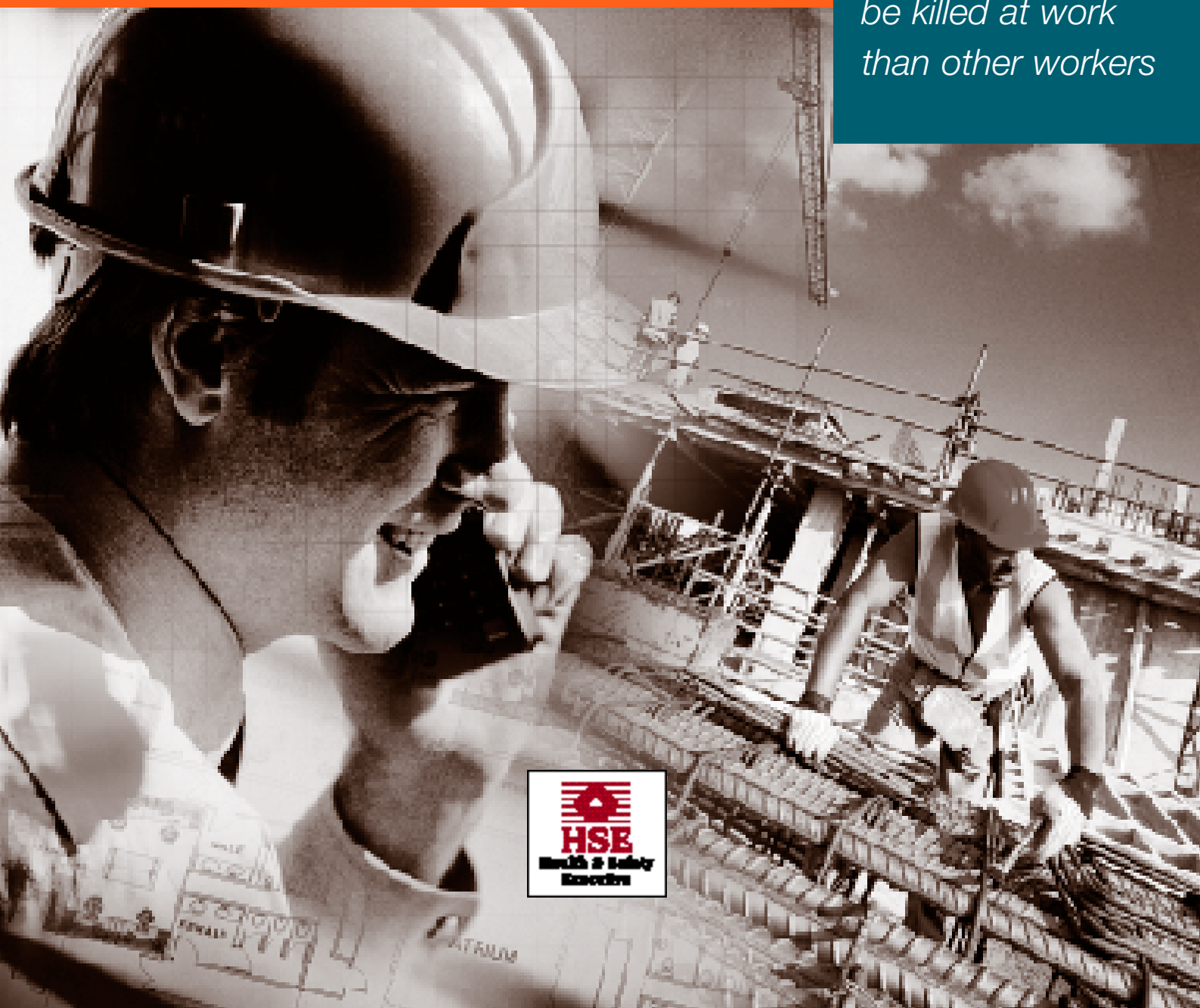




Revitalising Health and Safety in Construction

Discussion Document

Construction workers are six times more likely to be killed at work than other workers



The Health and Safety Executive hopes that publication of this document will stimulate consideration and discussion of the issues raised.

Any responses to the document would be welcome and should be sent to:

John Gibson
Health and Safety Executive
Construction Policy (SPD C2)
5SW, Rose Court
2 Southwark Bridge
London SE1 9HS
Fax: 020 7717 6908
e-mail: DD.construction@hse.gsi.gov.uk

To reach us no later than 31 December 2002

The Executive tries to make its consultation procedure as thorough and open as possible. Responses to this Discussion Document will be lodged in HSE's Information Centres after the end of the discussion period, where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to the Discussion Document are invited on the basis that anyone submitting them agrees to their being dealt with like this. Responses, or parts of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases a note will be put in the index to the responses identifying those who have asked that their views, or part of them, be treated as confidential.

