA's occupational safety adviser ***Roger Bibbings*** urges him to adopt a balanced and evidence-based approach.

Readers will recall that Lord Young of Graffham has been appointed by the Prime Minister to advise him on 'health and safety and the compensation culture'. His review, the results of which are still awaited at time of writing, has not been given any formal terms of reference and there has been no call for evidence (although a quick Google search for *'Lord Young'* reveals over 50 links, including a wide variety of submissions to his review, for example, from unions, the Police Federation, volunteering bodies, employers, health and safety organisations, lawyers etc.) RoSPA's input into the review was in the form of an open letter that appeared as my *'Parting Shot'* in the August issue of this journal.

In announcing Lord Young's appointment, David Cameron indicated that his review was to be a major initiative designed to establish a new sense of balance in health and safety and to tackle the scourge of excessive risk aversion which he and others feel is presently ravaging the UK.

Quite what form his conclusions and recommendations will take remains unclear. Nevertheless Lord Young has already made a number of statements to the effect that health and safety law which in his view has been highly effective in 'industry' has been applied inappropriately across the rest of the economy, becoming a bureaucratic paperwork burden for many 'low risk' firms and adversely affecting profitability and jobs. He has cited a number of stories in the press which he claims illustrate this general point, from toothpicks being banned in restaurants to the police and other emergency services being prevented from taking risks to save lives due to the alleged impact of health and safety requirements.

Lord Young has also said that advertising by conditional fee personal injury lawyers has heightened fears all round that anyone can be sued unless they take extreme levels of precaution. In his view, consultants and others such as insurers are largely to blame for this by demanding over-the-top compliance with health and safety law.

For those of us who have always held that there is no such thing as absolute safety and that managing risks is all about making good judgements on the balance of the evidence, the perception that the safety community are overzealous purists imposing burdens is at best annoying and at worst deeply troubling.

We have come a long way in safety in the last thirty-five years but there are still many lives to be saved and many injuries and cases of work-related ill-health to be prevented by adopting reasonably practicable precautions. With this is mind, we obviously hope that in his report Lord Young will acknowledge the full extent of such harms, their preventability and their massive cost to victims' families and the wider community. After all, no one can disagree with the twin propositions that: (1) sensible precautions are needed to ensure people are protected from work-related risks; and (2) that where these precautions are not taken, those that have been injured through the fault of others need access to justice and redress to help them get back on their feet. These are the real objectives to be met. So in addition to considering questionable health and safety bureaucracy, hopefully Lord Young will also devote some time to considering where more could be done to improve the effectiveness of both prevention and compensation.

Safety is all about balance. Do too little and people will still get hurt. Do too much and you impose unnecessary costs, restrict opportunities and waste time and other precious resources that could be better used to tackle significant risks that still need to be brought under control. And you will also cause frustration and foster scepticism which will ultimately damage the health and safety 'brand'. But of the two errors, which is the greater affliction currently affecting the UK

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economy, 'under hitting' or 'over hitting' on legal compliance? In my view, figures on the extent of preventable work-related injury and health damage would suggest the latter is the bigger problem – and by a country mile!

Perspective

So to be taken seriously Lord Young will have to demonstrate a clear sense of perspective and balance in the way he approaches his task. He will need to address the balance of false 'elf and safety' stories versus true ones. HSE has been diligently tracking such stories in the media and has been rebutting many with its *'Myth of the Month'* campaign. Research into such stories has shown some to be wholly false, some to be exaggerations and only a minority to be true as reported. Lord Young will need to acknowledge this and comment perhaps on the role played by the press in exaggerating people's fears about health and safety.

He will also need to weigh the value of people's fears and impressions against the findings of research. Anecdotes and stories reported in popular newspapers can be based on misunderstanding and misapprehensions, so serious study is needed to find out the extent to which these are real and well founded and if they are not, how they have arisen.

Burden

Lord Young will also need to take a balanced view of the burden of hazard, risk and harm across both 'industry' and 'services'. If he studies the 1972 Robens Report, from whence the *Health and Safety at Work etc Act 1974* sprang, he will see that one of its main aims was precisely to transfer the lessons of industrial safety and occupational health to ensure protection of workers in other sectors of the economy – the so called 'new entrants'.

The structure of employment continues to change and each work setting has its specific problems including, for example: offices and shops with slips and trips, manual handling, ergonomics, fire, office machinery and stress; schools, with issues such as laboratory and workshop safety and outdoor activities; homeworkers, many of whom may be undertaking hazardous tasks using equipment or substances. And then of course there is the ubiquitous problem of work-related road safety, the biggest contemporary safety risk (an estimated 750 people killed annually) which affects nearly every organisation – large and small – in an increasingly road mobile, serviced-based economy.

Thus far Lord Young has laid great stress on the UK's rate of notifiable work-related injury where he suggests we have one of the best records in the world. But equally this needs to be balanced against the extent of work-related ill health, including the extent of early death due to harmful exposures. The TUC, in a recently released and well argued report, *The case for health and safety* (www.tuc.org.uk/extras/the_case_for_health_and_safety.pdf), suggests that as many as 20,000 people are dying annually in Britain as a result of their work – the majority due to work-related health damage. HSE estimates that in 2009, for the whole economy, 29.3 million working days were lost overall (1.24 days per worker), 24.6 million due to work-related ill health and 4.7 million due to workplace injury. So Lord Young will need to acknowledge that, on balance, health is now a much bigger problem than safety.

Costs & benefits

Then there is the wider question of the balance of costs versus benefits. Lord Young highlights the alleged burden imposed by health and safety law on business and society generally but he will also need to compare this with the current cost of health and safety failures to the economy (up to £30 billion per annum or nearly 3.0 per cent of GDP). He should also highlight the business benefits of controlling preventable accidental loss in individual firms – particularly in a period of relative recession when these losses cannot so easily be met from increases in sales or turnover. In 1995/96, HSE estimated the cost to employers of accidents and ill health cases at between £3.3 to £6.5 billion annually of which £910m to £3.7b came from accidental damage to property and equipment (www.hse.gov.uk/costs/costs_overview/costs_overview.asp).

The same balance of costs and benefits needs to be considered when looking at the question of the amount of time firms may spend on health and safety administration. Lord Young cites data from the Department for Business, Innovation & Skills (based on a very crude survey by the Forum of Private Business) which suggests that small firms spend one day a month on such work. This, he claims, is causing unemployment. But he needs to balance this against the fact that a firm that employs 25 employees is likely to be losing over 2.5 days per month due to employee accidents and work-related ill health. Is this not likely to be a greater source of economic inefficiency?

Consultants

And then there is the question of allegedly poor or over-the-top advice from consultants. RoSPA strongly supports the need for good advice to help employers select the right people to assist them, and together with other health and safety bodies we have been working hard to help deliver some initial proposals for a register of consultants. But there is still little, if any, hard evidence to prove that there is a major problem of disproportionate/wrong advice out there. How extensive is it? Typically what forms does it take? Where is it most prevalent and on what topics? How many consultants are there out there in the market? How many firms use consultants? What do they use them for? At the moment we just do not know. Our suspicion is that the problem of poor advice from unprofessional consultants is probably quite a small one when compared with the fact that millions of businesses with poor health and safety management still do not bother to seek any outside advice at all.

Proportionality

In RoSPA we continue to champion the idea that safety is all about proportionality and balance. Our fear, however, is that unless Lord Young addresses the questions I have raised in this piece in a balanced and evidence based fashion, the whole approach which we have sought to build up so patiently may be put at risk.

Of course we have to curb the excesses of 'elf and safety' zealots who are demanding too much action on small risks while ignoring larger ones – but even more damage may result in the long run if we give succour to those sceptics who harbour the prejudice that health and safety is mainly all a waste of time and largely overdone.

Readers' comments welcome.
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'Low hazards' but 'real risks'

➤ **RoSPA's occupational safety adviser *Roger Bibbings*** gives his initial thoughts on Lord Young's review of health and safety, which was published last month.

Entitled *Common Sense, Common Safety*, Lord Young's review of 'health and safety and the compensation culture' was published on 15 October (www.number10.gov.uk/wp-content/uploads/402906_Common Sense_acc.pdf). It has made some 30 odd recommendations for: (1) dealing with compensation related to negligence; and (2) simplifying health and safety administration, particularly helping smaller businesses to do simple risk assessments.

Despite continuing use of the term 'compensation culture', Lord Young's report has now confirmed that this is largely a myth – a perception in the public mind created by the media and amplified by aggressive advertising by personal injury lawyers. Instead, the report focuses, quite correctly, on the need to provide reassurance to everyone that, if they act sensibly and reasonably, they cannot be sued successfully for negligence.

Tom Mullarkey, RoSPA's chief executive, and I met with Lord Young for a one-to-one briefing at No10 the day before the report's launch. We were able to explain in more detail some of the views we had already expressed to him in writing, and explain some of the work we have been doing in RoSPA, not just to help improve overall H&S performance but to cut unnecessary health and safety bureaucracy (caused mainly by third parties – not regulators). We also stressed that accidents in the UK overall are actually going up (particularly in home and leisure) and that, especially in the present economic situation, there is a really strong social and fiscal case for making accident prevention a key theme in the wider public health agenda.

Our meeting provided an opportunity to highlight much that is going on in the health and safety scene that is helping us to move in the direction Lord Young wants to go. This includes initiatives like Safety Schemes in Procurement (to simplify H&S pre-qualification for contractors), our own National Core Competence Benchmark (to cut down on repetitious H&S training), and the Child Safety Education Coalition, led by RoSPA, funded by DCSF, and now involving some 160 organisations actually committed to delivering Michael Gove's *'Dangerous Book for Boys'* approach to safety education. We also talked briefly about our work to enhance the H&S assistance role of trade associations, and the positive role of safety reps and networks such as Safety Groups UK, which are reaching out to SMEs. We continue to argue that all these actors need to be embraced as allies in the overall national effort for achieving better health and safety in the UK.

In our immediate response to the review (we are still studying the detail of the report), RoSPA has sought to focus on positive messages about H&S, including the need for businesses to concentrate on their priority issues and the need for proportionality to ensure effective targeting of resources in cutting accidents and days lost. While Britain has a relatively good record when it comes to notifiable accidents at work, looking at the wider epidemiology or aetiology of work-related harms, there are clearly some big problems still to solve such as work-related road injury and work-related ill health.

We agree with Lord Young about the need to improve accident and incident reporting arrangements (building on the results of previous HSE consultation exercises) and look at alternative options which can improve the collection of data while encouraging all businesses to focus on and learn from their near misses. Good data on accidents, incidents and ill health cases is gold dust for prevention, whether nationally, sectorally or within individual businesses, and used intelligently it can help not just to save lives and reduce injuries but cut waste too.

RoSPA also wants to continue to help with the HSE led initiative (currently underway) to create a register which will provide better

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guidance to businesses that want to use H&S consultants.

Lord Young feels that too many businesses use consultants when they do not really need to and that too many consultants try to eliminate risk altogether.

