

Health and Safety Executive Senior Management Team Paper SMT/08/80

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HEALTH AND SAFETY EXECUTIVE

Senior Management Team

Proposals for amending the Health and Safety Information for Employees Regulations 1989 (HSIER) – Board update on outcome of consultation

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Cleared by Giles Denham on 21 October 2008

Issue

1. To update the Board on the outcome of the consultation about the health and safety poster (there was strong support for proposals); to ask them to agree to recommend to Ministers the proposed amendments to regulations.

Timing

2. For approval at the 4 November meeting, to enable the paper to be sent to the Board for clearance at the 26 November meeting.

Recommendation

3. The SMT is invited to consider and approve the HSE Board paper and associated attachments, including draft letter to Lord McKenzie, attached herewith.

Background

4. See the draft Board paper. SMT may wish to note in particular that HSE and LA inspectors are being involved in the process of identifying new simple messages on health and safety for inclusion in the poster – which will go to a later Board meeting for sign-off, after testing with the target audience.

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PROPOSALS FOR AMENDING THE HEALTH AND SAFETY INFORMATION FOR EMPLOYEES REGULATIONS 1989 (HSIER) - UPDATE ON OUTCOME OF CONSULTATION			

Purpose of the paper

1. This paper:
 - a. reports on the outcome of the consultation on a new health and safety poster (which showed strong support for the proposals);
 - b. recommends, accordingly, that the Board advises DWP Ministers to amend the HSIER; and
 - c. asks the Board to note that work is underway to develop a new and more visually appealing Health and Safety Law poster/leaflet.

Background

2. In December 2007 the then HSC agreed to consult on proposals to improve the impact of the approved health and safety law poster and leaflet and, if possible, reduce the administrative burden on business - principally by removing the requirement to write in and update contact details for the local enforcing authority and EMAS (HSC/07/81).
3. The consultation began on 19 May and closed on 11 August. Respondents were asked
 - a. whether they agreed with the proposal that new approved posters advise workers to contact HSE Infoline to get information on how to contact their enforcing authority and EMAS, and
 - b. whether they agreed with the proposal that employers should be able to continue to display the current version of the poster after HSE has approved a new poster, provided the information on it is current and readable.

Argument

4. The outcome of the consultation is summarised in Annex 1. Overall, 89% of respondents agreed with the first proposal, and 69% agreed with the second proposal.
5. There were 195 responses, of which 25 were from representative organisations - 5 representing workers, 5 representing employers, and 15 others. All these representative organisations agreed with the proposal that new approved posters advise workers to contact HSE Infoline to get information on how to contact their enforcing authority and EMAS. Five representative organisations, including the RCN, disagreed with the second proposal, suggesting instead that there should be a **fixed timescale** in which employers should replace old unrevised posters. However, the majority of union and all employer representative respondents were content with both proposals.

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6. In theory, if all unrevised posters and leaflets had to be replaced within a fixed timescale there would be some benefits for employees of less conscientious employers who fail to add the appropriate enforcing authority and EMAS contact details to the current poster (provided, of course, that these less conscientious employers did comply with the requirement for a new poster).
7. However, despite its shortcomings, the current poster is adequate as a basic pointer to advice sources (including HSE Infoline and HSE Books for free information). Introducing a blanket requirement that all existing posters must be replaced by a certain date would impact on all employers, and be perceived as a new burden, while being unrelated to the effective management of risk.
8. Given the wide stakeholder support for the proposal as it stands (69% overall, 80% of representative organisations), we recommend not setting in regulations a fixed timescale for replacement (the costs to business of doing so are estimated to be £10-15 million).
9. There were one or two other points raised by respondents around having the poster and leaflet available electronically, in languages other than English and Welsh, and in other formats. Communications Delivery Service (CDS) will be considering these further. However, it is already the case that the Health and Safety Law leaflet can be downloaded from the HSE website, and distributed electronically, so an electronic version of the poster is unnecessary.
10. In parallel with the consultation on proposed amendments to the HSIER, work has begun on improving the visual impact of the poster and leaflet. CDS has consulted external sources of expertise, including Judith Donovan, on design and presentation aspects. And HSE and local authority inspectors are helping identify the key health and safety messages for employees.
11. For illustrative purposes, a mock-up showing how a future poster might look is attached at Annex 2. This is intended as an example only - the poster and leaflet are still in development, and will undergo testing with the target audience. The Board will be asked to consider and sign off the new poster and leaflet at a later stage.