Many business e-mail systems now automatically append a paragraph stating the message is confidential. If you are responding to this DD by e-mail and you are content for your responses to be made publicly available, please make clear in the body of your response that you do not wish any standard confidentiality statement to apply.

Revitalising Health and Safety in Construction

Discussion Document

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Foreword

A message to everyone in Great Britain connected with construction

It's time for change. Government, clients, business and workforce leaders from every sector of construction agree. Ethical and hardnosed business arguments point to the same conclusion. We must all work together to change the industry and we must do it now. We cannot go on as we are.

Much work is already under way to bring about change. At last year's construction health and safety summit, industry leaders set very challenging targets for reductions in accidents and ill health. Many parts of the industry are hard at work developing and delivering their action plans from the summit. That work must continue, but others need to be involved too. This Discussion Document is intended to support this change process and provides an opportunity to see how we can work together better to deliver the targets; but it is not an alternative to action – we know so many of the answers already.

The Strategic Forum for construction has just published *Accelerating Change*. It follows on from the changes identified in *Rethinking Construction* and highlights the importance of health and safety to the industry. This document picks up a number of the ideas in *Accelerating Change*.

For our part, the Health and Safety Commission (HSC) and Health and Safety Executive (HSE) have made construction a top priority. We have increased the resources devoted to it and refocused efforts to make our contribution more relevant and productive. This has led to the creation of the new Construction Division and the construction priority programme with its well-publicised regional blitzes.

This Discussion Document provides an opportunity for us all to take stock of where we are in construction health and safety, where we want to be and how we get there. This is your industry. You know what works well and what holds you back. Please discuss the issues with your friends and colleagues, tease out the key ones and tell us:

- why is the industry's health and safety performance so poor?
- what changes do we need to make?
- what are the best ways of achieving those changes?
- the reasons for your views, along with any supporting evidence.

In places the Discussion Document sets out specific ideas for change and possible levers. We want to know what you think about them. But don't feel constrained by our ideas. Let us have your suggestions. **This is your chance to help set the agenda for action on health and safety in construction for the rest of the decade, and beyond.**

The topics covered are anything but easy. To address them we need to apply our collective wisdom and insight. Above all, we must be determined to change and maintain that determination for many years. Together we can make a difference and change attitudes to health and safety. At the end of the day, it is what we do or don't do that saves or costs lives – not what we say. This document is about action. Make sure it is the right action.

HSC and HSE will continue to play their part. I am sure that you will want to play yours too.



Chair
Health and Safety Commission



HSE's Chief Inspector of Construction
and Chair of HSC's Construction
Industry Advisory Committee

Read this document if you:

- commission, specify, design or carry out construction work – including cleaning, repair, renovation, re-decoration, upkeep, demolition and dismantling
- educate or train those who work in construction
- manufacture and supply materials or equipment to the industry
- influence the way the industry thinks or works, eg planning, building control, insurance, financial services, investors
- want to improve the health, safety and welfare of the construction workforce

Construction workers are six times more likely to be killed at work than other workers

Chapter one Construction - An industry with a problem?

What is this all about?

- 1 Over many years a great deal of effort has gone into reducing the number of people who are killed, injured or suffer ill health as a result of construction work.
- 2 Initiatives from all sides of the industry have produced a long-term reduction in the number of injuries and fatalities; but recently their effects have diminished and numbers of deaths have even risen. Meanwhile, there has only been limited success in tackling the causes of occupational ill health, which still accounts for the premature death and disablement of many thousands of workers in construction.
- 3 This Discussion Document is intended to stimulate debate and the development of imaginative proposals to revitalise the industry's approach to the control and management of health and safety risks. It raises many issues, but does not put forward firm proposals. **Instead we are seeking your views and any reliable evidence to support those views.** Ask yourself:
 - have we identified the key issues and, if so, how should we tackle them?
 - where we have identified possible solutions, how practical are they?
Do you have better alternatives?
 - what are the implications?
 - what are the costs and benefits?
- 4 Some of the issues raised involve shared or overlapping interests. For example, improving people's competence is likely to raise quality and reduce risks; and so it is of interest to building control and insurance companies as well as health and safety. Working together (HSE, industry leaders, trade unions, professional and trade groups and others), we can achieve much more than working separately. If you have complementary interests in topics that we haven't identified, we would be very interested to hear about them.

