

CHIEF EXECUTIVE'S REPORT TO THE HSC

25 JULY 2006

1. Brent Bravo

The Fatal Accident Inquiry's Determination into the deaths of two workers on the Brent Bravo offshore installation in 2003 was published last week. It endorses the findings of HSE's investigation which culminated in a prosecution of Shell UK Limited last year.

Subsequent to and despite the findings of the FAI the unions have raised questions about HSE's regulation of the offshore industry. Now that the FAI determination is in the public domain HSE can address the issues that they are raising and senior HSE officials have made arrangements to meet with trade union representatives this week in Aberdeen. It is hoped that there may also be a Commission presence.

2. Sellafield

I informed you at the last meeting that British Nuclear Group Sellafield Ltd had pleaded guilty at Whitehaven Magistrate's Court to breaches of conditions attached to its Nuclear Site Licence, in relation to the escape of highly radioactive liquor from a tank in THORP into a containment cell over a period of several months, and that sentencing would be at Carlisle Crown Court on 24 August. Due to the availability of the High Court judge, sentencing will now be on 16 October. We remain committed to making a report of our investigative findings publicly available once the proceedings have been concluded.

3. Energy Review

The Government has recommended that HSE take forward its proposals for 'enhancing' the regulatory strategy for new reactor licensing.

- HSE/NII is beginning the development of its procedures and guidance for carrying out new reactor pre-licensing assessments as described in its Expert report.
- As its proposed regulatory approach and guidance is being developed, HSE will welcome discussions with potential applicants for pre-licensing assessments as well as other key stakeholders.
- HSE is unlikely to be in a position to begin formal considerations on pre-licensing matters with any interested party until it has finalised its proposals.
- In finalising its approach to pre-licensing and the associated guidance, HSE anticipates running one or more stakeholder workshops which will allow input from the industry as well as the public and other stakeholders.

4. The Trade and Industry Select Committee (TISC)

The TISC, to which Mike Weightman gave evidence, issued its report on the Government's energy review on 9 July.

The TISC felt that the energy review had been conducted over an insufficient timescale and would not capture the relevant issues and/or evidence in relation to the extent of the UK's energy gap. In particular, the committee were concerned that in preparing the Energy Review the Government would not be able to take full account of two pieces of important evidence - HSE's expert report on the health and safety risks and regulatory strategy related to energy development, and the Committee on Radioactive Waste Management's (CoRWM) report on long term storage issues. HSE's report was published just days before the Energy Review was finalised, and CoRWM's final report is not due until the end of July.

However, the TISC supported pre-licensing while expressing the view that the current planning and licensing systems are a disincentive to investment in new nuclear power stations.

5. Incident at Nevis Range near Fort William on 13 July

HSE is investigating the incident where a gondola on the Nevis Range cableway slid down the cable shortly after it left the top station and collided with a second gondola. Fortunately, although the families in both gondolas were injured, there were no fatalities.

6. Potters Bar

Following the Secretary of State for Transport's decision in December 2005 not to hold a public inquiry into the Potters Bar train derailment, some relatives of the victims of the crash have sought a judicial review of this decision under Article 2 of the European Convention on Human Rights (ECHR).

HSE has now become an Interested Party although it is unclear what will be the extent of HSE's role - the interests of the Office of Rail Regulation (ORR) and HSE are at present indistinguishable. HSE gave permission to exhibit its Prior Role Inquiry Report (PRI) for use in the proceedings.

The hearing of the application for the judicial review took place on 19-21 July and we are awaiting the judgement.

7. Official opening of Redgrave Court

The official opening of Redgrave Court on 19 July by HRH Prince Andrew went very well and I am grateful for the efforts of all the staff involved for making it such a successful occasion. I much appreciated Hugh Robertson's presence as the representative of the Commission.

8. Workplace Health Connect

The service has been operating for 21 weeks (up to 13 July 2006). After a slow start, changes to the marketing strategy have been effective and resulted in a significant improvement to the number of visit referrals. For the last seven weeks the service has been above its weekly target for visit referrals and as a result of this we are now exceeding our overall service target for visit referrals.

All Pathfinders continue to report an excellent response to the service from customers. Adviceline satisfaction ratings remain high around 95% very satisfied or satisfied. Up until 13 July there had been 2,198 calls to the Adviceline and 1001 referrals for workplace visits. The ratio of employers to employees calling the Adviceline is 2:1. Calls to the Adviceline are still lower than was expected, and as a result of this we have refocused our marketing on the National Adviceline service.

On 18 July I hosted a stakeholder breakfast to promote the success of the service to date and to ask stakeholders to continue to support the service. Some of the early learning from Workplace Health Connect were highlighted at this event. Both the Chair and Sayeed Khan attended.

9. SFAIRP

For some years now, the European Commission has been pursuing infringement action against the UK Government, for alleged under implementation of the Framework Directive on health and safety (Directive 89/391/EEC). The EC claims that we have not fully implemented Article 5(1) of that Directive by reference to Section 2(1) of the Health and Safety at Work etc. Act 1974, because the employer's duty to ensure the health and safety at work of his employees is qualified by "so far as is reasonably practicable" (SFAIRP). The UK totally disagrees and is robustly contesting the action.

The infraction has proceeded very slowly through a variety of stages. The EC made a formal application to the European Court of Justice in March 2005 and the case completed the last stage of its pre-hearing, written procedures last November. We have just been informed of the date of the oral hearing before the Court. This will take place in Luxembourg on 13 September 2006.