Recommendation

12. That the Chair, on behalf of the Board, writes to DWP Ministers informing them of the outcome of the public consultation and recommending the HSIER are amended, with effect from April 2009. A draft letter and supporting documents are attached at Annex 3.
13. Once Ministers have indicated they intend to accept the Board's recommendation, HSE will implement a communications plan that will
 - a. ensure all stakeholders are fully aware of the proposed changes;
 - b. encourage employers to order new posters, to ensure a modern, easy-to-understand source of basic advice in every workplace; and
 - c. ensure dutyholders are clear they will not face additional burdens as a result.

Financial/Resource Implications for HSE

14. Staff costs of implementing the proposal are estimated at £50K and will be met from existing resources. If Infoline receive an extra 10,000 calls, this would increase HSE costs by approximately £26K in 2009/10 and subsequent years.
15. The development, testing, distribution and promotional costs are budgeted at £110K and would be met from existing budgets, held by CDS, for HSE's commercial arrangements. Translations would cost an additional £1K per language. Printing costs (assuming current rate of sales of approx 150,000 posters per year and 100,000 leaflets) are budgeted at £400K. There would be a cost in writing off existing stocks of the poster, estimated at £9K.
16. However, as the Law Poster is a priced publication, we anticipate there would be no overall increased costs to HSE. The income from the sale of 150,000 posters would be around £1 million per annum as is now. Despite the planned changes and the fact that there has been no price increase for a number of years, there will be no increase in the price charged for the new version of the poster. The leaflets would not be individually priced, but we would recover fairly modest handling and postage costs incurred through providing bulk supplies to duty holders.

Action

17. If the Board agrees with the approach set out in this paper, HSE officials will:
 - a. Arrange for the letter and proposals package to be sent to Ministers;
and
 - b. Continue work on redesigning the poster and leaflet, for the Board to consider and approve new versions at a future meeting.

Paper clearance

18. This paper was cleared by the Senior Management Team on 4 November 2008.

Public consultation on proposals for amendments to the Health and Safety Information for Employees Regulations 1989 (HSIER)

Summary

The consultation began on 19 May. Over 200 organisations and individuals subscribed to the online consultation. A total of 195 responses were received by the closing date of 11 August, including 193 online questionnaire responses.

In total, 172 respondents (89%) agreed with the first proposal for **new approved posters and leaflets displaying information on how employees can contact their local enforcing authority and EMAS**. 21 respondents (11%) disagreed – these were all individuals, not representative organisations. 116 respondents provided comments on this proposal.

133 respondents (69%) agreed with the second proposal **that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet**. 59 respondents (31%) disagreed with this proposal. Five of these were representative organisations, and 54 were individuals. 117 respondents provided comments on this proposal.

Of the 176 respondents who expressed a view about the consultation itself, 165 (93%) thought it explained the issues and proposed changes either 'very well' or 'well'. 11 respondents (7%) thought it did so 'not well' or 'poorly'.

Detail of responses

Responses from representative organisations

Organisations representing workers

Responses were received from the GMB, NASUWT, the Royal College of Nursing (RCN), TUC, and Unite the Union. With the exception of the RCN, these organisations agreed with both proposals. The RCN agreed with the first proposal, but favoured a timeframe for phasing out the unrevised poster, once a new poster is approved.

GMB suggested introduction of digital licensing for the poster, so that employers of migrant workers could also download translated versions.

Organisations representing employers

Responses were received from the Chemical Business Association, Engineering Construction Industry Association, Federation of Master Builders, National Association of Master Bakers, and Well Services Contractors Association. These organisations agreed with both proposals.