Scale and diversity

- 5 The construction industry is hugely diverse. About 200 000 firms cover a multiplicity of activities from domestic extensions, through refurbishment and development of brownfield sites, to major infrastructure projects like the Channel Tunnel Rail Link. It also includes those involved in the maintenance of buildings, roads, railways and other structures.
- 6 Businesses range from multinational players, with interests in other industrial

sectors, to one-man (but rarely one-woman) painters and decorators working cash in hand. About 85% of these businesses employ fewer than five workers. Over 1.9 m people work in the industry, including manual labourers, skilled tradesmen, managers, engineers and various professionals. Contracting relationships may be casual, occasional or long-term partnering. Funding arrangements can be complex as in Private Finance Initiatives (PFI) and Public Private Partnerships (PPP). Finally, the extent to which the industry is organised is extremely variable; there are some highly structured and influential groups while, conversely, a huge mass of small firms and individual workers are completely unrepresented.

7 This lack of homogeneity means that there is no simple solution that will resolve all the challenges the industry faces in improving its health and safety performance. What works in one sector may have no, or even adverse, effects in another. The Discussion Document recognises this and it is why we believe that **the most successful solutions must come from, and be owned by, the sections of the industry to which they refer.** It is also why (as we make clear later) changes in the law, on their own, may not be the most effective means of achieving real change in the attitudes and, consequently, the behaviours of the industry.

How do people perceive the construction industry?

- casualised
- cost-cutting
- dynamic
- hard-working
- litigious
- low trade union membership
- poor engagement of workforce
- poor respect for people
- quick to adapt
- skills shortage
- transient, work and workers
- corner-cutting
- creative
- fragmented
- innovative
- low profit margins
- poor at planning
- poor pay and prospects
- problem-solving
- risk tolerant
- slow to change
- unhealthy

8 All these attitudes and impressions, rightly or wrongly, contribute to the industry's reputation and culture. Most people agree that the **safety** record is unacceptable and must improve. Far fewer realise that the **health** record is even worse, with the legacy of asbestos and the problems of:

- noise
- vibration
- allergic reactions to cement, epoxy resins, isocyanates, etc.
- musculoskeletal disorders (eg strains, sprains and back injuries).
- solvents
- dust

9 HSE is not alone in saying this. *Rethinking Construction*, a report produced by the Construction Task Force chaired by Sir John Egan, said: 'If the industry is to achieve its full potential, substantial changes in its culture and structure are also required to support improvement. The industry must provide decent and safe working conditions and improve management and supervisory skills at all levels.' It concluded that the industry had to commit itself to change and that its culture and approach to the health, safety and welfare of its employees was highly detrimental to its future economic success. This view is endorsed in *Accelerating Change*,¹ recently published by the Strategic Forum for Construction.²

10 After an HSE concentrated inspection initiative in London earlier this year, where inspection of 223 sites resulted in 110 prohibition notices, 11 improvement notices and four sites where work was stopped altogether because they were so badly managed, *Contract Journal* said: 'This would appear to show either a staggering indifference to the welfare of site staff or an equally worrying ignorance of the correct health and safety standards that should be in force.'

It's not just about health and safety

11 Making changes to improve health and safety standards and reduce accidents and ill health can also:

- increase profitability;
- increase productivity;
- improve recruitment and retention; and
- improve quality.

12 Experience also shows that the internal culture of an organisation and industry affects people's attitudes and behaviours, including those towards health and safety. To make a real difference in health and safety, we must identify and tackle all relevant factors. We need to think widely and not restrict our ideas to those traditionally perceived as health and safety issues.³ See the diagram on page 4.

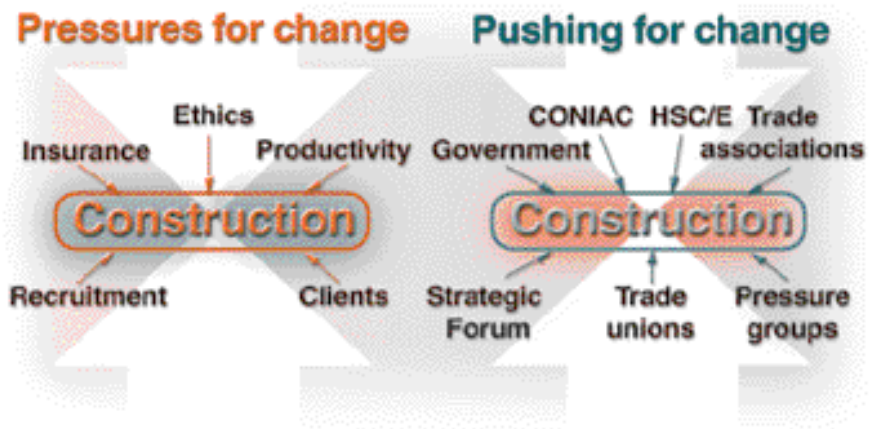
A principal contractor's view

When we get health and safety right, we get it all right – because it involves improving and integrating multiple business processes. In other words, a fundamental step change in process and a change in attitude that will impact on everything we do. That's why I believe we should focus so strongly on health and safety.