After the oral hearing, the Court's Advocate General will deliver an opinion and the Court will then give its judgement. This is not expected until next year.

As we are defending the case, and have no wish to pre-empt its outcome, we currently have no plans to amend our current legislation.

10. Corporate Manslaughter & Corporate Homicide Bill

The Bill was introduced into Parliament on 20 July, and was published on Friday 21 July 2006. It will be carried over at the end of this session to the next session of Parliament.

The Bill extends to England, Wales, Northern Ireland and Scotland. This is because the management of health and safety is a reserved matter. In Scotland the new offence will be called 'Corporate Homicide.'

HSC/E has repeatedly expressed support for the proposed new offence. Although prosecutions are likely to be infrequent, it will be an important addition to the range of enforcement options that are available when a fatality results from particularly serious management failures, and will add to the overall deterrent effect.

GEOFFREY PODGER
JULY 2006

ANNEX TO CHIEF EXECUTIVE'S REPORT: JULY 2006

Management

- The latest staffing figures are attached at Annex 3.
- Patrick McDonald has been appointed to the role of Chief Scientist in HSE. Patrick comes to us from the DTI, and is expected to join us at the beginning of September.
- The HSE Board met on 5 July. It took the first of a series of papers dealing with significant health and safety risk areas - this paper dealt with stress; had an update on progress with the Enforcement Strategic Enabling Programme; discussed the health and safety Public Service Agreement Target for the period covered by the Comprehensive Spending Review 2007; discussed a progress report on HSE's Diversity Vision and Action Plan; and agreed to hold a test in October of HSE's arrangements for dealing with major incidents and civil contingencies.

FiT3 Strategic Programme

- More than two million workers in GB are exposed to either excessive noise or hand arm vibration. HSE launched a new programme on 10 July at EEF, aimed at protecting these workers from suffering permanent damage to their health as a result of their work.

Stakeholder engagement

- The '2012 Construction Commitments' which was developed by the construction industry with the strong support of government, aims to maximise the opportunity to showcase the very best of British construction practices and help deliver the Olympic Games in time, safely, and to budget. As well as health and safety being one of the six key principles within the document, it is a common theme to all other principles in the Commitment.
- HSC held a reception for Parliamentarians on 11 July, hosted by Michael Clapham MP, to inform them about HSC/E's work and get across the message that HSC's focus is the reduction of the numbers of workplace accidents and ill-health that cause real harm – and not to stop people from enjoying themselves.

Risk management

- HSE's revised risk assessment guide, *Five Steps to Risk Assessment*, featuring examples of what is – and is not – expected, was published on 11 July.

Special Commission meeting

HSC held a meeting on 11 July to receive from Lord Newton the initial report by the independent Major Incident Investigation Board into the explosion and fires at Buncefield Oil Depot and endorse its publication.

Publications

- *The essentials of health and safety at work* – HSE's best selling title has been updated and revised for 2006. It gives straightforward advice to help firms prevent accidents and comply with the law without major disruption or expense.
- *Workplace transport safety: An employers' guide* A new edition which aims to help employers, managers and supervisors make accidents involving workplace transport less likely.
- *Have you got the recipe for safety?* Between 1994 and 2004 there were 44 deaths in the food and drink manufacturing industries, and 106,500 reportable injuries. This book shows how to improve safety and develop a positive safety culture in the workplace.
- *HSE Newsletter* this replaces the old HSC Newsletter and will keep people informed, with the emphasis on helping them to comply with the law and run a profitable, healthy and safe business.

Operations

fatalities were reported to HSE from 1 – 20 July. Brief details are given in Annex 2. Not all the fatalities reported to HSE are reportable under RIDDOR and so may not all be included in HSE's fatality statistics for 2006/07.

Consultations

Current consultations

- *Managing workplace transport risk*: proposals for a route map– for response by 22 September 2006
- *Proposals to implement the second list of indicative occupational exposure limit values*(European Directive 2006/15/EC). Consultation ends: 27 September 2006
- *Welsh Language Scheme: 2006 / Cynllun Iaith Gymraeg: 2006*. The Welsh Language Scheme HSE has been prepared with the Welsh Language. Consultation ends: 14 August 2006.
- *Improving worker involvement - Improving health and safety* Consultation ends: 08 September 2006.

Parliamentary business

- 10 Parliamentary questions were answered between 1 and 20 July, 5 on asbestos.
- An adjournment debate in the House of Commons on 19 July, called by Mike Penning MP for Hemel Hempstead, on 'HSE inquiry into Buncefield oil depot fire in Hemel Hempstead'.

Annex 2

FATALITIES REPORTED TO HSE 1 – 20 JULY

AGE	INDUSTRY SECTOR	DESCRIPTION
95	Services	DP died in fire at council-run residential home
36	Agriculture	DP was kicked in the chest by a horse
92 93	Public transport	DPS were run over by single decker bus
N/A	Domestic gas	DP found unconscious. Taken to the hospital but never recovered from her injuries
81	Domestic gas	DP died of carbon monoxide poisoning
65	N/A	DP fell from a tower scaffold
59	Construction	DP was struck by a dumper
63	Agriculture/ Arboriculture	DP was hit on the head by a large dead oak tree
56	Waste disposal	DP died due to exposure to mould and fungi from decaying vegetable matter
33	Public Security/ Law and Order	DP fell over from his motorcycle