RoSPA has always opposed 'consultant dependency' since businesses should be encouraged to be as self-sufficient as possible in H&S. But competent consultants can be useful to help get businesses moving in the right direction and to provide on-going technical support where necessary. So we will work to ensure that registration does not lead to any reduction in the supply of competent consultants or, by limiting supply, end up by driving up costs for business. Indeed we see the register as just a first step since what is really needed in our view is a much broader web-based system to enable businesses to procure appropriate services (including training and occupational health) from across a whole UK H&S services network. And intermediaries like (lawyers, trade associations etc) need to be helped so they can give better 'advice about advice' in H&S.

Appeals

We like Lord Young's proposals for appeals against poor H&S decisions. This was something which we called for from the Risk and Regulation Advisory Council under the last Administration. After all, the right to appeal is part of our British legal culture. But should it be limited simply to challenging local authorities that ban public events as Lord Young suggests? Surely any third party should be required to have a procedure to respond to appeals in this area. What about the client, insurer or lender that demands too much of contractors, the insured or borrowers – or conversely the business that loses out to competitors because they insist on sticking to necessary H&S standards?

Challenges

Where we are most keen to help, however, is in fine tuning Lord Young's ideas about responding to health and safety challenges in what he terms "low hazard" workplaces such as "offices, shops and schools". There are obviously still H&S issues in these settings. For example, even small, service-based firms which might at first glance seem quite safe will certainly have significant problems such as fire, occupational road risk etc – not to mention issues such as slips, trips and falls, stress and manual handling injury as well as threats and violence possibly. Then there are likely to be facilities management issues such as safe access and egress, safe cleaning, safe storage, safe vehicle parking, lifts, gas and electrical safety, and possibly asbestos and legionnaires problems. There may also be building maintenance and CDM activities too.

When asked to define 'non-hazardous' at a recent meeting of the CBI Health and Safety Panel, Lord Young accepted there was a need in schools, for example, to deal appropriately with safety in chemistry labs, workshops and other hazardous activities such as outdoor adventurous activities. Obviously all these issues need to be addressed adequately but in a proportionate way.

The inescapable fact is that the distribution of the workforce has continued to change dramatically over the last three and a half decades since the Health and Safety at Work Act was introduced. More people than ever work in offices, call centres, shops and so on. There may be fewer fatal and major RIDDOR events in these settings but troublesome minor injury events still happen of course, and ill health and wellbeing issues have now become more important than accidents. Absence due to work-related ill health is now almost twice that due to accidental injury.

What we have got to help get across to Lord Young is that it is the ***risk*** profile of ***jobs*** and not necessarily the ***hazard*** profile of ***work environments*** that is critical. (After all, 'low hazard' can still mean high risk and vice versa.) For example, if you work in an office but suddenly have to do a lot of work-related driving your risk profile increases dramatically. Car and van drivers who cover 25,000 miles annually for work face the same risk of being killed in work as someone working on a trawler. If you are in a customer-facing role you are likely to face threats or even assault. If you work long hours in a call centre you may face stress and ergonomic problems such as musculoskeletal disorders. So it is not just a question of your proximity to the traditional forms of high kinetic or potential energies found in manufacturing, agricultural or construction environments. Many of the issues which cause accidents at work are in fact common to 'industrial' and 'non-industrial' settings.

Simplification

RoSPA has been arguing for over ten years for the use of simple risk assessment templates as part of a combined risk assessment and safety policy document for SMEs (**www.rospa.com/occupationalsafety/adviceandinformation/smallfirmshealthandsafety/advicepack/sheet7.aspx**). HSE has recently picked up this idea.

We certainly need to discourage a belief that lengthy risk assessment documents by themselves provide protection (whether legal or real). Obviously they don't. It's all about getting the right control measures in place. The assessment in this sense is only a means to that end and should be no more complex than is entirely necessary.

A simple template should always be used as 'a starter for ten' but equally we also need to avoid encouraging a slap dash approach and emphasise that the duty to carry out a 'suitable and sufficient risk' assessment under the *Management of Health and Safety Work Regulations* means that more detailed work may still be needed where necessary. And we need to remember that risk assessment should not be an afterthought but ideally be part of planning in advance so you nip potential problems in the bud through good design – which usually promotes efficiency and effectiveness too.

There will be a lot more debate about all this as Lord Young oversees implementation of his recommendations over the next eighteen months. And the implications for H&S generally of the Comprehensive Spending Review will also start to become clearer. RoSPA is encouraging the whole H&S community to think harder and more creatively about how to respond effectively to all these developments.

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Prevention works!

➤ **RoSPA's occupational safety adviser *Roger Bibbings*** examines why even though prevention works and is invariably cheaper than cure, most preventers seem to face an uphill battle in getting their investment case across to policymakers.

The Government's Comprehensive Spending Review was published in October and what we are all anxious to know is how it will affect safety. Already we have learned that HSE funding is to be cut by a massive 35 per cent but in many other areas decisions about safety spending have yet to be clarified. To what extent will safety spending be ring-fenced? Will ministers be prepared to recognise that spending on safety, rather than being a burden on the public purse actually saves us all money in the long run.

Logically 'spending to save' ought to be a very strong theme right across the Government's agenda. Consider the vast savings that can be made by preventing not just work-related accidents and ill health but by preventing bankruptcy, cancer, climate change, congestion, crime, cruelty to children, drug addiction, fire, flooding, food poisoning, fraud, heart disease, industrial disputes, obesity, pollution, poverty, stroke, suicide, teenage pregnancy, terrorism – war even. And that is only a cursory list.

Prevention works and what is more, it pays. It's invariably cheaper than cure yet most preventers seem to face an uphill battle in getting their investment case across to policymakers – especially at a time of severe cuts in public expenditure.

It is so obviously better to reduce harm and costs arising from such things as accidents, ill health, suicide, crime, drug abuse, family breakdown or environmental damage, than to spend vast sums on simply dealing with the consequences of all these ills (and with no end in sight). Yet what is worrying is that the Cabinet Office seems to have indicated that, because so many departments and agencies under threat are now using the prevention argument, it will not be taken into account in spending plans.

Part of the problem is that each prevention community seems to beaver away at making its case to government in its own way and in its own domain. Given that the Government seems be turning its face against the fiscal case for prevention, should they not all get together to compare notes?

Without denying the case for efficiencies (we can all do things better), preventers need to stress that cuts in their programmes actually represent investment in future losses. The Government is actually cutting now to waste even more later.

One obvious common feature that links all agendas such as accidents, ill health, fire or flooding is that the impulse to prevent – whether at an individual, an organisational or a social level – is in most cases – a reactive and not a proactive one.

In the immediate aftermath of dealing with unplanned, dysfunctional events (eg. 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 practice the first challenge to be faced is always that of coping with the consequences of the unplanned and the unforeseen.

This in turn raises a second question, namely whether those whose role it is to act immediately 'post-event' can ever really be effective champions of prevention – that is, promoting action 'before the event' to interdict error or to cut the chain of causal factors that results in any particular form of harm or loss. For example, lawyers engage primarily with accidents in a search to prove or disprove blame. Few offer risk management services. Insurers tend to consider accident history to determine premiums rather than

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risk management capability. Emergency services secure the scene and deal with the injured (although they do now also promote community safety). Most physicians and surgeons seek to treat those who have already been injured or become ill. Relatively few are engaged in public or occupational health. Social workers tackle the problems that arise from family breakdown rather than providing support to all parents. And yet in all these areas the professionals involved are now expected, to varying degrees, to be shifting their focus and their 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 also have a clear understanding of how to devise effective preventive strategies. But, in practice, the case for shifting just some of the resources currently allocated to reactive services to prevention 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 other Western European and US standards. Treatment and prevention are made to compete and thus become adversaries rather than natural allies. With even the strongest evidence of efficacy, it takes a real leap of faith by a politician to invest in new preventive interventions which may not start to show savings for some years. When budgets are tight, horizons shorten too.

Secondly, the 'post event' mind set is formed by – and focused on – 'post event' challenges. Fighting fires, treating diseases, coping with relationship difficulties, invariably demands a singular concentration on the complexities of the presenting situation and not its antecedents. Thus it seems that, in practice, those who do have to focus on consequences, often fail fully to appreciate the true challenges in the preventive agenda.

Challenges

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' or secondary safety) prescriptions for prevention such as advocating greater use of personal protective equipment. Or what is perceived as prevention may in fact only be consequence mitigation, ie. stopping bad things getting any worse, rather than stopping them happening in the first place, often by introducing quite simple measures.

Where then in any field should the responsibility for leading prevention lie?

Should it be given to those whose role it is to cope with the 'unplanned' or 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 it could be argued that those best fitted to actually prevent (if not also to promote and regulate prevention) are those whose main role is to deliver a product or service. After all, in such a role they have to accept that, even in the most well founded plans, error can and will occur, leading to unplanned, harmful events.

Management

What is often not really appreciated by many managers – who are often over confident – and like many 'post event' people may also be tempted to see prevention as 'bolt on' option is that, in reality, prevention – in some form and to some degree – is actually 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 anyway – be it turning the experienced and prudent driver into a 'defensive driver'; helping the worried and concerned parent to become better informed and more consistent in dealing with their children; or helping the company already committed to quality and reliability to extend those approaches to the control of accident and disease risks. Viewed in this way, the job 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.

In occupational health and safety, for example, we have seen a gradual strategic shift from reliance on external supervision by the regulator to internal policing by the health and safety department, to self regulation – and not just by the line manager but by the individual worker at the sharp end. 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?

For example, in an ideal world, who should be funded to lead prevention of diet-related ill health or the prevention of house fires or to lead on crime prevention – those who have to cope with prevention failure or others who are responsible for delivering the 'normal condition'?

Of course the scope for prevention varies enormously according to the context but every organisation needs to be reminded that their overall performance will be measured (to some extent at least) by how much they are able to prevent not just how efficient they are in picking up the pieces.

Sadly, 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. In safety, for example, it still takes specialist organisations like RoSPA, which have no other agenda, to lead and to promote the capacity of others to manage their affairs so that things don't go wrong. In other areas too, whether they are located inside or outside government, we probably still need specialist prevention agencies to provide leadership but that in turn requires resources and cannot happen unless government itself shows leadership by really investing in the prevention agenda.

Readers' views are welcome.
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Protecting proactivity

➤ **In March, Employment Minister Chris Grayling announced** a package of changes to Britain's health and safety system which he said are designed to support the Government's growth agenda and to ease the regulatory burdens on business. But at what cost? RoSPA's occupational safety adviser ***Roger Bibbings*** examines the issues.

Like me, many readers will have noted with interest the announcement made by DWP Minister Chris Grayling on 21 March about the future of health and safety (see: www.dwp.gov.uk/docs/good-health-and-safety.pdf).

Outlining a series of steps to be taken by his department under the *'Good Health and Safety, Good for Everyone'* banner, Mr Grayling said that proactive health and safety inspections by HSE would be a cut by at least a third, with future targeted inspections focusing on "high risk" locations, such as major hazard facilities and on "rogue employers". In future, if such poor performers are found to be in serious breach of health and safety law, they will have to pay the cost of HSE investigations into their activities under a new system called 'fee-for-fault'.