1 See www.cbpp.org.uk/ or www.rethinkingconstruction.org.uk/

2 The Strategic Forum is a strategic body for the construction industry. Its members represent all parts of the industry including clients, suppliers, training organisations, and Government. See www.dti.gov.uk/construction/stratfor1.htm for further information.

3 HSE's *Climate Survey Tool* is a software tool that uses structured questions to examine the health and safety culture within an organisation. It allows the results to be analysed in a way that suits the needs of the organisation and provides information which can then form the basis for discussion and involvement of all levels of the workforce. It is available on CD from HSE Books (1998 0 7176 1462 X). Leaflet MISC097 provides further information.



Can we really make a difference?

13 Despite countless health and safety initiatives and campaigns, the industry remains dangerous. What is even worse is that almost all of the deaths and injuries that occur are foreseeable and preventable. We have known for years how to prevent them, but they still happen – often in the same old ways. Perversely, this leads some people to think that they can't improve, because the good are already good and the bad will never improve.

14 However, there is much to be hopeful about. Since last year's construction summit there is general agreement that the industry must change and a greater willingness to drive the agenda for change forward. We want to stimulate further discussion about:

- what else needs to change, and
- how, by working together, we can bring those changes about.

15 This Discussion Document is not primarily about changes to the law, its enforcement and supporting guidance, although, historically, people have seen such changes as the main ways of improving health and safety standards. We believe that there are more effective ways of changing the industry; nevertheless, there are some issues where we need to consider legal changes. Some of these are addressed here, but next year we plan a wider review of the law on construction health and safety. We would, therefore, welcome any evidence and ideas, in advance, on what parts of the law work well and what needs to be changed.

16 In the foreword to *Accelerating Change*, Sir John Egan says: '*I also passionately believe in the importance of tackling the industry's health and safety*

problems. Pre-planned, well designed projects, where inherently safe processes have been chosen, which are carried out by companies known to be competent, with trained work forces, will be safe: they will also be good, predictable projects. If we are to succeed in creating a modern, world class industry, the culture of the industry must change. It must value and respect its people, learn to work in integrated teams and deliver value for clients' money.'

17 These and many other issues are addressed in this Discussion Document, which is set out as follows:

- Chapter 2 sets the scene;
- Chapter 3 asks questions about industry-wide and corporate leadership, and looks at the potential influence of various business and financial levers;
- Chapter 4 looks at the role played by employment relationships and the drive to improve levels of competence;
- Chapter 5 explores what can be achieved by improved co-operation, co-ordination and communication;
- Chapter 6 looks at important health issues;
- Chapter 7 looks at Government in its various roles as initiator, legislator and enforcer;
- Chapter 8 tells you how you can send us your comments.

18 We hope that your response will help identify:

- the key issues; and
- the most effective ways to tackle them.

Questions

1. *What changes would lead to the greatest improvements in construction health and safety standards and how would you make them happen?*
2. *What are the greatest barriers to change?*

Chapter two Where we are and where we are going

Revitalising health and safety

19 In June 2000 the Government launched the *Revitalising Health and Safety*⁴ initiative. For the first time specific, measurable targets were set for reducing the toll of injuries and ill health to all those who work in Great Britain. Delivering improvements in the construction industry is vital if, given the size of the industry and its current poor health and safety performance, we are to achieve these targets.

20 While the British construction industry is one of the safest in Europe, the facts are still stark:

- Roughly a third of all work fatalities happen in construction and the fatal injury rate of 6.0 per 100 000 workers (2000/01) is 6 times the all-industry average.⁵
- In the last 10 years nearly 900 construction workers and over 50 members of the public were killed as a result of construction work.
- A much larger number died prematurely or were disabled due to health problems arising from their work.

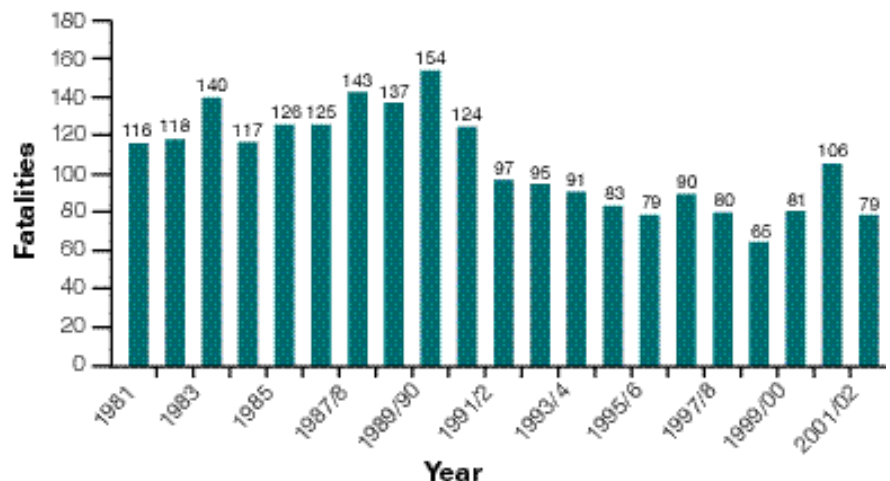
21 These facts alone are cause for concern, but the recent rise of 35% in the number of construction fatalities brought further pressure for a step change in the health and safety performance of the industry. Another depressing fact is that people are still being killed, injured or made ill by the same things that have characterised the industry for the last 100 years – namely, falls from height, being struck by a moving vehicle or by falling objects, asbestos, etc. This suggests that lessons from the past have not been learnt.

