

Health and Safety Commission Paper		HSC/04/97	
Meeting Date:	3 August 2004	Open Gov. Status:	Fully Open
Type of Paper:	Above-the-line	Paper File Ref:	
Exemptions:	None		

## HEALTH AND SAFETY COMMISSION

### Report of Work & Pensions Select Committee

A Paper by Phil Kemball, Strategy and Intelligence Division

Advisor(s): Brian Etheridge, Strategy and Intelligence Division

Cleared by Kate Timms, DDG Policy, on 30 July 2004

#### Issue

1. The Work and Pensions Select Committee published the report of its inquiry into the work of HSC and HSE on Sunday 25 July.

#### Timing

2. Routine. The paper offers an immediate assessment of the Report and its implications.

#### Recommendation

3. The Commission is recommended to:
  - revisit with DWP the case for additional resources for HSE on the basis of this Report;
  - consider the report and the emerging government response in more detail at its September meeting.

#### Background

4. The Committee announced this Inquiry in January. A draft of the joint HSC&E written submission was discussed by the Commission on 10 February (04/30), and submitted later in the month. Bill Callaghan and Timothy Walker gave oral evidence on 12 May. Taking of evidence completed with DWP Minister, Jane Kennedy on 19 May. Since then the Committee has sifted through the wide-ranging evidence they have received and prepared their Report. This was published on Sunday 25 July and Members received an embargoed electronic copy on Friday 23 July. The 35 recommendations that appear at the end of the Report are reproduced as Annex A to this paper. The report can also be viewed and downloaded from their website [http://www.parliament.uk/parliamentary\\_committees/work\\_and\\_pensions\\_committee.cfm](http://www.parliament.uk/parliamentary_committees/work_and_pensions_committee.cfm)

5. In preparation for publication, we put out a short press release (Annex B), and DDG, Justin McCracken, was briefed and available during the Saturday for media interviews. Despite initial interest from the BBC, Justin was only interviewed by Radio 5 Live. The 'story' ran through Sunday on the BBC, mainly using an interview with Committee member, Andrew Dismore MP. There were also articles in some Monday papers.

## **Argument**

6. We now move into a period for considering what the report says and preparing an HSC&E contribution to the Government's response to the recommendations. This is best separated into issues of process and content.

## **Process**

7. The key feature of this stage is that the response is singular and comes from Government as a whole. The health and safety liaison team in DWP will lead this process and HSC&E contributions will be fed to them. In exceptional circumstances, the Commission can write directly to the Committee setting out their own position on a particular issue. Doing this obviously carries messages of its own and we currently see no reason to consider such a course.
8. The protocol is to respond within two months of publication. However, in this case, where publication occurred at the beginning of the Summer Recess, and two months on takes us to the Party Conference season, we have proposed to DWP that we extend this period by a few weeks. This will allow us during the holiday season to collate considered contributions for the Government's response, and we intend to report progress to the September Commission meeting. Time must be allowed for DWP officials to clear the final draft response across Whitehall at official level and then through DWP Ministers.

## **Content**

9. The report notes that, "However, the overwhelming view was that HSE is a high quality organisation, constrained by inadequate resources, seriously adversely affecting its ability to deliver adequately core activities such as inspection, which have a direct impact on ensuring compliance." This sentence from Paragraph 82 probably best sums up the tenor of the Report. This endorsement of HSE (and by implication HSC) is welcome, as is the attention generated by the Inquiry.
10. There are probably a number of ways to view the 35 Recommendations (reproduced as an Annex to this paper), but one way is to categorise them as follows:
  - *Additional resources* (9, 15, 16, 19, 23, 24, 28, 32)
  - *New legislation* (5, 6, 7, 18, 20)
  - *Enforcement issues* (11, 17, 21, 22)
  - *Research/review/develop proposals* (2, 8, 13, 14, 25, 26, 27, 29, 33, 35)

The remainder are other issues for HSE (10, 12, 30), for DWP or wider Government (1, 4, 34) or merely a view expressed by the Committee (3, 31).