The minister's statement also covered the successful launch of the Occupational Health and Safety Consultants Register (OSHCR) and the simplification of risk assessment for SMEs via a new online advice package for small and "low risk" employers. In addition, he announced that there is to be a major review of health and safety law by Professor Ragnar Lofstedt of Kings College London, with a view to simplification and the scrapping of unnecessary requirements and clarifying *"...the legal position of employers in cases where employees act in a grossly irresponsible manner"*.

The title of the announcement and the emphasis on enforcement seemed to mark a shift in tone towards recognition of the importance of health and safety to people and to business success. On the other hand much of what Mr Grayling said seemed to focus on accidents rather than the much bigger problem of occupational health and he repeated many of the ideas underpinning the Lord Young Review such as *"…changing the health and safety culture that causes so much frustration in Britain today"*.

What was interesting though was the strong emphasis Mr Grayling put on levelling the playing field for all businesses by HSE getting tough with offenders. The flip side of this of course is that the Government is cutting HSE resources by 35 per cent by 2014-15. Inevitably this will put them in a much more reactive position with less resource devoted to proactive interventions, whether through inspection or education.

The announcement contained the news that in future proactive inspection will cease in sectors such as agriculture, quarries, and health and social care, where it is not thought to be effective. It will also cease in "lower risk areas" including low risk manufacturing (such as textiles, clothing, footwear, light engineering, electrical engineering); the transport sector (such as air, road haulage and docks); local authority administered education provision; electricity generation; and the postal and courier services. Mr Grayling repeated the key message in Lord Young's review (with which no one can disagree of course) about the need for proportionality in relation to risk but he did not really spell out the cost of health and safety failures to the UK economy – up to three per cent of GDP – nor indeed the massive business case for good health and safety performance at company level and its potential contribution to business recovery. (Ironically, this is actually much stronger in recession when the cost of incidents cannot be made up through increased sales and turnover). The minister also seemed to reflect some of the other assumptions that underpinned Lord Young's approach, namely that businesses in the service sector are mainly 'low hazard' and thus need only a light touch and that health and safety performance is mainly about reducing the reportable injuries figures (and not the much greater problem of cutting underlying work related mortality and morbidity).

Most of Mr Grayling's focus therefore was

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on HSE in its role as a policeman, focusing its resources onto major hazards sectors, with less emphasis on its key role as an awareness-raiser and adviser to business. And his focus on safety seemed to suggest that HSE would be reducing the support it has been providing to help deliver the Dame Carol Black 'health and work' agenda.

As I have argued repeatedly in this column, focusing on RIDDOR 'notifiable injuries' as the prime performance indicator tends to obscure the true extent of work-related death, injury and ill health, including, for example, work-related road injuries (about five times greater than RIDDOR reportable injuries), deaths due to work-related health damage (particularly from asbestos where many thousands more are expected to die with no immediate decline in sight), and the huge toll of work-related ill health (due especially to musculoskeletal disorders and stress). And the suggestion that health and safety risks are less significant in 'low hazard' workplaces such as schools, shops and offices, while true in one sense, tends to gloss over the fact there are still lots of important issues that still need to be properly managed in these settings.

Besides doing fewer targeted proactive inspections, HSE is also downsizing much of its advice provision – a key part of their statutory role set out in the 1974 Health and Safety at Work Act. For example, there has been a government ban on awareness-raising advertising since the election (meaning HSE press campaigns on issues such as asbestos and slips, trips and falls have had to cease), the HSEline is being brought back in-house (probably in a reduced form); HSE's excellent website is to be rationalised; 'Safety and Health Awareness Days' (SHADs) are down; and funding for novel programmes such as the 'Do Your Bit' campaign to boost workforce involvement is being cut back and so on.

Fee-for-fault

One of the issues covered in the ministerial statement which seems to be exercising industry most is the idea of HSE adopting 'fee-for-fault' cost recovery. This is not a system of administrative penalties as suggested in the Macrory review (**www.bis.gov.uk/files/file44593.pdf**) related to the seriousness of any breach but a system of charges levied by HSE on employers to cover the cost of advice and any follow-up action needed to check on compliance with enforcement notices. It is designed particularly to recover the costs involved in serving Improvement Notices to remedy breaches in relation to significant risks.

There seems to be an acceptance that 'fee-for-fault' simply follows the long established principle in the environmental field that 'the polluter should pay'. But on the other hand, concerns are being raised in various quarters about whether this system might skew HSE's operational priorities or adversely affect its relationship with dutyholders. And there could well be accusations in the popular press – such as those levelled quite wrongly at speed cameras – that HSE is just chasing employers to raise revenue for Her Majesty's Government.

There are dangers here, of course. HSE will need to feel its way – but 'fee-for-fault' cost recovery is not the real issue. The far greater challenge for the health and safety community is how to come together with creative ideas to help make good the reduction in HSE's awareness-raising and educational role.

The Government's critics seem to be focusing all their commentary at present on HSE's investigation and enforcement capacity (for example, the BBC Radio 4 programme 'File on 4' on 7th March). Research confirms that enforcement is critically important. But my own view is that the fundamental value of education and awareness-raising in reducing casualties at work is being overlooked. Some have only ever seen it as a bolt-on to HSE's regulatory role, while many of HSE's critics take the view that it is not really effective anyway.

In reality, moving a poorly performing employer towards reasonable compliance is complex and requires a number of inputs which broadly can be broken down into 'drivers' and 'enablers'.

Traditionally, HSE used to categorise employers by attitude and knowledge (**1.** Don't know, don't care', **2.** 'Do know, don't care', **3.** 'Do care, don't know' and **4.** 'Do know, do care').

The first two categories require tough enforcement but may still be resistant. For them inspection and the perceived threat of enforcement is clearly a major driver but so too are client pressure and to some extent insurer, investor and workforce pressure.

The majority of non-compliant businesses, however, tend to be found in category three. The key point here is that in this wider group, enforcement pressure on its own, without the enabling power of information, training and competent advice does not produce sustainable change. Shifting the emphasis to just punishing a few spectacular wrong-doers in an exemplary way but doing little or nothing to persuade and enable other potentially well motivated businesses to change might actually be bad for overall health and safety performance.

The Government might take the view that with the setting up of the Occupational Safety and Health Consultants Register more employers can now go to competent consultants for advice rather than HSE. But this rather ignores HSE's important role as the prime mover in the health and safety system and its key role as developer of consensus standards and guidance. Also, few if any consultants on the register are going to organise campaigns and awareness-raising initiatives such as HSE's information campaigns on asbestos and H&S standards in construction and agriculture.

Such activities are often part of a mix of HSE initiatives, often carried out in partnership with sector bodies, the trade unions and so on. So it's not a case of enforcement or education. It's both.

New dynamic

In its response to the 2010 HSE strategy consultation RoSPA stressed that HSE needed to establish 'a new dynamic' with the health and safety community in the private and voluntary sectors. We have put forward a whole raft of original ideas on ways in which RoSPA and others could help with education and remediation. These include awareness-raising, assuring the many existing industry health and safety schemes, 'monitored self-investigation', expanding the work of local health and safety groups, organising SHADs and so on.

Of course, HSE already works with a range of partners but we believe that, given its reduced resources, it will need to work in even closer partnership with us, the local safety groups, the trade associations and all the various professional bodies. Pooling our efforts would really produce very substantial results.

So while obviously we may need to debate issues arising from the new 'fee-for-fault' system and the Loftstedt review, filling the awareness-raising, information and advisory gap is actually the much more crucial issue. All of us need to work together to boost a proactive approach to health and safety if we are to sustain the improvements in performance which have been made in recent years. People's lives and health depend on it.

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

Homework needed

➤ **July is the final month for evidence to be submitted** to the team conducting the review of health and safety legislation which was announced by the Government earlier this year. RoSPA is feeding in ideas to the review and here the Society's occupational safety adviser, ***Roger Bibbings***, explores some of the issues the review team will need to examine.

In March, when DWP minister Chris Grayling announced the next steps in the Government's plans for reform of the health and safety system in Britain (*Good health and safety, good for everyone* – www.dwp.gov.uk/docs/good-health-and-safety.pdf) he said that the Government wanted to explore what opportunities there might be to simplify health and safety legislation to "*...further ease the burden on business*". So, following on from the Lord Young review, he has commissioned Professor Ragnar Löfstedt, director of the King's Centre for Risk Management at King's College London, to chair a team of six people (including politicians, business people and employee representatives) to consider the opportunities "*...for reducing the burden of health and safety legislation on UK businesses while maintaining the progress made in improving health and safety outcomes*". The review team is set to report in the autumn. (Details of the team and the review's terms of reference can be found at: www.dwp.gov.uk/docs/lofstedt-tor.pdf).

The legislation review will be supported by a small team of DWP officials and will focus primarily on approximately 200 statutory instruments and associated Approved Codes of Practice rather than the *Health and Safety at Work etc Act 1974* (HSW Act) itself or other primary legislation enforced by HSE.

Professor Löfstedt has been calling for evidence from a range of stakeholders in order to determine:

- the scope for consolidating, simplifying or abolishing regulations;
- whether the requirements of EU directives are being unnecessarily enhanced ('gold-plated') on translation into UK law;
- if lessons can be learned from comparison with health and safety regimes in other countries; whether there is a clear link between regulation and positive health and safety outcomes;
- if there is evidence of inappropriate litigation and compensation arising from health and safety legislation; and
- whether changes to legislation are needed to clarify the legal position of employers in cases where employees act in an irresponsible manner.

RoSPA is feeding in ideas to the review but we have already said that the professor and his colleagues will need to commit to doing a lot of homework if they are to understand fully the background to what they have been asked to review. And, if they do not coordinate closely with other 'simplification' initiatives that are underway – such as a wider project by HSE looking at how it brigades its range of over 2,000 guidance documents (including its guidance on health and safety management) and the current Government initiative asking the public for ideas on how to cut so called 'red tape' – there is a real danger of confusion. (Logically, any attempt to revise and restructure the HSE guidance lexicon should perhaps await the outcome of the Löfstedt review).

Health and safety law is important. It has involved thousands of hours of careful development. People's lives and health depend on it. Any review needs to be done professionally and not rushed. It needs to be strategic, evidenced-based and also consider carefully previous reviews of regulation and the results of consultation on particular regulations before they were introduced.

In particular, Professor Löfstedt, members of his panel and DWP officials will need to go back and understand in some detail the history and evolution of our system of health and safety law and guidance, since both are intimately connected. For example, core ideas underpinning our approach to regulating health and safety management have an enduring DNA, many going back a long way before the Robens Committee, including, for example, to the report of the Joint Industrial Council on Accident Prevention of 1956!

What made the HSW Act and the post Robens architecture different from earlier Factories Act law was not just its goal-setting nature, bounded by 'reasonable practicability', but its attempt to describe the essential ingredients for arriving at and sustaining safe systems of work in an organisational setting. In other words, it was not just a long list of do's and don'ts related to particular hazards but in a suitably general way it attempted to set out the people/policy/procedures needed to ensure that hazards were routinely identified, risks assessed, appropriate controls applied and refined, taking into account advances in knowledge and lessons from operational experience.