A doctor's view of the impact on victims

One short incident turns their whole life upside down.

It is such a sudden event that they're not prepared for it and it has a huge emotional and financial impact on the family for the rest of their lives.

Fatal injuries to workers in construction



⁴ There are more details about Revitalising on HSE's website at www.hse.gov.uk/revitalising/

⁵ More statistical information is available at www.hse.gov.uk/statistics/industry/index.htm

A client's thoughts on lowest cost tendering

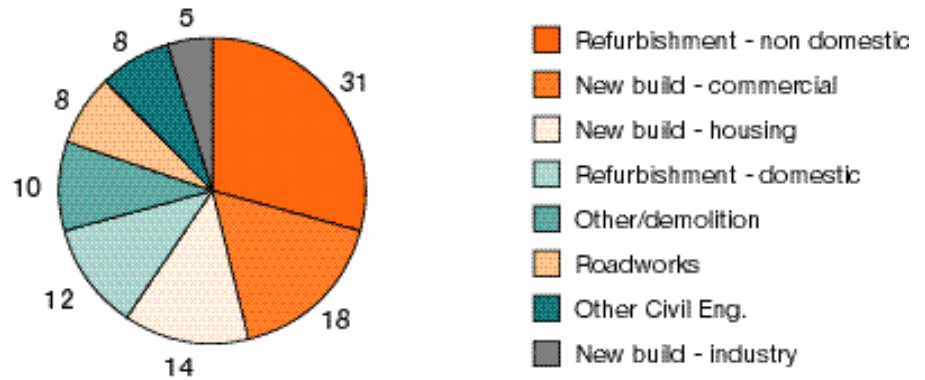
This leads to the employment of people who:

- do not understand what is wanted of them
- cut corners to maximise margins
- win contracts they cannot afford to undertake.

The resulting focus on cheapness means that compromises are made on supervision, training, welfare, safety equipment provision, material selection and utilisation.

This inevitably results in confrontation and a multiplication of subcontractors and, as a result, the workforce are not properly consulted or involved.

Construction worker fatalities by site activity



22 Some of the reasons for the industry's inconsistent health and safety performance are deep-rooted and, as mentioned before, cultural. The tendency (particularly on the part of clients) to confuse lowest cost tenders with best value, leading to corner-cutting, has been well documented. But there are other contributory factors, including:

- a shortage of skilled workers due to losses during the last recession and a lack of investment in training (compounded by the substantial recent growth in a tight labour market, leading to an influx of poorly trained people);
- shortcomings in leadership, planning and management; and
- an often confrontational culture.

23 To secure the industry's commitment to addressing these concerns, the Rt. Hon. John Prescott, Deputy Prime Minister, and Bill Callaghan, Chair of HSC, called a construction health and safety summit in February 2001.

Construction industry targets

24 At the summit, some 500 company directors, chief executives and other leaders representing all parts of the industry responded to the challenge of *Revitalising*. They accepted that there must be radical change in the industry's culture and approach to the control and management of risk. To focus attention and stimulate action, they committed themselves to challenging targets which go beyond those in *Revitalising*:

- cutting the fatal and major injury rate by 40% by 2004/5 and 66% by 2009/10;
- reducing the number of working days lost per 100 000 workers from work-related injury and ill health by 10% by 2004 and by 50% by 2010; and
- lowering the incidence rate of cases of work-related ill health by 10% by 2004 and 50% by 2010.

25 As a first step, they committed themselves and their organisations to specific action plans,⁶ while recognising that these were only the start of a more fundamental change process.

26 The theme running through this Discussion Document is change. Most people agree that change is needed, but the challenge is to identify **what** changes are needed and how to bring them about. We want to help construction become an industry where there is just as much emphasis on health and safety management as there is on price, time, product quality and profitability.

27 Many people already recognise that good health and safety is not only morally right, but also makes good business sense. We need to better communicate that message to the whole industry. It is relatively easy to reach the larger construction organisations through their trade associations and umbrella groups. But communicating and engaging with other sectors of the industry remains a challenge.

Where are we going?