## **Initial Reaction**

11. Through the Inquiry, the Committee has developed a reasonable understanding of many of our activities and we need to build on this in future years. The endorsement quoted above is patently a positive development. The Chair's Foreword to the Strategy makes clear that we would welcome, and make good use of additional resource, and this has been argued for through the 2004 spending review process and directly with Ministers. **We therefore recommend that a further attempt is made on the basis of this Report to promote the case with DWP, perhaps by the Chair writing again to Ministers.**
  
12. However, we have to be realistic that the Select Committee Report is not going to change the public spending landscape at a stroke. If the Commission were to be more critical about the report, we could argue that:
  - It is asking for more to be done on every front, is not prioritised and does little to weigh the relative merits of different approaches;
  - It does not explore the conundrum of extra resources being unavailable. The Commission's strategy faces up to this bigger challenge by focussing on outcomes rather than inputs and through its preparedness to look more imaginatively at new ways of working;
  - It is very HSC&E focused, gives little attention to the role of LAs and does not take into account the Commission's strategy to engage and energise the health and safety system as a whole. As such, it does not recognise or trust the contributions that can be made by others and other levers;
  - Within the HSC&E focus, it very much concentrates on FOD, even by the Committee's admission (Paragraph 6), and barely mentions our regulation of major hazard industries, which constitutes nearly half our operational activities;
  - It gives due recognition to the Hampton review (Paragraphs 16-19, 31, 184), but does not seem to factor in the potentially huge consequences of its thinking. The final paragraph of the Report (295) states that the Committee 'will watch with interest the progress of the Hampton Review ...'
  - There are no grounds – at least on the basis of our own evidence – for recommendation 15 (paragraph 142) which alleges HSE is proposing to shift resource from inspection and enforcement to education, information and advice. We concur with what they say in their previous paragraph that this is not an either/or choice.
  - It is also telling that a number of their recommendations require consumption of HSE resource other than for inspection and enforcement – essentially those listed in paragraph 9 above dealing with research, reviews and developing proposals.

## **Consultation**

13. This paper is an immediate reaction to the Report's publication and has not been subject to formal consultation within HSE or with LAs, but has been shared with the DWP liaison team.

## **Presentation**

14. Initial publicity on publication of the Report is described in paragraph 5 above, but media interest only lasted 24 hours. Publication of the Government's response in due course is likely to attract attention as well. Plainly, Ministers will be interested in many of the issues raised in the Report, especially on resources.

## **Costs and Benefits**

15. There are no immediate costs implications but many of the Report's recommendations have wider cost and benefit consequences.

## **Financial/Resource Implications for HSE**

16. Resource was allocated from the outset in handling relations with this Inquiry. The longer term implications are dependent on what the Government says in its response.

## **Environmental Implications**

17. None

## **Other Implications**

18. The Report's recommendations are wide ranging and so could be the implications. These will have to be considered in developing our contribution to the Government's response.

## **Action**

19. The Commission is asked to:

- (i) note the immediate assessment of the Committee's Report and the next stages in the process (paragraphs 7-12), and especially;
- (ii) agree the proposal to promote again with DWP the case for additional HSE resources (paragraph 11).

### Recommendations of the Work & Pensions Committee Report

1. We recommend that, in context of Spending Review 2004, the HSE inspectorate be recognised as a front-line service and protected. (Paragraph 20)
2. The Committee recommends that the HSE use an annual workplace health and safety survey to obtain data to enable it to publish evidence of trends on such issues as the proportion of employers (a) conducting risk assessments, (b) providing occupational health support and (c) training on health and safety issues. (Paragraph 41)
3. The Committee views with concern the limited progress that appears to have been made in reaching targets and does not believe that there is any realistic prospect of achieving the 2004 targets. In its view this lack of progress must, inevitably, raise questions about the present system's capacity to secure significant future improvements in standards of workplace health and safety. (Paragraph 50)
4. The Committee is also concerned that the Public Service Agreement target to 'improve health and safety outcomes' by 2008 appears to be vague and unmeasurable. We recommend that the Government produces and publishes specific details of what this target is and how it is to be measured. (Paragraph 51)
5. The Committee is concerned at the length of time it is taking the Government to resolve any outstanding issues concerning reforms of the law on corporate killing and recommends that by 1 December 2004, the Government publishes a Bill on corporate killing. (Paragraph 53)
6. The Committee recommends that commitments to legislate made in Revitalising Health and Safety in 2000 should be honoured by a Government Bill in the next session of Parliament. (Paragraph 55)
7. The Committee recommends that the Government reconsiders its decision not to legislate on directors duties and brings forward proposals for prelegislative scrutiny in the next session of Parliament. (Paragraph 60)
8. The Committee recommends a wide ranging and open review of the role and effectiveness of HSC's Industry Advisory Committees to help to address concerns that they are being downgraded. (Paragraph 72)
9. We endorse the view of Prospect that the number of inspectors in HSE's Field Operations Directorate should be doubled (at a cost estimated by them as £48 million a year after 6 to 7 years). We recommend that substantial additional resources are needed in the next three years. (Paragraph 82)
10. The Committee recommends that HSE should actively promote joint resource planning, risk prioritisation and programme working across the devolved legislatures in Great Britain. (Paragraph 88)