Thus, whereas earlier law had sought only to prescribe measures to be taken in various (actually quite limited) settings, the 1974

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Act (later augmented by the *Management of Health and Safety at Work Regulations* (MHSWR)) tried to indicate what employers needed to do to be able to work this out for themselves, using risk assessment and supported by competent people/advice, consultation with workers and so on. In theory, regulations and guidance introduced subsequently to regulate specific risks and activities were designed to support this underlying core. So ideally there should actually be a logical flow from the general duties of care in the HSW Act (establishing key objectives), through the MHSWR (setting out essential management ingredients) to other specific hazard and sector related regulations (specifying essential controls and procedures). Guidance documents then support all this.

But, as is now fairly self-evident, the elegance and logic of this flow that were envisioned in the 1972 Robens report have been corrupted over time by adaptations to implement EC directives and so on. So in reality what we now have is an architecture of law that is not just untidy but also incomplete and not easy to understand in the detail without going on a training course and/or reading quite a lot of guidance! (But this is true also of course of law affecting business in many other areas including: planning, tax, environment, employment and so on. And remember, the only people who actually read raw, undigested law are advisers, trainers and lawyers!)

Big issues

Logically, from the standpoint of transparency and proportionality, both health and safety law and supporting guidance should be focused on the 'big' issues. In some hazard areas like chemicals and physical hazards the law is well developed but in others like psychosocial risks (ergonomics, stress, violence etc which affect millions of workers) it is still quite vague. Huge areas of hazard, for example, work-related road safety (more people are killed while at work on the road than in all other workplace accidents) are addressed only by the most generic guidance.

So Professor Löfstedt and his advisers need to begin at the beginning and consider if we do indeed have a comprehensive regulatory architecture, including a clear set of goal-setting duties which reflect the different elements in the risk management challenge and are applicable to all organisations. At present these duties are scattered across the top of the legal structure and do not flow logically downwards and outwards in other subsidiary law and guidance. Some, like risk assessment, training and information, are repeated at several levels. Other really important ones like investigation and organisational learning from accidents and incidents are not very clear at all.

Arguably the balance between what is covered in regulation and what is addressed in guidance could be readjusted (with shifts in both directions). On the other hand options here have been limited. Much of the problem, in my view, has been due to our inability in the UK to use Approved Codes of Practice (ACoPs) to transpose EC directives.

Robens had high hopes for ACoPs since they were intended to combine both authoritative advice and flexibility. But this vision was not shared. On one side the TUC always thought ACoPs were too weak. The CBI on the other has always tended to view them as prescriptive 'regulation by the back door'. And the European Commission has refused to accept them as a vehicle for transposition of directives into national law. This whole debate ought to be revisited.

And of course law and guidance on their own provide only part of the answer since by themselves statutorily required systems and risk control measures (even when supported by detailed requirements) are not enough to guarantee desired outcomes.

To ensure the 'fine fit' between systems/standards and operational reality you also need an effective 'health and safety culture'. And nationally and sectorally we need effective systems of promotion, education, training, advice and support, particularly to enable smaller businesses to respond effectively. And of course we also need enforcement to deal with the criminally non-compliant. Good law is clearly necessary but is far from sufficient to deliver safe and healthy working conditions.

The Government will insist, with justification, that any proposals from Professor Löfstedt pass what is called 'the small firms test'. There is continuing debate about whether in reality there is some sort of size threshold in today's businesses below which ideas about formal risk management have no meaning in practice. It is often said that small firms 'run' their businesses, whereas large firms 'manage' them. (And small firms of course are not just large ones that haven't got big yet!)

RoSPA and most other stakeholders in the health and safety system continue to argue that it is the level of risk to workers (and to others) and not size of the organisation that must be the guiding principle. So if they are to approach their commission professionally Professor Löfstedt and his colleagues will need to consider at the outset not just whether current risk management duties in law are suitably comprehensive and generic but whether they are 'scaleable' in different settings. Only then will it be meaningful to look at how to brigade more effectively the large amount of regulatory detail that has accumulated since 1974 and after 1992 in particular. Anything else, such as just trying to return to the letter of particular directives (often unworkable in a UK setting) runs the risk of just tinkering at the edges for political effect and creating even less clarity.

Support system

But the real challenge I believe Löfstedt faces in conducting his review is not just showing how we can ensure better regulatory housekeeping (without reducing essential protections), but how we can ensure that we have an effective health and safety support system to help businesses to comply. This, readers will recall, has been the focus of a long-term enquiry by RoSPA's National Occupational Safety and Health Committee (**www.rospa.com/occupationalsafety/adviceandinformation/smallfirmshealthandsafety/inquiry/default.aspx**) which is looking at help and assistance available to SMEs.

And the same breadth of vision and depth of understanding are also needed to deal with the final part of the review about the legal position of employers in cases where employees act in a grossly irresponsible manner.

Nobody sets out to have an accident but on occasions some employees do – for various reasons – act with apparent disregard for their own or others' health and safety. Professor Löfstedt and his panel members need to do their homework here too, avoiding crude behaviourist models of safety management which see accidents as being caused mainly by 'unsafe workers' and immerse themselves in excellent HSE publications such as HSG48 (*Reducing error and influencing behaviour*) which help to get causation factors into perspective.

I would urge all readers to 'watch this space' and feed in their ideas to the review as it proceeds. The deadline for providing evidence to the review is 29 July – see: **www.dwp.gov.uk/consultations/2011/lofstedt-review-cfe.shtml**

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Seeing red!

➤ **Through its *Red Tape Challenge*,** the Government is putting some 21,000 rules and regulations under the spotlight. One of the key themes is health and safety. RoSPA's occupational safety adviser ***Roger Bibbings*** takes a closer look.

The Government has recently launched its *Red Tape Challenge.* This is a web-based initiative inviting the public, businesses large and small, volunteers, lobby groups etc to provide views on regulations and particularly on which they think can be scrapped, done differently, merged or simplified, or where they think there can be improved implementation. Predictably health and safety is near the top of the list and consequently, for three weeks last month, all health and safety regulations were highlighted as the main topic for comment. They will remain available for comment on the website for the next two years.

As part of 'the challenge', HSE will be coming up with its own ideas and will be facilitating discussions on the health and safety theme on the site, including where it thinks there is a case for streamlining as well as where it thinks it is necessary to keep things as they are. HSE will also be working to get key stakeholder organisations and individuals to contribute ideas and suggestions.

Readers will also recall that the Löfstedt review team is working on streamlining some 200 sets of regulations and that HSE also has its own internal review of its library of 2,000 plus guidance documents.

Following all the change that is likely to flow from these various projects is going to be a real challenge for professional policy advisers let alone the wider public. There is a very real danger, in my view, of the whole regulatory and guidance architecture being thrown up in the air and subjected to totally ill-informed critique resulting in even more confusion – not less.

Government clearly wants to be seen to be 'doing something' and quickly about the perceived burden of regulation as part of showcasing 'Britain open for business'. (Reducing the burden of accidents, work-related ill health and their associated costs is receiving much less airtime.) But, as I stressed in my *Parting Shot* last month, if this job is to be done competently – and if things are to be simplified without essential protections being reduced – the whole process needs to be undertaken professionally and this will inevitably take time.

There needs to be a strategic, evidence based approach which also recognises that regulation and accompanying guidance must be considered together and not separately.

There needs to be recognition that when it comes to much regulation the devil is usually in the detail, and those tasked with reviewing particular measures need the humility to accept that the existing regulatory lexicon represents the result of literally millions of hours of detailed study, discussion and careful public consultation that have gone on over decades. Tasking non-specialists with having to make snap judgements in the space of a few months about literally hundreds of particular measures just will not do, particularly if the intention is to achieve better health and safety outcomes.

Of course, it would be foolish to argue that all existing legal duties are fully optimised or that the balance between what is in regulation and what is in guidance is absolutely perfect – and it would be arrogant to argue that the whole field is now so complex that the lay person is unlikely to be able to make a meaningful contribution.

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But equally, opening everything up for a free-for-all in which personal prejudices of the ill-informed have equal status with carefully developed positions based on research and professional judgement seems not only bizarre but totally reckless. Imperfect as it may be, the existing architecture has proved relatively effective and if it is to continue to evolve successfully the task needs to be undertaken with skill and above all with great care.

Last year I spent some time looking at comments posted on the 'Your Freedom' website about health and safety regulations. The vast majority, in my view, were vague and simply expressed a general prejudice against health and safety regulation in general. Only a tiny fraction represented informed comment. Of these (many of which seemed to be the result of lobbying by pressure groups) the majority were about reducing particular requirements rather than improving the implementation of regulation.

SMEs

Much of the criticism of health and safety regulation at present is focused on the idea that smaller businesses particularly are having to spend too much time on health and safety. The Association of British Chambers of Commerce's *Health and safety, a risky business* report – published in May – has described this as 'yellow tape'.

A key problem in addressing this concern is working out how to disaggregate health and safety effort from day-to-day operations. For example, I asked Lord Young how much time he spends on safety when driving his car. 100 per cent one would hope. Likewise with a small firm, if presumably they gather information, train staff, plan and check to deliver goods and services and so on, then health and safety considerations will be inextricably marbled into this. If there are meaningless administrative rituals which add nothing to safety then obviously these should be curtailed, if not abolished. But if, like risk assessments and method statements, they actually support business processes which the dutyholder adopts anyway, then they cannot reasonably be described as 'burdens'. But if we are to address this question from a research based perspective we need to gather much better quality data on how much time SMEs in particular actually spend on administration, particularly effort which has nothing to do with operations. Some may be doing too much but undoubtedly many others will be doing nothing at all. The figures from an earlier Forum of Private Business member survey quoted in the Lord Young review were pretty meaningless in my view. New work is needed, based on properly structured samples.

Also, if the focus is on excessive bureaucracy, the *Red Tape Challenge* also needs to encompass much of the administration in health and safety which is created not by statutory regulators like HSE but by third parties such as clients, main contractors, insurers, investors and others who seek assurance of health and safety in their supply chains for example.

Of course, we in RoSPA thoroughly support the leverage that can and should be exerted via supply chain relationships to raise standards of individual as well as organisational health and safety competence, but on the other hand such arrangements have in effect created a whole array of 'semi-regulators' who, unlike HSE, are not accountable through processes of appeal – other than resort to the common law (which generally would not be helpful). The 'challenge' should therefore ask specifically for views about this since, from the SME viewpoint, it does not matter who is imposing excessive requirements, it can all waste time and money and also give legitimate health and safety a bad name.

For example, ensuring subcontractors and suppliers are providing their employees with relevant training to an approved standard sounds fine in theory, but making sound and balanced judgements about what is relevant and what should/can be approved in particular circumstances can be quite a fine judgement. Sometimes assurers can over-specify.

