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HEALTH AND SAFETY COMMISSION

Corporate responsibility for accountability for health and safety: DTI consultation on the Operating and Financial Review Working Group on materiality

A Paper by Steve Vinton, Innovative Engagement Unit, BWED

Cleared by Elizabeth Gyngell, Policy Group

Issue

1. The DTI is seeking views on the Consultation Document *'The Operating and Financial Review Working Group on Materiality'* published on 27 June 2003, and in particular on what should go into a company Operating and Financing Review (OFR). The consultation provides an opportunity for HSC/E to present the case for the inclusion in the OFR of key information on the management by the business of risks to occupational health and safety.

Timing

2. Comments have to be with DTI by 19 September 2003.

Recommendation

- 3 That the HSC agrees in its response to DTI Ministers:
 - To put the case for the inclusion in the OFR of publicly available information which demonstrates how the business manages key risks to occupational health and safety;
 - To put the case for the inclusion of references in the proposed standards and guidance on the preparation of OFRs refer to the HSC published guidance on *Health and Safety in Annual Reports and Directors' Responsibilities for Health and Safety*.

Draft letter attached as Appendix A

Background

4 The Government published the White Paper, *Modernising Company Law (MCL)* in July 2002 as a response to the Company Law Review (CLR) launched in 1998 and which reported to Government in 2001. In the White Paper the Government gave support to many of the CLR proposals. Amongst these was the recommendation that UK companies should be required to publish an Operating and Financial Review (OFR) containing key information on the management of the business.

5 HSC considered the *MCL* paper at its meeting on 12 November 2002. It noted the Government proposals concerning reform of company law contained in the paper and agreed to press DTI Ministers to support the inclusion of a requirement to report on health and safety matters – see letter to DTI Ministers of 3 December 2002 at Appendix B.

6 HSC/E sees this as approach as an important lever in encouraging board and directors to provide leadership and direction on health and safety and to be publicly accountable for the management of health and safety within their undertaking. The White Paper makes clear that it would be for directors to decide precisely what information was material to their particular business for inclusion in their OFR. *MCL* also stated that the Government intended to devolve to a Standards Board the task of drawing up detailed rules for the compilation of the OFR and that, as a first step, an independent group would be set up to help provide guidance to directors on the key issue of materiality in the context of a OFR. The Operating and Financial Review Working Group was set up in December 2002. The Terms of Reference are:

“The Working Group will develop broad principles and practical guidance on how directors can assess whether an item is material to their company and hence whether it must be included in an OFR. This will include the company’s impact on the environment and wider community, but the same broad approach to materiality is required across all the subject matter of the OFR. The Working Group will determine how to achieve this, including the scope of their consultations. The Working Group should aim to report by the Autumn of 2003”

7 The Consultation Document does not require companies to report on their management of health and safety.

Argument

8 Action point 2 of the Government and HSC strategy statement, *Revitalising Health and Safety (RHS)*, ‘challenges’ the top 350 companies to commit to reporting publicly on their health and safety targets and performance in Annual Report & Accounts from 2002 onwards. *RHS* Action point 2 notes that the ‘challenge’ will be extended to all companies employing over 250 workers (an estimated 7,000) to similarly report on health and safety by 2004.

9 The Government’s and HSC’s strategy clearly identifies that occupational health and safety risks if not managed effectively can impact detrimentally not only on workers’ lives but on the business too. The reporting ‘challenge’ to the top 350 UK companies set out in Action point 2 of *RHS* is founded on the belief of Government and the HSC that openness and transparency concerning health and safety will act as a spur to improve performance.

10 Research recently undertaken on behalf of HSC/E showed that a growing number of the UK’s top companies are committed to public reporting of health and safety and see it

as a key means of informing a wide range of stakeholders, including managers, employees, investors and insurers, as to how they are performing. Among the main findings was a significant increase in the number of FTSE 100 companies publicly reporting - from 47% in 1995, to 56% in 2000, and now 91% in 2002. The strongest sectors on reporting include: chemicals, construction and building materials, mining, oil and gas, tobacco and water. The research highlighted that there remain a considerable number of top companies who do not report on health and safety and are unlikely to do so while the approach is a voluntary one.

11 The CD sets out a number of broad principles of what needs to be considered by companies for inclusion in their OFR. We believe that the list of principles should specifically make reference to the management of health and safety, in particular to the existing HSC Guidance on *Health and Safety in Annual Reports and Directors' Responsibilities for Health and Safety*.