28 The construction summit heralded a step change in the acceptance and ownership of the problem by some key parts of the industry. The report to Ministers⁷ earlier this year acknowledged what had been achieved so far:

'It was recognised at the Summit that there are no quick fixes for improving the industry's health and safety record; nothing short of a fundamental cultural change will deliver results. There has been much activity and good early progress in delivering Action Plans, but this activity must be sustained for years to come when doubtless new priorities will arrive to compete for attention. The ultimate measure of success will be a significant and sustained reduction in fatalities, injuries and ill health.'

29 The various organisations that developed action plans are now working hard to deliver them and evaluate their benefits, but this process needs to spread throughout the industry, engaging all the trade and professional groups. The action plans need to be reviewed and revised in the light of experience to maintain the momentum already generated. Change is happening and this Discussion Document is one way of ensuring that the enthusiasm and commitment of those who see how the construction industry could perform is communicated to others.

6 You can find out more about these plans at the Working Well Together website (wwt.uk.com) and HSE's first report to Ministers on industry progress with implementation at www.hse.gov.uk/spd/pdf/summit.pdf

7 See www.hse.gov.uk/spd/pdf/summit.pdf

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Be honest. Like most people who work on sites, on roofs or up ladders, you've taken a few risks. Sooner or later, you'll run out of luck. And when the ground breaks your fall, it could break a few other things too. Your legs, maybe. Your skull. Your back. Leaving you broken for the rest of your life. Look after yourself. Call for your Health and Safety Toolkit book. It's absolutely free.



Chapter three Leaders and levers

30 The theme of this chapter is corporate leadership, the role that company directors can play, and the potential to influence the financial environment in which they operate to the benefit of health and safety standards. HSE has demonstrated over many years that well-managed companies achieve high health and safety standards because it is an integral part of the management task. The current demands for better corporate governance, with its explicit requirements for better management of business risk, fit well with HSE's long-running campaign *Good health is good business*. Deaths and injuries on construction sites carry their own serious financial consequences for companies and the resulting damage, delay and loss of reputation can spell ruin.

31 Achieving results, first and foremost, requires effective leadership. Good leaders have a clear vision of where they are going and communicate that vision positively to others in their organisation. Such leadership, both within companies and on an industry-wide basis, is an essential ingredient for cultural change in the industry.

Leadership

Industry-wide leadership

32 Construction is an extremely fragmented industry with separate representation for clients, principal contractors, specialist contractors, industry professionals, trade unions, product manufacturers and suppliers. When things go wrong, the tendency is for one part of the industry to blame another. It is also an industry dominated by small and medium sized enterprises (SMEs). Some argue that SMEs contribute disproportionately to the poor health and safety record of the industry, implying that larger organisations have less to worry about. This misses the point. The Rt. Hon. Nick Raynsford, then Minister of State responsible for health and safety, put it this way in a column for *Construction News* on the first anniversary of the summit:

'Above all what is needed is a collective sense of responsibility within the industry for its health and safety record, a recognition that the current level of accidents and fatalities casts a stain on the reputation of the whole industry regardless of where the failings lie, and a driving desire to own the solutions which will remove this stain.'

33 So the issue is about a sense of collective responsibility for the problem and a collective will to bring about change. The Strategic Forum, umbrella bodies,

About three quarters of those killed at work are self-employed or work for a contractor employing 15 people or fewer **BUT** about half of fatalities happen on sites with more than 15 workers

clients, trade associations and professional bodies therefore have a crucial role to play. One of the principal aims of the construction summit was to bring together the leaders and decision makers at the highest level from right across the industry to publicly commit themselves and their organisations to decisive action to improve health and safety in construction. There has been good early progress in delivering action plans, but we need:

- co-ordination of plans across the industry to maximise their impact;
- more trade associations and companies to develop action plans; and
- sustained effort over the long term.

The real measure of success will be whether industry leaders continue to give health and safety the high priority it demands and, in this, **actions speak louder than words.**

Leadership within businesses

34 Equally, clear and decisive leadership is required within each organisation. A strong, visible management commitment is crucial for good health and safety performance. Top management must be seen as actively interested and committed. If practical commitment is not visible at working level, then statements of commitment will lack credibility in the eyes of the workforce. This is more than placing health and safety at the top of board agendas. Directors and senior managers need to show that health and safety is important by how they behave as much as by what they say. The workforce recognise top management's real priorities by the emphasis and energy that they see devoted to them. This practical demonstration is just as important for a small company as it is for a multinational.

35 Such leadership can also produce other business benefits including:

- a more committed workforce – *'happy, healthy and here'*;
- a focus on providing a quality product, on time and on budget;
- reduced litigation due to claims following injury or damage; and
- lower insurance premiums.

