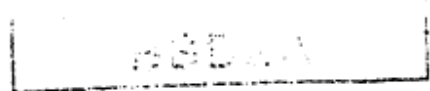


Bill Callaghan

- your copy

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Dear Michael,

EMPLOYEE CONSULTATION AND INVOLVEMENT IN HEALTH AND SAFETY

Your letter of 21 October 1998 sought the Commission's ideas for enhancing the role of safety representatives. As you know from a number of subsequent discussions and correspondence, we undertook a review which was widened to include workers who are not members of trade unions. We published a discussion document to generate a public debate last November.

The document, which sought views on a range of legislative and non-legislative options, attracted nearly 850 responses from the TUC, trade unions, employers, the CBI and other employers' organisations, Government Departments, local authorities and others. Around 80 individual safety representatives also responded.

We have discussed this subject on a number of occasions [most recently on 18 April] and you are aware that there are fairly fixed positions, particularly on new rights for safety representatives and roving safety representatives. This was reflected in the wide range of comments we received in response to our discussion document¹. This was therefore a difficult subject for the Commission to consider. Nevertheless, we identified an emerging consensus that:

- worker consultation is important and a key element of effective health and safety management; and
- harmonising the two sets of general regulations on employee consultation² would be beneficial.

These are reflected in our recommendation to you of a two stage package. Stage 1 work can begin straight away. Its main components are:

¹ Trade unionists formed about half of the respondents advocating more powers for safety representatives while over half of those opposed to this were employers, employers' organisations or trade associations.

² The Safety Representative and Safety Committees Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996.

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Reducing risks - protecting people

- harmonising the 1977 and 1996 regulations, and developing a new Approved Code of Practice and guidance which will include examples of "best practice" in worker consultation;
- further research to explore the link between good employee consultation and improved health and safety performance. The limited research in this area shows the link; we hope the new research will demonstrate this more robustly;
- pilot exercises to investigate the role of "workers' safety advisors" - a change of name for "roving safety representatives". This will be a positive response to the Select Committee's recommendation that HSE should initiate such pilots. This will be controversial among some groups of employers, and we intend to engage external researchers to help design and evaluate the pilots.

We see these pilot exercises as essential for exploring the practical arrangements of a workers' safety advisor scheme. The details, which are set out in the annex, need further development but we envisage the pilot will last around six months, in a limited geographical area and will compare the extent of worker consultation and health and safety standards in workplaces involved with those existing before the pilot, and with those existing at other similar workplaces as a control area. We expect HSE will fund the research, support the initiative through local publicity, and encourage workers' safety advisors' access to workplaces. We hope that the TUC and trade unions will appoint and fund the advisors. Such a scheme could be an important means of reaching small firms but given the firm opposition from employer's associations we need to proceed carefully. Sceptics will need to be convinced of the benefits of such a scheme.

You will note from the annex that training is a key element of this project. You will know that the Commission very much welcomed Action Point 17 of *Revitalising Health and Safety*. I hope that you can expedite the review which Action Point 17 calls for. If you thought it useful I could write to David Blunkett on this.

In the medium term (Stage 2), we recommend:

- a campaign to publicise the consolidated regulations and revised code of practice, when issued;
- additional training for HSE inspectors in the importance of worker involvement in effective health and safety management;
- investigating the possibility of new enforcement initiatives related to worker consultation; and
- exploring the practicalities of Provisional Improvement Notices (PINs) and other mechanisms for ensuring that employers respond to employees' health and safety concerns. A research specification will be prepared by HSE.

functions. We intend a statutory mechanism to enable employees to elect (non-union) safety representatives, if they choose to do so. This would move the right to decide on the method of consultation in non-unionised workplaces from the employer to the employees³. Where trade unions are recognised the trade union would continue to have the right to appoint safety representative(s) from among the employees.

Harmonisation could require primary legislation. This could be effected through the proposed Safety Bill. In so far as the harmonisation only covered duties reflecting those in EU Directives Cabinet Office Legal Advisers have confirmed that the European Communities Act 1972 could be used alongside the Health and Safety at Work etc. Act 1974. But if the Regulations were to go further new primary legislation would be needed. We are thinking about this urgently in the context of the Safety Bill. If you agree that we should proceed with harmonisation we will ask HSE to prepare draft regulations for public consultation. Though initial calculations suggest that the costs of harmonising regulations will be met (over 10 years) if they lead to the prevention of 9% - 13% of accidents and new incidences of ill health, a full cost/benefit analysis will be needed as part of the process.

The Commission consider the proposed package would make a valuable contribution to building partnership in the workplace. It recognises that statutory requirements, while encouraging consultation and the involvement of the workforce in health and safety matters, cannot on their own change hearts and minds. I commend these recommendations to you.

Yours ever



BILL CALLAGHAN
Chair

³ Under the existing 1996 regulations employers can decide whether to consult employees directly or through an elected representative.