I have argued to HSE that there ought to be some sort of independent mediation system to help sort out disagreements about health and safety requirements that arise between parties such as clients and contractors, insurers and the insured or even between citizens and local authorities. This sort of problem cannot be resolved by changing or abolishing regulations but by helping to establish better support mechanisms in the wider health and safety system. A good example here would be *Safety Schemes in Procurement* (**www.ssip.org.uk**) which we helped to get underway through a report on this issue and which has been set up to eradicate unnecessary duplication in health and safety pre-qualification and thus to provide a means for businesses to benefit from mutual recognition.

HSE

My feeling, having lived through quite a few 'reviews of regulation' over the last thirty-five years (although this is by far the most worrying), is that securing a successful outcome will depend on the role played by the HSE. Not only do they need to be allowed to bring some structure and discipline to what comes out of the various review processes and make suggestions on how work can be prioritised – they need to be able to play a leadership role by helping stakeholders and politicians to understand the background to issues under discussion, putting evidence on the table and dispelling myths and misunderstandings. HSE, despite the cuts that have been imposed on it and a significant loss of corporate memory through early retirements, is still a major national asset – a unique concentration of knowledge and expertise. And in the present situation it needs the full support of the wider health and safety community.

I urge all *OS&H* readers to play their part in the *Red Tape Challenge* (**www.redtapechallenge.cabinetoffice.gov.uk/home/index/**). Speak up for good sense and good health and safety regulation and come forward with creative ideas which can help improve our ability as a nation to save lives and reduce injuries.

Readers' comments are welcome and should be sent to me at: rbibbings@rospa.com

Don't be silly!

➤ **Health and safety has had a lot of press in recent times.** Goggles needed to play conkers! Street parties banned! Hanging baskets danger! And now politicians are getting in on the act, holding up press reports of 'elf & safety' as fact. RoSPA's occupational safety adviser ***Roger Bibbings*** asks, does this silliness really matter?

In the closing part of his speech to the Conservative Party conference in October, David Cameron said *"...one of the biggest things holding people back is the shadow of health and safety".* He went on to relate a tale he had heard of teachers not being able to use highlighter pens without observance of the COSHH regulations.

Although he was clearly repeating the Government's continuing concerns about health and safety 'overzealousness', his remarks drew responses from several safety organisations.

For example, Richard Jones of IOSH said: *"We think it's a shame that the Prime Minister's speech mistakenly cites health and safety as "holding people back" – the opposite is true! Good health and safety enables enterprise and volunteering to happen successfully and so helps ensure sustainability and growth. It's all about good sense and proportionality and we simply don't recognise the negative picture being painted here – it isn't real health and safety."*

David Lummis, chief executive officer at the British Safety Industry Federation (BSIF) said: *"Whilst the BSIF fully supports the Government's efforts to reduce red tape on organisations, recent comments made by the Prime Minister in his Conservative conference speech portrayed health and safety as a 'shadow' – surely this cannot be right! Whilst some 'anoraks' in health and safety may go substantially too far in their conquests, condemning health and safety as a whole creates the impression of a laissez-faire attitude."*

These comments seem to reflect a concern expressed by many other colleagues that, by repeating uncritically anecdotes about health and safety trivia reported in the media, many of our political leaders may actually be reinforcing negative stereotypes and undermining people's commitment to serious safety.

I first wrote about this issue in my *Parting Shot 'Hypersafety hysteria'* in November 2004, cautioning against getting silly media stories about health and safety out of proportion. And over the last seven years I have continued to argue that the perceived problem of people 'over-hitting' on safety is actually quite a small problem when compared with 'under-hitting' – that is, the work that still needs to be done to tackle over 14,000 accidental deaths every year in the UK, not to mention at least 22 million A&E attendances due to accidental injuries of all types (and which together cost the nation an estimated £350 billion per annum).

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Since health and safety 'silliness' first started to become an 'issue', concern about what has been called excessive or inappropriate risk aversion has continued to grow, reflected, for example, by Lord Young in his report *'Common Sense, Common Safety'*. Despite clear evidence that compensation claims and settlements are fairly steady and that the majority of the 'fault injured' do not actually pursue redress, Lord Young, like many other commentators, continued to fuel anxieties about the rise of so called 'compensation culture', citing it as a major cause of all kinds of nonsense perpetrated in the name of 'elf & safety'.

For its part, HSE has tried over a long period to address the problem, including with its *'Myth of the Month'* series (now discontinued), pointing out, for example, that the *Work at Height Regulations 2005* do not require warning signs to be placed on mountainsides or that high wire artists do not have to wear hard hats.

Perception

But despite all this effort, the problem has continued to grow. In some ways official denial only seems to have made things worse. Because 'elf & safety' myths play to people's prejudices and anxieties they seem to have multiplied and mutated, often developing a virulent life of their own.

Communication experts have pronounced that, regardless of whether these stories have any grounding in reality, the perception that 'elf & safety' is a problem is now the political reality that must be accepted as fact. For example, in their new book, *'Public safety and risk assessment. Improving decision-making'* (Earthscan, Routledge 2011), David Ball and Laurence Ball-King seem to accept the prevalence of press reports about over-the-top 'elf & safety' as proof positive of a new, all pervasive national disease that is limiting opportunities for public benefit such as outdoor education and healthy recreation. This might be predictable comment from an uninformed journo but surely serious academics have a duty to do some decent field research to measure more objectively what is actually going on on the ground?

Another part of the problem is that the silly stories are often very badly reported.

Recently in a press statement, DWP minister, Chris Grayling, referred to the ten most stupid excuses he had heard of related to health and safety (see: **www.hse.gov.uk/news/bizarre-bans/index.htm**). His aim, which RoSPA supported, was to get people to reject such behaviour and to focus instead on what HSE and others have come to term 'real' (significant?) risks, for example, in areas such as manufacturing, minerals or construction.

However, on examination, in some of the cases which the minister quoted (probably from press reports accepted at face value) things were not quite as silly as they were made to seem in the press. For example, the case of leisure facility operators not allowing youngsters to bump into each other on dodgem rides for health and safety reasons seems to relate only to a long established principle in the industry of requiring dodgem cars to all circulate in the same direction. I actually observed this for myself recently when I helped take some learning disabled children for a day out to a theme park. An understanding of simple physics was enough to see why closing speeds resulting from dodgems going in opposite directions would just be too high.

Another problem is that the words 'health and safety' are invoked as a magic couplet in a way which exempts the user of the phrase from having to be more specific about the precise dangers involved. Often the perceived threat is only to safety and not to health but 'health and safety' can still be used as a grand catch all. Recently, for example, we had the case of St Paul's cathedral being closed on 'health and safety' grounds because of the alleged fire hazard from the stoves of anti-capitalist protesters camped outside. It was interesting that on the BBC's 'Question Time', the Rt Hon Iain Duncan Smith MP, who is the Secretary of State at DWP and responsible for HSE, suggested that the authorities at St Paul's might not have got this quite right.

Politics

Many have mourned the fact that questions of health and safety have become drawn into politics. In many respects – and certainly for most of the years since the Second World War – the case for the improvement of health and safety in all spheres has remained an 'all party' concern, with most politicians supporting the 'good safety is good for business' line. (Of course, there have always been those who have questioned the cost of particular safety decisions for business.)

But recently, helped by the drip, drip of stories about apparently excessive health and safety requirements, the notion that regulation equates with red tape and inhibits competitiveness has gained ground inexorably. Christopher Chope MP, for example, has been continuing to put down parliamentary questions calling on the Government to extend deregulation to remove the alleged burdens which health and safety places on business, despite ministers explaining the steps they have already taken to reduce inspection and simplify guidance.

It might seem wholly naïve to think in terms of keeping health and safety out of politics. Exactly where to draw particular lines to ensure safety ought quite rightly to give rise to differences of view and thus to political debate (safety is a matter of social and not purely technical judgement). But the tenor of the current polemic suggests that what we are witnessing is no longer about differences of view in the middle ground. Things have become much more polarised, and dangerously so.

Some, however, might argue in the other direction that it is in fact the safety community who are becoming a little too oversensitive – taking themselves too seriously and not seeing the funny side of all this. Of course, it would be a pity if the health and safety community couldn't take a joke made against them but equally there comes a point when it all starts to wear a bit thin.

'Safe' society

Generally speaking, politicians and commentators who have a background in industry seem to understand just how important safety is. They have either had it drummed into them on their way up the career ladder or worse still they have had to investigate an accident in which someone has been killed or seriously injured or they have had to talk directly to victims' relatives.

It may be that the persistent knocking of health and safety stems in part from the fact that for many people we seem to be living in a very safe society in which many threats seem to have been entirely removed. Only the more thoughtful, for example, seem to recognise the massive debt which we all owe to prevention and to what I have termed *'the hidden hand of safety'* which is working away quietly on our behalf every day, saving lives and reducing injuries.

Suffering from accidents (which mainly affect individuals in separate incidents) is massive but it is spread out in time and space in our society. So, despite the 'ripple effect' of accidents on families and communities, their overall societal impact is still very dilute.

The problem of the half-baked caricature of health and safety is still with us. Persuading people to move beyond such silliness is proving to be a lengthy task indeed. We just have to keep at it.

Readers' comments welcome.
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Challenging times?

➤ **RoSPA's occupational safety adviser *Roger Bibbings*** discusses the recently launched Independent Regulatory Challenge Panel.

The Government is very committed to ensuring that health and safety decisions are fair, balanced, and proportionate – a position with which few, if any, are likely to disagree. This aim was reflected, for example, in Lord Young's report, *'Common Sense, Common Safety'*, which made proposals for voluntary organisations to be able to mount appeals against unfair health and safety decisions by local authorities (LAs), eg. in cases where LAs had wrongly refused permission for public events on health and safety grounds. (It would be interesting to know how widely this has been taken up.)

Now, following a recommendation in the Löfstedt report *"for a challenge mechanism that allows for cases of incorrect, over-application of health and safety legislation to be addressed"*, DWP minister for health and safety, Chris Grayling, has announced plans for further mechanisms to be established to enable employers and others to challenge Health and Safety Executive (HSE) and LA advice about compliance which they consider to be inappropriate or unfair. (The minister's decision may also have been prompted by industry concerns about the operation of the new 'fee-for-intervention' policy to recover HSE enforcement costs).

It needs to be remembered, of course, that, ever since the Health and Safety at Work Act was introduced in 1974, employers have always had the right to make appeals to an Employment Tribunal against HSE and LA enforcement notices (see **www.businesslink.gov.uk/bdotg/action/detail?itemId=1073791494&type=RESOURCES**). Interestingly, however, the number of such appeals has always been a tiny fraction of the 18,000 or so notices which are issued annually.

The new Independent Regulatory Challenge Panel (IRCP), launched in January by HSE, is charged with considering challenges to health and safety regulatory advice and looking into issues raised by businesses and other parties where the latter believe an HSE or LA health and safety inspector has given advice that is incorrect or disproportionate.

The panel is independent but also has members with significant regulatory experience, both from HSE, LAs and other regulatory bodies. It is chaired by Tricia Henton, an experienced former regulator at the Environment Agency.