36 Some directors and senior managers carry out regular site visits. Such visits can be a powerful tool for showing staff that health and safety is a priority and for getting the message across, as well as for listening. A key management task is, therefore, communication – specifically communicating the organisation's health and safety goals clearly to all employees. Good leaders help their workforce to embrace their vision.

A contractor's view

When specialist contractors arrive at one of our sites, I want them to think, see and feel 'this is different so we must behave differently.'

Imagine how it feels to tell a wife or mother that her husband or son isn't coming home because he was killed on your site

Client leadership

37 One of the leadership issues more specific to the construction industry is the role that clients can play. Experience demonstrates that where they demand high health and safety standards on their projects, these standards are achieved. Such clients see *best value* (rather than lowest cost) and health and safety as integral parts of their projects. This helps ensure that they run to time, budget and quality, and protect or even enhance their business reputation. It can also result in a more committed and focused project team with tangible benefits for all.

38 *Accelerating Change* has forcefully endorsed this view. Paragraph 4.5 states that '*Clients should create an environment throughout all stages of the project which delivers excellence in health and safety performance*', noting that there are good business and ethical reasons for doing so. The role clients can play is developed later (see paragraph 88ff), but this serves as a marker for the importance of client leadership.

Corporate responsibility

Directors' responsibilities

39 Issues to do with corporate leadership are explained in HSC's guidance on *Directors' responsibilities for health and safety*.⁸ It is written for senior management boards of public bodies, as well as boards of private sector companies. It sets out five action points:

- the board to accept, formally and publicly, its collective role in providing health and safety leadership;
- each board member to accept their individual role in providing that leadership;
- the board to ensure that all its decisions reflect its health and safety intentions, as articulated in the health and safety policy statement;
- the board to recognise its role in engaging the active participation of workers in improving health and safety; and
- the board to ensure that it is kept informed of, and alert to, relevant health and safety risk management issues. HSC recommends that boards appoint one of their number to be the *health and safety director*.

40 HSE is undertaking research to establish current practice on board and director responsibility for health and safety, with further research intended next year to track what changes are taking place as a result of HSC's initiatives.

⁸ These and related publications can be found at: www.hse.gov.uk/pubns/manindex.htm

Annual reports and performance measurement

41 HSC has also issued guidance on *Health and safety in annual reports*.⁹ This makes clear HSC's belief that companies reporting on health and safety performance to common standards will help achieve the national targets under the *Revitalising* initiative. While recognising that there is currently no legal obligation to publish health and safety information in annual reports, the guidance strongly urges companies to report, as a minimum:

- the broad context of the health and safety policy;
- the significant risks faced by employees and others and the strategies and systems in place to control them;
- the company's health and safety goals and targets;
- progress towards achieving these goals and targets in the reporting period and plans for the forthcoming period; and
- the arrangements for consulting employees and involving safety representatives.

42 In addition, the guidance proposes the minimum amount of data that should be included, covering fatalities, injuries, illness, total time lost, enforcement notices and convictions, and total cost of occupational injuries and illness. To report in this way there must be systems in place to measure health and safety performance, based on both active and reactive monitoring. These systems are essential not only for obtaining information for inclusion in published annual reports but also for more regular reports to allow the board to monitor progress against plans and targets (see also paragraph 47).

43 With construction, though, these proposals do not go far enough, because they do not address the situation where one party to the process can create or transfer risks to other parties. The role clients can play has already been mentioned. Designers are another obvious example. Principal contractors sometimes have very few employees on site and the main risk is borne by sub-contractors. Reporting would be more meaningful if it also embraced information on how this responsibility to others had been discharged. The industry needs to develop definitions and benchmarks that ensure that everyone reports to the same standards, eg by including injuries to everyone working on their projects, not just their own employees.

Key performance indicators (KPIs)

44 The industry has carried out a lot of work to develop KPIs, which are a type of benchmark. Companies and organisations use them to measure organisational and project performance. They are seen as a key component of the move

⁹ <http://www.hse.gov.uk/revitalising/annual.htm>

towards achieving best practice. One of the headline KPIs is safety performance.

KPIs can be used to:

- set performance targets at the start of a project;
- monitor progress during a project;
- assess a completed project;
- set targets for improvement; and
- form part of the selection/award process.

Economic levers

45 The earlier paragraphs have been concerned with the drive from within companies and organisations to improve performance. But there is a wider financial environment with which they interact and which can potentially influence performance. This section looks at some of these influences.

Socially responsible investment (SRI)

46 In recent years there have been growing signs that institutional investors are paying attention to the performance of organisations not only in terms of managing risk, but also of operating in a socially responsible way. Environmental issues have featured particularly strongly. As a result SRI has increased significantly.