11. The Committee recommends the HSE adopts a more proactive approach to enforcement action towards employers who disproportionately rely on temporary agency workers. (Paragraph 98)

12. We recommend that, for all its major procurement contracts, the Government sets a good example and only buys from suppliers who have proved to the Government that they comply with UK health and safety legislation and who have satisfactory health and safety procedures and practices in place. (Paragraph 105)

13. The Committee is seriously concerned at the level of risk to which migrant workers are currently exposed. We recommend that urgent research is needed to improve our understanding of the occupational health and safety risks faced by migrant workers so that a targeted strategy to manage those risks for this particularly vulnerable group can be effectively implemented as soon as possible. (Paragraph 111)

14. The Committee is concerned that there does not appear to be an all-embracing strategy to address the changing world of work and recommends that such a strategy must be developed as a matter of urgency. This should include, in particular, measures to reduce the health and safety risks faced by agency workers and migrant workers. By 31 December 2005, clear, comprehensive and appropriate guidance should be published by the HSC/E on health and safety where the workplace is a private home. In particular, and more urgently, local authorities should issue guidance on the Employer's Liability (Compulsory Insurance) Act 1969 to those employing carers directly in their own homes, and assist in arranging appropriate cover. (Paragraph 120)

15. The evidence supports the view that it is inspection, backed by enforcement, that is most effective in motivating duty holders to comply with their responsibilities under health and safety law. We therefore recommend that the HSE should not proceed with the proposal to shift resources from inspection and enforcement to fund an increase in education, information and advice. (Paragraph 142)

16. The Committee is concerned both at the low level of incidents investigated and at the low level of proactive inspections and recommends that resources for both are increased (see paragraph 82). (Paragraph 150)

17. The Committee believes that before adopting a policy of reduced inspection for employers with an established record of good practice, there is a need for clear and thorough evidence-based analysis to ensure that the reduction does not lead to negative outcomes such as improper pressures to achieve a reduction in accident reporting. (Paragraph 153)

18. Given the HSE's limited resources, if safety representatives were empowered to enforce health and safety law in the workplace, we believe this would have a powerful effect in improving standards. We also believe this power to take action, should include not just criminal prosecutions but also improvement and prohibition notices, subject to the usual right of appeal to the Employment Tribunal and as to terms on legal costs. (Paragraph 176)

19. The Committee recommends that the Government identifies resources to build on the success of its pilot of a new prosecution model. (Paragraph 177)

20. The Committee recommends that maximum penalties should be increased by means of a Bill in the next session of Parliament and further recommends that proposals to introduce

alternative and innovative penalties in addition to those already available to the courts should be examined and the reasoned conclusions thereof published by 1 May 2005. (Paragraph 182)

21. The Committee recommends that HSE undertakes and publishes by 1 October 2005 a thorough audit of the performance of local authorities. The Committee further recommends that additional powers should be made available to allow HSC/E to take actions against any local authority manifestly failing in its duty of enforcing health and safety regulations. (Paragraph 198)

22. The Committee recommends that the Department by 1 October 2005 reviews its strategies to ensure national consistency and rigour in enforcement of health and safety regulations throughout Great Britain. If this review finds substantial support for current criticisms, it is further recommended that the demarcation of enforcement activity between HSE, local authorities and other enforcement agencies be examined, the case for a unified health and safety enforcement authority investigated and the reasoned conclusions thereof be published by 1 October 2006. (Paragraph 204)

23. The Committee recommends that resources should be allocated to enable all key HSE publications to be made available free of charge on the internet. (Paragraph 216)