The panel will quite specifically not look at issues where other independent appeals processes already exist, eg. appeals against enforcement notices to tribunals or in defending against prosecutions in the courts, and before raising an issue with the panel, appellants should first have tried to resolve the matter with the relevant HSE or LA inspector and their manager.

When contacting the panel, appellants are required to submit details of their challenge by completing an online form (**www.hse.gov.uk/contact/contactchallengepanel.htm**) giving details of their position, company size, details of their complaint etc. The issue(s) they raise will then be put before the panel members who will review the concerns raised thoroughly and inform the appellant of their findings.

If appellants are not satisfied with the findings of the panel they can follow the existing complaints procedures, including writing to the chief executive of HSE or the relevant local authority chief executive. They can also write to their MP and, if necessary, ask them to contact the Office of the Parliamentary and Health Service Ombudsman to investigate cases relating to HSE. For local authority matters, appellants can contact their local councillor and if necessary the Local Government Ombudsman.

The panel will consider cases from 30 June 2011 onwards and the outcomes of the panel's deliberations will be made available on the HSE website.

HSE stresses that the panel's role is advisory but says that it and LAs will respect the panel's independence and advice and, where appropriate, take that advice on board. (More information about the panel is at **www.hse.gov.uk/contact/challenge-panel.htm** including its precise terms of reference).

Although obviously aimed mainly at duty-holders such as employers, clients or manufacturers and suppliers, the appeals process is also open presumably to other parties such as safety representatives or individual employees or even individual members of the

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public affected by health and safety regulatory advice. And although designed to address cases of 'over-application', presumably the panel will also be able to deal with appeals about 'under-application' as well.

It will be interesting to see if the requirement for proper dialogue with enforcement officers and their line managers before appealing will be effective. Given that this is very much current practice anyway, the number of cases actually reaching the panel is likely to be quite small. On the other hand, the range of issues the panel might have to deal with could be quite wide, from interpretation of general regulatory requirements in specific circumstances to broader issues of enforcement policy (for example, why advice and not notices may have been relied on to secure compliance with standards such as HSE's Stress Management Standards, or why HSE or LAs have chosen not to enforce H&S requirements in areas such as occupational driving and so on). The panel may have difficulty therefore in deciding between those cases which are essentially about technical interpretation of reasonable practicability and those which are of a more general nature and relate to broad issues of policy.

Also, the decision to publish panel decisions on the HSE website might suggest a move towards an informal system of semi-legal precedents. RoSPA, like many other parties in the health and safety system, has always disliked policy development via case law, favouring instead the use of joint bodies such as industry advisory committees to determine reasonably practicable standards through a process of 'bargained compromise'. There is also the question of the extent to which appellants will be able to make use of legal and/or expert representatives in presenting their case to the panel. All this will have to be worked out.

Focus

Some might argue that the right of appeal the panel provides serves only the interest of those businesses which want to play for time or who are reluctant to 'do the right thing'. But properly applied, it could also help the business that wanted confirmation that its alternative, smart and more cost effective solutions were just as good as those set out in HSE guidance. In addition, the right of appeal helps to ensure both robustness and transparency when it comes to securing the right level of action to ensure health and safety. Do too little and people will still get hurt. Insist on too much and regulators and third parties can end up not just wasting money and time which could be spent on other H&S priorities but they are also likely to limit opportunities and cause frustration. Having an appeals process in place (hopefully as a long stop) means that both the dutyholder and the regulator have to stay focused.

RoSPA has argued that the principle (if not the legal right) of appeal against poor health and safety decisions by statutory authorities should be extended to cover requirements imposed by third parties such as clients, insurers, investors, training funders and so on. And Professor Löfstedt has commented that, in some cases, the way regulations are interpreted and applied is caused *"by the influences of third parties that promote the generation of unnecessary paperwork and a focus on health and safety activities that go above and beyond the regulatory requirements"*.

It's interesting to note, therefore, that, HSE chair Judith Hackitt has announced that a second Challenge Panel is to be set up to deal with complaints about poor health and safety decisions made by those outside HSE and LAs. More details have yet to emerge about how this will work, including whether it will intervene directly to bottom out cases of health and safety 'silliness' or whether, like the IRCP, it will only consider cases that have been referred to it once approaches by appellants to third parties have proved unsuccessful.

In theory, businesses operating in a market setting that are dissatisfied with what they might see as excessive or restrictive H&S requirements imposed by third parties can always 'shop around' to get a better deal. In practice, however, changing safety requirements in policies or contracts is often not so easy, especially where such detailed matters are a relatively small part of much bigger commercial agendas.

The Association of British Insurers (ABI) refutes the idea that there is a problem here or indeed a need for research to establish if there is. In the ABI's view, there may be certain safety requirements that insurers either want to see in order to place the business or that the insured willingly agrees to in order to reduce the premium (such as installation of sprinklers, for example), but, it says, there is no evidence of insurers inducing excessive risk aversion.

For the ABI, insurance and the conditions surrounding it are matters of contract which relate to civil and not criminal liability and are freely entered into between insurer and insured in a market setting, and the Association says that it could not accept a situation where an independent panel would interfere with that contractual relationship. Were the panel to rule against requirements requested by an insurer, the insurer might not wish to sell the policy and what, the ABI asks, would be the outcome were a panel recommendation to be accepted, only for there to be a directly related claim? Certainly, insurers feel it would be completely unacceptable for a panel to rule on issues of "reasonable rates".

On the face of it these all seem like valid points but in RoSPA's view any party that insists on (or even proposes) requirements or restrictions to ensure safety or health should be prepared to respond to reasonable challenges to their judgments by explaining their reasoning. And if this does not resolve matters they ought to be prepared to agree to mediation (if not arbitration), especially since, to be effective, risk management decisions need to be based on adequate consultation and discussion, for example, to maximise agreement between all parties on risk levels and the level of risk control to be applied.

Evidence

Taking a cue from Professor Löfstedt, perhaps the first task to be undertaken is to gather some decent evidence to establish the extent to which, if at all, third parties are over-egging the health and safety pudding. While the ABI denies there is a problem, in the world of contracting tales seem to abound of clients, investors and providers in the supply chain over-specifying health and safety requirements.

Despite HSE producing much guidance to indicate 'what good H&S looks like', HSE cannot (nor should they try to) cover every circumstance. In consequence, especially with common law claims in mind, when dutyholders and third parties have to decide for themselves where the balance lies between safety and residual risk there is an inevitable tendency to be over-cautious, banning things unnecessarily or demanding excessive precautions.

Obviously different stakeholders will tend to have different views and expectations about health and safety matters. But the basic truth to be grasped here is that good health and safety is all about good judgement and to be effective it needs to be based on proper dialogue.

There are many unanswered questions to be resolved about the way the new panels will operate. Let's hope they can take a sufficiently broad view of their respective roles and the value they can deliver to the UK health and safety system.

Readers' views are welcome.
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Time to shift focus

➤ **RoSPA's occupational safety adviser *Roger Bibbings*** discusses whether the Government's plans for helping business to manage health and safety are radical enough, and if they are properly focused.

Speaking to representatives from some of the country's main trade and industry bodies in June, Employment Minister Chris Grayling claimed that cutting regulations would not undermine the UK's good record on health and safety but would improve its bad record on red tape. He was launching a 29-page report (see www.dwp.gov.uk/docs/progress-report-health-safety-reforms-june-12.pdf) on the progress of the implementation of the Government's health and safety reforms following the Lord Young and Löfstedt recommendations. These include: evaluation of the CDM Regulations 2007; new guidance to clarify portable electrical appliance testing requirements; the establishment of HSE 'challenge panels'; and the extension of the reporting period under RIDDOR 1995 from three to seven days.

Questioned about the need to stop referring to health and safety in negative terms like 'burden', 'monster' and 'jobs-destroyer', the minister stated: *"It is an inescapable fact that there is a big burden out there that is unnecessary and has to go."*

The case for simplification of H&S while maintaining standards of protection is of course a 'no brainer' but it needs to be remembered that a lot of progress had already been made in this direction by HSE prior to the Coalition Government coming into office. Obviously if further useful regulatory reform can be achieved, this has to be supported. But equally it can be asked whether the Government's plans for helping business to manage health and safety are radical enough and if they are properly focused.

As I argued in my last '*Parting Shot*', helping smaller firms – the vast majority of businesses in the UK – to cope with H&S is not so much about deregulation – or re-regulation – as mobilising and supporting the development of all sources of help and advice in the wider H&S system.

Because of resource constraints HSE seems to have been driven into an increasingly reactive posture with less resource available for outreach and awareness-raising. The cutting of HSEline, while it was never a perfect service, has not helped. To fill the gap here, HSE and its Small Business Trade Association Forum now need to signpost firms to key trade and other bodies that provide H&S services and also to help others to expand their H&S support services and programmes.

In June, Chris Grayling also pointed to the benefits of the Occupational Safety and Health Consultants Register. How big the problem of inadequate H&S consultancy really is has not been measured. OSHCR no doubt is a useful beginning in helping firms to find competent consultants but it is only part of a much bigger H&S help and advice jigsaw.

Similarly, the revisions to the HSE website and the production of more 'essentials' type guidance also seem to be very useful but our experience – and that of many others out in the field – suggests that SMEs particularly need face-to-face interaction with those who can give 'advice about advice' – to help them to understand their problems and where to go to get guidance and further help. RoSPA's three-year study into help and assistance to SMEs and our SME Assistance Trophy have confirmed the massive H&S value being added by some leading trade associations and similar bodies, many affirming their willingness to help all callers even though they might not be members.

Turning to the HSE/DWP programme for revision of H&S law and guidance, on reflection I cannot help thinking that this has been done the wrong way round and too quickly. It should have started by looking at regulations and ACoPs instead of kicking off with a root and branch review of HSE guidance. This might have taken a bit longer but in the haste to tackle guidance first much confusion has arisen, not least because many of these texts are very interdependent. And things may have been made worse by bringing forward deadlines and other pressures such as Minister Grayling's recent insistence than no ACoP can in future be over 32 pages long, regardless of the complexity of the topics it covers.

HSE is also having to withdraw its logo from documents which embody stakeholder agreed 'good practice' standards that go beyond what is strictly necessary to achieve

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minimum compliance with 'reasonably practicable' standards. HSE says that henceforth this material must be contained in separate industry branded documents, for example, in sectors such as waste, printing and construction, and that this change is not open for discussion. But if such non-HSE branded material proves less influential, this very rigid approach will be counterproductive.

HSE is obviously under a lot of pressure to deliver and some 'simplification' projects which have been awaited with enthusiasm, such as the simpler version of HSG65 to sit alongside the original document and related non-HSE derivatives such as OHSAS 18001, seem to have been delayed.

Regulation repeal

Löfstedt actually found little evidence of regulatory 'burdens' and indeed, like all previous reviews, he commended the proportionality built into the *Health and Safety at Work etc Act 1974* (HSW Act) and the *Management of Health and Safety at Work Regulations 1999*.