Other representative organisations

Responses were received from the Actuarial Profession, Association of Occupational Health Nurse Practitioners (UK), Association of Personal Injury Lawyers, Association of Police Safety and Health Advisers (Scotland), British

Safety Council, Charities Safety Group, ChurchSafety, Confederation of British Wool Textiles, Construction Health and Safety Group Ltd, Federation of Petroleum Suppliers Ltd., Heritage Railway Association, Institute of Directors, LACORS, Rail Safety and Standards Board, Scottish Council on Deafness, Society of Occupational Medicine.

All of these organisations agreed with the first proposal. Three-quarters agreed with the second proposal that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet. The Actuarial Profession, APIL, Charities Safety Group and the Scottish Council on Deafness disagreed, preferring a timeframe, such as 3 or 5 years, in which unrevised posters and leaflets should be replaced. The Charities Safety Group, for instance, considered this proposal would create a dual standard and possibly discriminate against those groups of workers who cannot read or understand the existing poster.

Responses from organisations and individuals

Do you agree with proposal for new approved posters and leaflets displaying information on how employees can contact their local enforcing authority and EMAS?

Comment	No. of mentions
Will overcome problem of blank or out-of-date information boxes	20
More user friendly, simple, immediate and eye-catching, plain English	12
Practical benefits – avoid problems of fading/illegibility	10
Poster/leaflet available should be electronically available/downloadable	9
Should also provide details of HSE website	5
Not convinced of arguments about reducing administrative burden	4
Proposal unnecessary	4
Will make employers more complacent	3
Agree with arguments about reducing administrative burden	2
Content of poster should more closely fit with current risk profile	1
Will increase confusion about enforcing authority	1

Do you agree with proposal that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet?

Comment	No. of mentions
There should be a fixed transition period – for example, 3-5 years	20
Will be confusion with several versions on display – needs consistency	16
Agree there should be no fixed transition period – otherwise will be extra burden on business	15
It is desirable that employers should have to find out the information needed	1
Should have electronic version of leaflet available for field staff	1

Draft letter from Chair to Lord McKenzie

Proposals for amendments to the Health and Safety Information for Employees Regulations 1989 (HSIER)

At its meeting on 27 November, the Health and Safety Executive agreed to recommend to you proposals for amendments to the Health and Safety Information for Employees Regulations 1989 (HSIER), and I am now writing to ask you to make these amendments so that they can come into force at the next common commencement date (1 April).

These amendments will enable us to approve and publish new Health and Safety Law posters and leaflets which do not require the addition or updating of information by businesses displaying them, so reducing an unproductive burden, whilst maintaining or improving employees' access to useful information. The proposed amendments would also permit employers to continue to display their existing posters or give out existing leaflets, providing they are readable and provide up-to-date information on contacting the enforcing authority and Employment Medical Advisory Service (EMAS).

A review of the current approved poster showed that it was unappealing and very rarely read by employees. Publication of a new approved poster and leaflet provides an opportunity to present clear basic information about employees' health and safety rights and responsibilities, and how to get further help and advice. In particular, the approved poster and leaflet need to be understood by employees who have visual and/or learning difficulties, poor English reading skills, and work in an environment where the risk of being denied employment rights is high. This will help all employees to understand their right to a safe and healthy workplace and to play their part in ensuring good standards of health and safety.

HSE carried out a public consultation on the proposed amendments. The consultation began on 19 May and closed on 11 August. Respondents were asked:

- whether they agreed with the proposal that new approved posters advise workers to contact HSE Infoline to get information on how to contact their enforcing authority and EMAS, and
- whether they agreed with the proposal that employers should be able to continue to display an unrevised poster after HSE has approved a new poster, provided the information on it is current and readable.

The outcome of the consultation is summarised Annex 1 [same as Annex 1 to Board paper]. Overall, 89% of respondents agreed with the first proposal, and 69% agreed with the second proposal. Those agreeing included all the representative bodies who responded.

We believe the proposed amendments, at Annex 2, present an opportunity to make sure the poster and leaflet provide clear basic information about employees' health and safety rights and responsibilities and how to get further help and advice. Our assessment of the economic impact of these proposed changes shows that the benefits of changing the regulations greatly outweighs the costs - the benefits to business gained through a reduction in the administrative burden are estimated to be £10.3 million per year.

Yours sincerely

JUDITH HACKITT
Chair, Health and Safety Executive