24. The Committee recommends that the HSE is provided with the necessary resources to enable it to enforce effectively its existing guidance on work-related road safety, particularly in relation to preventative measures. (Paragraph 224)

25. The Committee recommends that at-work road traffic incidents should be required to be reported pursuant to RIDDOR. (Paragraph 226)

26. The Committee recommends that, by 1 October 2005 the HSC/E should carry out a review of the case for an ACoP on work-related road safety, and publish its reasoned conclusions. (Paragraph 228)

27. The Committee recommends that, by 1 October 2005, HSC publishes proposals to develop improved rights to consultation for employees, particularly in non-unionised workplaces, including rights of enforcement through its Employment Tribunal and private prosecution routes. (Paragraph 241)

28. The Committee is disappointed at the plans and progress to date to establish national cover of occupational health services. It recommends that this is given higher priority than it has received to date and that HSC/E is provided with the necessary resources to enable it to make progress towards the 2010 targets on occupational health. (Paragraph 251)

29. The Committee recommends that the HSC should, by 1 October 2005, develop and publish an Approved Code of Practice defining the standards of competence employers are required to use to ensure they comply with health and safety requirements. (Paragraph 253)

30. Employees do not want to talk about their health problem with their employer if they are potentially work threatening. There is a need for third party advice for both employees and employers. We endorse the suggestion of NHS Plus that the NHS is ideally placed to fill this role. This does not mean that they would provide all the service, but they could "serve as honest broker". (Paragraph 254)

31. The Committee welcomes steps being taken by HSE to improve our understanding of the nature and extent of the problem of workplace ill-health. (Paragraph 259)
32. The Committee shares HSC's concern that there is a 'huge job' to do on health. It is concerned, therefore, that a reduction in HSE's in-house expertise has raised major questions as to its capacity to show leadership on the issue. We recommend the Government reviews the resources available for this work to enable the HSE to fulfil this growing role. (Paragraph 266)
33. The Committee recommends that inspectors should have the resources that they need to be able to identify health issues, recommend remedial action to be taken by employers and define satisfactory outcome measures. Resources are also required to enable proactive research work to be done on combating newly emerging risks, like passive smoking. The risk assessment criteria should be reviewed to ensure they are able to identify workplaces where occupational health risks are high. The results of this review should be published by 1 October 2005. (Paragraph 277)
34. The Committee recommends that the Government reviews the experience of the ban on smoking in the workplace recently introduced in Ireland. Measures to deal with passive smoking in the workplace should be included in the forthcoming White Paper on improving health. (Paragraph 278)
35. The Committee recommends that HSC reviews international evidence on the efficacy of requiring employers to set out their approach to, and provision of, rehabilitation to determine whether lessons can be learned and introduced in the UK. The results of the review to be published by 1 October 2005. (Paragraph 286)

NEWS RELEASE..... NEWS RELEASE..... NEWS RELEASE..... NEWS RELEASE.....

**Embargoed. Not to be published in any form, in full or in part,  
before 00.01 hrs on Sunday 25 July 2004**

C035:04

25 July 2004

**WORK AND PENSIONS COMMITTEE REPORT ON THE WORK OF THE HEALTH AND  
SAFETY COMMISSION AND EXECUTIVE**

Bill Callaghan, Chair of the Health and Safety Commission, welcomed the Work and Pensions Committee's report on the work of the Health and Safety Commission and Executive, (HSC and HSE) published today. He said:

"We are very pleased that the Committee believes the Health and Safety Executive is a high quality organisation and that it recognises that Great Britain has one of the best health and safety records in Europe.

"We are also pleased that there is strong support for the current legislative framework on health and safety.

"Many of the recommendations are complex and will need to be examined in detail. Some, such as those relating to resources and legislation, are for other parts of Government. For those directed to HSC and HSE, we will contribute to the Government's response in due course."

**PUBLIC ENQUIRIES:** Call HSE's InfoLine, tel: 08701 545500, or write to: HSE Information Services, Caerphilly Business Park, Caerphilly CF83 3GG.

**PRESS ENQUIRIES: Journalists only:** Karen Eldridge 020 7717 6219  
Out of hours 020 7928 8382

HSE information and press releases can be accessed on the Internet:  
<http://www.hse.gov.uk>

Ends