Notwithstanding the anecdotal evidence the minister quotes about "18 inch thick risk assessments", there is little if any empirical or research evidence to support his claim that any of the 14 sets of regulations which are currently proposed for repeal have ever been administratively burdensome. Some, like cinematograph films regulations, are just totally obscure but there is concern that some of the repeals, while legally possible without removing protection, could in practice lead to a reduction in standards, for example, by possibly sending out wrong messages.

A case in point would be the abolition of the *Construction (Head Protection) Regulations 1989*. Although the PPE regulations will of course apply, abolition of the construction specific regulations might lead some to think that safety helmets on sites are no longer obligatory. A similar concern arises with the repeal of the *Notification of Conventional Tower Cranes Regulations 2010*. And unique parts of docks regulations set for repeal need to be transferred over into existing statutes and guidance before the old regulations are eventually cut.

One cannot help feeling that the minister is overselling the value of these repeals, and his claims that 50% of health and safety regulations are to be revised are a bit misleading since the main requirements of H&S law will remain unaltered and the repeals may end up imposing an additional communication burden on business, for example, if it has to divert resources away from communicating more essential health and safety messages just to counter misconceptions that particular safety measures no longer apply.

More worrying still are early indications that CDM (construction design management) is to be cut back to bare transposition of the EU directive. There is quite a strong view among leading spokespeople in the construction industry that a 'bare bones' approach will be very unhelpful. The minister needs to remember that the UK invented CDM. It did not originate in the EU but in the 1980s from the work of CONIAC (Construction Industry Advisory Committee) in their groundbreaking 'pink guides', '*Managing health and safety in construction,* Parts 1 and 2' – developed specifically to secure coordination of H&S effort in the face of increasing 'contractorisation' of construction work and the consequent fragmentation of management control.

While complying with the EU directive, our CDM regulations have been adapted over the years to meet UK industry needs and in no small measure have been responsible for the reduction in casualties that has been achieved in the industry – although, of course, there is still a way to go. Reverting now to a doctrinaire approach to transposition fails to understand the evolution of the UK's approach based on industry experience.

Personally, I think there could well be a case for seeking counsel's opinion on whether the requirements of *Section 1(2)* of the HSW Act – which were deliberately introduced in the 1974 Act to ensure that H&S standards could not be reduced – are indeed being met in what the Government proposes to do here. At the very least, in the light of what parliament originally intended, appropriate legal experts should be asked to consider if the requirements of this section are met simply through the continuing effect of the broad requirements of the HSW Act and its subsidiary statutes.

Where the minister needs to be a lot clearer is in explaining that many of the health and safety excesses that are reported to him are due not to H&S law itself but to a lack of competence and training. Nonsense does need to be challenged and thus the introduction of new HSE appeals panels is to be supported. But it is interesting to note that the HSE's regulatory appeals panel has received few, if any, cases to consider, possibly because of the effectiveness of HSE's own procedures at ground level. Cases being referred to the 'myth busting' panel on the other hand show how over-interpretation of H&S law tends to arise not from decisions by enforcers but from the misconceptions and distortions introduced into H&S by third parties, for example, the belief that additional action is needed to avoid civil liability.

In any field, effective reform is always an ongoing imperative but the Government needs to take time to get things right and also to think in sufficiently radical terms. For example, will the further review of RIDDOR recommended by Löfstedt allow for a root and branch consideration of fundamental objectives, looking afresh at the needs of all stakeholders for accident and incident data, for example, to facilitate decision-making about enforcement, internal health and safety management and future policy development, including at sector level?

The decision to reduce the absence threshold for injury reporting by employers from over three days (OTD) to over seven days has rendered cumulative RIDDOR data in organisations even less statistically significant, resulting in third parties such as clients and award bodies asking for a new KPI of total lost time injury based on time lost beyond end of day or shift.

And what about overhauling the reporting of dangerous occurrences (DOs), particularly since the DO list is historic and largely out-of-date (reporting is less than 18%) and there is no link in RIDDOR guidance to the employer's implied duty to identify significant DOs in their own risk assessments so these can be reported and investigated internally.

In addition, the problem of how to secure reporting and recording of work-related ill health remains unsolved.

Radical measures

In conclusion, as I argued last month, the focus of the Government's approach needs to move on. Regulatory and guidance revision, while technically necessary, is actually not so urgent and can be 'put on a longer fuse'. Instead effort needs to be directed towards radical measures that will encourage the development of support services for SMEs and also help sort out unhelpful 'third party' H&S red tape such as excessive or duplicatory requirements in pre-qualification and multiple H&S 'passporting'.

Ragnar Löfstedt has been invited by the minister to review the progress of the recommendations he made in his report and in this context it will be important for the health and safety community to press him to consider the above points.

As ever, readers' comments are welcome and should be sent to me at: rbibbings@rospa.com

Progress?

➤ **The Government believes its reforms** are creating a leaner and fitter health and safety regime but the key question, says RoSPA occupational safety adviser ***Roger Bibbings***, is whether these reforms will help or hinder progress in cutting work-related casualties and health damage.

In *A progress report on implementation of health and safety reforms* published by the Department for Work and Pensions (DWP) in February, Minister for Employment, Mark Hoban MP, said *"there are real signs of change in the right direction"*. In support of this he cited: proposals to streamline and/or withdraw Approved Codes of Practice (ACoP); revocation of obsolete or redundant health and safety regulations; the introduction of HSE's web-based guidance *Health and safety made simple* and the *Health and safety toolbox* aimed at SMEs; clauses in the *Enterprise and Regulatory Reform Bill* to reduce inspection and enforcement burdens; abolition of strict liability in common law claims; and the HSE's Myth Busters Challenge Panel. He concluded: "We need to implement the remaining measures in both reports [Lord Young and Löfstedt] as well as continue to identify areas where further reforms are needed to create a modern, simplified, risk-based framework for health and safety in Great Britain."

Few would disagree that government has a duty to ensure good regulatory housekeeping and that many of the steps taken to brigade ACoP material together and to merge related regulations are sensible. So too are HSE's efforts to streamline guidance and improve signposting on the web to help people at work – particularly in hard-pressed SMEs – to find the basic information they need. But arguably "*signs of change in the right direction*" ought also to include an assessment of the extent to which these measures have contributed – or are likely to contribute – to improvements in national health and safety performance in key areas. These include not just reductions in fatal and serious injury rates in high hazard sectors such as construction or agriculture, but in other much more cross-cutting problems such as slip and trip and manual handling injuries, work-related road traffic accidents or long-term occupational health problems such as work-related cancer, respiratory ill health and the whole issue of work-related stress. After all, besides the unquantifiable effects which these preventable problems have on individuals and families, their cost to the UK as a whole is still of the order of £30 billion annually.

Were the minister reporting on health and safety reform as a senior executive might do within a company, it would be action to tackle such priorities which might be expected to be at the top of any progress report rather than changes to particular standards and systems.

The really key question to be asked is whether the reforms will help or hinder progress in cutting work-related casualties and health damage. Some, such as cutting back RIDDOR and removing the *Management of Health and Safety at Work Regulations* ACoP, have been seen by many as backward steps. And others, such as trying to prescribe precisely when the self-employed are – or are not – covered by H&S law, are likely to create more confusion than their present duties which are flexible and are tied to risk.

The Government has been concerned about 'over-the-top' health and safety requirements holding business back. Although the HSE's Challenge Panel has done a lot to undo damage to the image of legitimate health and safety done by nonsense health and safety stories in the media (**www.hse.gov.uk/myth/myth-busting/index.htm**), no one has actually tried to measure objectively how prevalent this issue really is. Compared with failure by many poorer performing businesses to take action to tackle serious risks it is actually a quite small problem – although clearly, anecdotage in the tabloids about 'elf and safety going too far' has been allowed to dictate Government strategy rather than the research based evidence on the extent to which it is not going far enough.

To what extent, it could be asked, is it lack of clarity in regulations which actually underlies continuing H&S poor performance, especially in sectors where managers and

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workers have received little or no H&S training or where unsafe and unhealthy working conditions persist simply as a result of negative attitudes and basic ignorance about hazards, risks and control measures?

What was not mentioned at all in the ministerial progress report was the impact of cuts of over 30% in HSE's resources and the effect on their work of the Fee-for-Intervention (FFI) policy which they now have to adopt in the areas they currently inspect. It has emerged that from 1 October to 30 November 2012, HSE invoiced £727,645 for investigations at 903 premises under FFI. However, only 10% of these bills were for totals over £1,000, with 70% coming to less than £500. These totals are substantially lower than HSE's projected income of £37 million in the first full year. On the basis of the first two months of the FFI scheme, current projected revenue is around £4.3m.

When FFI was first mooted we in RoSPA felt that we had to support it as 'the only funding show in town' but we also called on the HSE Board to undertake an early and open review of how the new system was working. Already it is reported that there is a significant loss of goodwill and trust at the dutyholder/enforcer interface. And if, as the figures above suggest, the receipts are very much less than anticipated, this has serious implications for HSE's funding and thus the future of this core organisation. Industry needs a well resourced and competent HSE field force and thus key trade bodies will need to begin to argue for an alternative approach to funding that will be both effective and credible in the context of reduced public expenditure.

Relevant agenda

Although the Government are presenting what they believe to be a leaner and fitter health and safety regime I have the feeling that many on the OS&H scene are becoming quite depressed. There are worrying reports of low staff morale inside HSE. Many in the professional bodies feel themselves to be very much on the defensive, fighting a series of rearguard actions, staving off some of the dafter excesses of the deregulatory fringe. Strategically there is certainly a sense that the OS&H community has lost the initiative and it may be losing heart also.

Perhaps this is to be expected three years into a deregulatory government in the middle of a recession. My personal view, however, is that OS&H movers and shakers need to begin to articulate a much more relevant agenda for moving UK OS&H forward, focusing not so much on tackling regulatory over-interpretation, more technical legal change and restrictions on enforcement but looking afresh at the 'real health and safety' issues, and establishing a new sense of ambition to improve our overall national health and safety performance.

What might such agenda comprise?

At a strategic level the key ingredient has got to be senior leadership. We badly need formal ministerial acceptance of accountability for how well the national occupational safety and health system is working. 'What gets measured gets managed' and thus we need a comprehensive national OS&H data strategy to track all work-related injury and health damage, including occupational cancer, work-related road traffic injuries, stress, musculoskeletal disorders; skin and respiratory disease, assaults, damage from noise and vibration; radiation injuries and so on. Admittedly targets can distort behaviours but equally it is hard to see how we can make progress without the setting of meaningful, evidence based national and sector objectives for saving lives, reducing injuries and safeguarding health.

Leadership would also be enhanced by a permanent OS&H stakeholder forum to advise the HSE Board which, in contrast to the Health and Safety Commission which it replaced, is felt by many to have become too unaccountable. There needs to be a biennial review of OS&H by the House of Commons Work and Pensions Select Committee, and there has got to be a major increase in the resources of HSE, based on a transparent spend-to-save assessment. Fee-for-Intervention probably needs to be phased out in favour of an alternative funding system such as a centrally collected levy on Employers' Compulsory Liability Insurance premia. HSE's and local authorities' criteria for proactive inspection need to be subject to consultation with an end to complete freedom of businesses in supposedly 'low risk' sectors from inspection altogether.