12 We recommend that the HSC make representations to DTI Ministers to amend the MCL proposals concerning the OFR to include health and safety as a material matter to be reported on. If the proposed change is agreed HSE will work closely with the Standards Board to formulate the detail of the health and safety reporting requirements.

Consultation

13 Officials plan to meet representatives of the OFR working group to explore their views on the inclusion of information on the managements of risks to occupational health and safety. Organisations such as IOSH and RoSPA are likely to make representations in support of the inclusion of information on the managements of risks to occupational health and safety as a reporting matter for "economically significant companies".

Presentation

14 Promoting this line would be consistent with the Chair's recent article in the Financial Times – *Watchdog calls for stringent reporting on health* (16 July 2003) – where he said that "transparent reporting was an integral part of the broad debate about corporate social responsibility". This approach is supported by HSC published guidance on promoting wider recognition of the health and safety responsibilities of company Directors and board members.

Costs and Benefits

15 The MCL included a draft Regulatory Impact Assessment. The Government estimates that the proposals when enacted will result in a potential saving, in both money and management time, of £168 million for small and private companies. This figure is broken down as follows:

- | | |
|--|-------------|
| • codification of director' duties | £65 million |
| • simpler law for small companies | £32 million |
| • small company governance | £65 million |
| • removing requirement for company secretary | £5 million |
| • small company accounting regime | £1 million |

We have yet to estimate the cost of including a health and safety requirement in the *OFR* to the “economically significant companies”.

Financial/Resource Implications for HSE

16 No additional resources would be required by HSE should DTI Ministers agree to the proposed change to the *OFR* reporting coverage. HSC guidance on health and safety reporting, issued in support of the ‘challenge’, is already scheduled for review and likely revision and built into our work plans.

Environmental Implications

17 None

Other Implications

17 None

Action

18 HSC to agree the recommendations set out in para. 3 above.

Appendix A

Rt. Hon. Patricia Hewitt MP
Secretary of State for Trade and Industry
Department of Trade and Industry
1 Victoria Street
London SW1 0ET

August 2003

Modernising Company Law White Paper

The Health and Safety Commission (HSC) has considered your Consultation Document *'The Operating and Financial Review Working Group on Materiality'* and in particular the key information to be included in the Operating and Financial Review (OFR).

As I stated in my letter of 3 December 2002 we see important benefits in including health and safety as a significant matter to be reported on alongside employment, environmental, social and community matters. It would send a clear signal to the all companies that the Government and other key stakeholders see health and safety as a core element of corporate responsibility.

Good health and safety practice is an indicator of the social responsibility that the Government wishes to promote. And social responsibility, like charity, begins at home. Good health and safety practice is a clear indicator of the respect for people, which lies at the centre of this important new agenda.

With our sponsoring Ministers (then in DETR/DTLR) I challenged the top 350 UK companies in 2001 to report publicly on their health and safety performance from 2002 onwards. We have followed up with visits to discuss reporting and the response has been favourable as it has to other efforts we are making to encourage Boardroom attention to health and safety, such as encouraging directors to take responsibility. We are also encouraging investors to have regard to health and safety performance when making investment decisions.

We recently published some research, which shows that there has been a significant increase in the number of FTSE 100 companies publicly reporting - from 47% in 1995, to 56% in 2000, and now 91% in 2002. The strongest sectors on reporting include: chemicals, construction and building materials, mining, oil and gas, tobacco and water. The research highlighted that there remain a considerable number of top companies who do not report on health and safety and are unlikely to do so while the approach is a voluntary one. These are the companies we must reach and a requirement to include health and safety information in the OFT is a way of achieving this objective.

Including health and safety must be seen as going with, not against, the grain. Suppliers, customers, workers, investors, insurers and other stakeholders are increasingly seeking information on health and safety performance as a key business risk. The costs of health and safety failures are significant – not only from catastrophic failures in high hazard plants but the significant drain of resources from 24 million working days lost each year from work related injury and ill health (bad backs, stress, falls, workplace transport incidents)

We would therefore urge you to include health and safety as a specific topic for company reporting to make clear that health and safety is an important element of the Government's commitment to developing sustainable work and communities.

I am copying my letter to Des Browne, Minister of State, Department of Work and Pensions.

BILL CALLAGHAN

Chair, Health & Safety Commission