The same leadership message needs to be reinforced at enterprise level by explicit directors' duties and an indication of OS&H competence levels for directors and senior managers. We need to see reinstatement of a renewed and revitalised MHSW Regulations ACoP as the 'Highway Code' for good H&S management, with much greater clarity on things like the duty of employers to investigate and learn from accidents and incidents and to make use of competent advice and provide training.

And leadership needs to be supported by much greater empowerment of employees and their representatives – together with freedom from unfair discrimination – to enable them to secure compliance with necessary health and safety standards.

The whole approach to helping SMEs needs a radical shake up with the development of a comprehensive H&S services network across the UK, covering inter alia, ergonomics, occupational hygiene, occupational medicine, safety and other specialist services. HSE needs to provide support for and link up all those trade and voluntary sector bodies organisations, including local safety groups, that provide H&S information and advice to SMEs. There needs to be much more emphasis on business-to-business learning with active encouragement given to higher performing organisations to seek recognition of their approaches to OS&H and to share their good practices more widely. We need to learn the lessons from the Olympic Big Build and secure even more effective approaches to influencing health and safety standards via the supply chain, with central and local government leading the way as the major clients.

And there needs to be a major reinvestment in awareness-raising publicity, events and other means of communication to raise awareness of occupational health issues.

Risk literacy

Beyond the workplace we need to find ways to release the power of 'OS&H' to help tackle the accident prevention challenge in the wider community, extending the contributions which OS&H can make at various levels to accident prevention as part of public health. A key part of this has got be a comprehensive approach to creating safety and risk literacy from nursery school to business school.

Another thing sorely needed is a radical overhaul of the current personal injury compensation system to avoid the fear, cost, bureaucracy, uncertainty and justice gaps that are involved in our present adversarial system.

This is only a short strategic shopping list but I am more than ever convinced that now is the time for the health and safety at work community to reassert a new sense of ambition in our field and that indeed, if more time is allowed to elapse before 'planting our standard' in this way, our health and safety system, of which we are rightly proud – and which many of us have given our working lives to build up – will falter – if not go into reverse.

I'd welcome readers' thoughts which, as usual, should be sent to me at: rbibbings@rospa.com

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Championing HSE

➤ **HSE's work not only saves lives, reduces injuries,** safeguards health and assures public safety from major hazards but it also helps to save businesses and the wider community billions of pounds annually, says RoSPA occupational safety adviser ***Roger Bibbings***.

In April, Minister for Employment, Mark Hoban MP, announced a major review of the Health and Safety Executive (HSE) looking at its governance, performance and whether it represents value for money for the taxpayer. When I passed this information on to RoSPA colleagues there was the perhaps predictable 'not another review!' reaction, especially since the latest review follows hard on the Lord Young and Löfstedt reviews, not to mention all the internal reviews being conducted by HSE of its own codes and guidance etc. There is a distinct feeling that health and safety (and HSE in particular) are being reviewed to death, metaphorically if not literally.

In launching the review, which is part of a wider Government review of non-departmental public bodies (NDPB), Mark Hoban MP said "*routine reviews...ensure that bodies such as HSE continue to be fit for purpose, and that they are providing the value for money that the taxpayer expects*".

Although HSE came out well from Young and Löfstedt (as it did from Hampton, Sainsbury and all the other reviews it has survived since the late 1970s), in the current – and in many ways, unpredictable – parliamentary climate one does not need to be totally paranoid to worry that there might be another underlying political agenda.

The first stage of the review process will identify and examine the key functions of HSE. It will then assess how these functions contribute to the core business of HSE and the Department for Work and Pensions (DWP), and whether they are still needed. If the conclusion is that the functions are still required, the review will then examine whether HSE as currently constituted remains the best way to perform those functions, or if another delivery method might be more appropriate. Mark Hoban has said that for HSE to remain an NDPB it must satisfy at least one of the Government's three tests: Does it perform a technical function which needs external expertise? Do its activities require political impartiality? and/or Does it need to act independently to establish facts?

The review is being chaired by Martin Temple, director-general of EEF – the Manufacturers' Organisation since May 1999. He is keen to canvas views from key stakeholders. And, because of the size and profile of HSE, an independent 'challenge group' will oversee the review – its purpose being to rigorously and robustly challenge its findings.

Along with many other members of the OS&H community, RoSPA is very keen to contribute to the review. Historically, while on occasions we have also been quite critical friends, we have always been strong supporters of HSE's mission which is "*to reduce work-related death, injury and ill health*".

The key point we have always sought to get across is that HSE is a unique, value-adding, UK asset – a world class and highly valued organisation. And while many bodies in our H&S system – such as RoSPA, IOSH, the EEF and many others – work alongside HSE to deliver continuous improvement in UK H&S performance, it has been the central leadership role played by HSE which has been critical in the UK achieving an internationally outstanding level of health and safety performance. But there is still much more to be done. And HSE – even in its currently constrained state – remains 'the prime mover'.

So do the functions that HSE performs remain necessary?

Undoubtedly, yes. Despite major progress in health and safety, Britain still faces stiff health and safety challenges and the leadership role of HSE remains vital in this context: gathering data; researching hazard, risk and control; overseeing major hazards; engaging stakeholders; regulating; investigating failure; enforcing to secure justice and behaviour change; disseminating information; and working with partners, both within and beyond the UK.

HSE's technical expertise is vital in helping the UK to maintain an evidence based approach to H&S risks. As a unified, cross cutting organisation, and a unique bank of hazard knowledge, HSE is able to promote cross fertilisation of approaches between sectors etc. (For example, ideas and solutions

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developed in major hazards settings such as the offshore industry have been developed and applied successfully in other areas like hospital wards). HSE's expertise is also vital to the UK internationally, including most obviously in negotiations within the EU. This is vital to UK competitiveness and in exercising technical leadership at this level.

Quite correctly in their reviews, Lord Young and Professor Ragnar Löfstedt emphasised that reportable work-related fatal and major injuries have reduced in recent years, but there are still several major challenges to be addressed: high injury rates in some sectors (agriculture and construction) and among SMEs; occupational diseases (asbestos, occupational cancer etc); work-related road safety (the biggest single safety issue facing most firms in an increasingly service-based, road mobile economy); risks to the public; and the wider health and wellbeing agenda.

Health rather than just safety is now the big challenge. Reaching and helping SMEs in this area is key – which is one of the reasons why the work of HSE outreach bodies such as the Small Business Trade Association Forum is so important.

What is also critical to appreciate is that HSE's key functions of research, information and advice, and regulation need to remain firmly united (although to be effective HSE needs to continue to strengthen its partnership with other players in the health and safety system).

In terms of value for money, the funding of HSE is actually a spend-to-save proposition for UK plc. HSE's work not only saves lives, reduces injuries, safeguards health and assures public safety from major hazards but it also helps to save businesses and the wider community billions of pounds annually.

H&S failures cost the UK up to £23 billion every year. It may not seem obvious but recession is actually the best time to invest in prevention because losses due to accidents, incidents and health damage cannot be made good through increased sales/turnover. In this sense the proper attention to health and safety which HSE promotes, far from being a burden on business actually helps to assure mission success for UK plc. The essential point here is that investing in a strong and effective HSE is of fundamental importance to UK growth and competitiveness.

There is no doubt that delivery of HSE's key functions is aided at many points by the work of other bodies: universities, professional bodies, trade associations, unions, major clients, insurers, standard setters, specialist media and so on, but they all depend for their legitimacy and effectiveness on the central role of the regulator.

There are many subsidiary regulatory systems but the role of HSE in regulatory scene setting, in promotion, in investigation and in enforcement is crucial. While other models of regulation might be explored: for example, independent certification; insurance based inspection; client based assurance and so on, our experience suggests that the commercial basis for these models makes them very prone to over-complication and burdensomeness. In the UK context, as a key regulator directly accountable to ministers and parliament, HSE represents not only the best option for an inclusive, honest and competent regulator but the best guarantee that the other semi-regulatory systems can be made to work fairly and effectively as well.

What is often lost sight of by HSE's detractors is that the hazard profile of UK plc is really massive and intensely varied. While no single regulatory body can ever hope to hold within its borders intimate knowledge about all hazards, risks and controls, the challenges faced by HSE in this regard set them apart from virtually all other safety focused regulators (for example: air, road, rail, medicines, food and so on) – and indeed, its knowledge feeds that of the other regulators. (There is much to be said for further developing the HSE as the UK's lead investigator and risk assessor!) Even if HSE were to be re-configured as a departmentally based procurer of external expertise, the breadth of knowledge necessary to be able to manage such a regulatory model would be immense and certainly out of all proportion to the range of knowledge found in most government departments.

All the stakeholders in the system benefit from the existence of HSE as a technical knowledge centre and as a filter through which external specialised knowledge about H&S matters can be captured, refined, disseminated and applied. Add to this the immense experience which inspectors and their colleagues inside and outside HSE accumulate and exchange with one another and it soon becomes apparent that such energy, potential and continuity could not be re-created, for example, by simply putting the regulatory role out to tender. Already, rapid staff change, early retirement and stretched responsibilities mean that some HSE corporate memory has been lost and is no longer available to the organisation and its stakeholders.

HSE's impartiality is also key. Questions of safety and health are located in unique zone where science and politics meet. Safety is a matter of informed social and not purely technical judgement. How hazardous things are, how tightly they need to be controlled, how effective risk management is best achieved – are all questions on which stakeholders (risk creators, risk takers, specialists) have different points of view. But experience has demonstrated that the management of the underpinning science and of different stakeholder agendas is something that can only be achieved in a neutral setting in which the regulator acts as honest broker, free from party political direction and/or constraints.

While ministers and parliament have ultimate responsibility for both policy and delivery, the detailed work cannot be undertaken at the political level. This was the reason why the Robens Committee report of 1972 recommended the setting up of a stakeholder based Health and Safety Commission. And while following the winding up of the Commission this composition is still reflected in the HSE Board, it can be argued that there is a need to further reinforce the impartiality of HSE, for example, by setting a new H&S stakeholder council as a sounding board that would also help to inform and guide not only HSE officials but ministers and other political representatives.

Independence is also crucial to HSE's investigatory role because when it comes to establishing the level of risk posed by hazards or the precise events and conditional factors that have led to accidents – both large and small – expert investigation, free from bias, is absolutely crucial – both to the delivery of effective risk control and also to the delivery of justice, for example, when dutyholders have failed to protect workers and/or members of the public.

To enable them to meet their ultimate responsibilities to parliament for the safety and health of people in the UK, it is vital that ministers have at their disposal the services of an independent, competent, regulator whose expertise and freedom from political or other forms of interference is widely acknowledged. Any replacement of this role on an ad hoc basis by contracted-in or politically appointed services would not only risk the deployment of a much lower standard of expertise but would lead inevitably to a major loss of public confidence.

So despite its current constraints and all the changes afoot, HSE remains a unique institution, the embodiment of our proven and highly successful approach to assuring absence of harm from work activity and living proof of a key British value that safety and health truly are cornerstones of a civilised society.

Comments please.
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