47 HSE has made contacts with a number of institutional investors and it is clear that they are taking a greater interest in the relationship between health and safety and business performance, but want a simple, robust and properly informed assessment of health and safety performance on which to base their decisions. Consequently, HSE commissioned research by Claros Consulting whose resulting report *Health and safety indicators for institutional investors*¹⁰ proposed six indicators, which are closely aligned with those HSC has already proposed for publishing in annual reports (see paragraph 41). HSC has agreed an action plan for taking forward the recommendations contained in this report, including work to further develop health and safety performance measures and indicators. The report also identified construction as a sector where reporting by companies against agreed health and safety performance indicators would assist investors to gain an understanding of how individual companies manage occupational risk.

Insurance

48 Under employers' liability insurance legislation (ELCI), most employers are legally bound to insure against liability for injury or disease to their employees arising out of their employment; most also take out public liability and business interruption policies. Insurance premiums have increased dramatically over recent

¹⁰ See <http://www.hse.gov.uk/revitalising/csr.pdf>. Changing business behaviour – would bearing the true cost of poor health and safety performance make a difference? – www.hse.gov.uk/research/crr_html/2002/crr02436.htm may also be of interest.

years, particularly as liabilities for long-term health issues such as asbestos, noise and vibration white finger have become apparent. There are indications that fewer underwriters are prepared to even consider construction business and those who do are increasingly taking a proactive approach to ensuring that they and their clients have effective risk management procedures in place. The lower a company's claim record and the better its approach to risk management, the more likely it is to be able to find a competitive premium.

49 There are signs that, in the future, some small employers may not be able to secure ELCI cover, because insurers consider their risk too high. In other cases, increased premiums will be prohibitive. There is, therefore, a real danger that more employers will be tempted to operate without adequate cover, thereby exposing workers to the added burden of not being adequately compensated for any injuries they sustain.

50 *Revitalising* included a commitment to consider how to involve insurance companies more closely. HSE commissioned research to look at these issues. The emerging results suggest that insurance companies are prepared to work with HSC/E to develop criteria on health and safety which employers in high-risk activities will need to adopt to be insured.

51 A key theme of the Strategic Forum's report *Accelerating Change* concerns the creation of value through adoption of integrated teams that include the client. One lever that could embed such an approach more widely is to move towards project insurance that underwrites the whole team (paragraph 105). This would mean that there would be a single insurer for all parties to the project. This approach should encourage greater co-operation and reduce the off-loading of blame within projects, with consequential benefits for health and safety performance. In turn, this should lead to reduced premiums.

The informal construction economy

52 The above economic levers hold the potential to positively influence health and safety performance but, in *Accelerating Change*, the Strategic Forum also identifies one with a potentially negative influence.

'The informal construction economy acts as a brake on achieving the vision set out in this report. In many cases, it is the most visible and unacceptable face of the construction sector to the general public ... Its estimated value is £4.5 billion. An independent report¹¹ commissioned by UCATT also suggests that the number of false self-employed workers in the industry is between 300-400 000. ... It is in this sector where there is most concern about health and safety and where

¹¹ *Undermining construction: the corrosive effects of false self-employment* Dr Mark Harvey; see www.ier.org.uk/pubblast.htm

"people" issues are ignored. The prize for eliminating it is an industry that can compete fairly, provide security of employment for its workers and invest in its people.' (Paragraph 6.34)

53 Forty-seven per cent of those questioned in a recent Department of Trade and Industry survey said they would pay cash in hand for building work. It is difficult enough trying to influence those who work at the margins of the law, for example regarding social security, tax and immigration, without clients who turn a blind eye. This area remains a major challenge.

Questions

3. *How can we improve collective leadership of the industry and encourage greater focus on health and safety performance by boards and directors? (If possible, please provide examples of good practice.)*
4. *What is your view of the economic levers described above and are there others that we could use to improve construction health and safety?*
5. *What can be done to address health and safety issues created by the informal construction economy?*

A management guru's view

Treat your blokes like apes
and that is how they will
behave!

Chapter four Construction workers

54 The workforce has a great deal to contribute to improving health and safety, particularly during the construction phase when they:

- are the people most at risk of injury and ill health;
- have first hand experience of the actual conditions of work;
- are often the first to identify potential problems and contribute to solutions.

55 Despite this, the workforce is often treated as a low value, transient resource. Where this is so there is little investment in their development or even basic welfare facilities like toilets and washing facilities. It is essential that they and their representatives are fully involved in health and safety issues at all relevant stages of a project. There are already legal requirements to make arrangements to enable them to participate.¹² A pilot scheme testing the benefits of having worker safety advisors is also under way (see paragraph 82).

56 Managers often complain that it is difficult to ensure that workers work safely. If those who are most at risk are properly informed and engaged, then they can help to identify hazards and the most practical methods for controlling them. As a result, they are more likely to be willing to adopt those methods.

Employment status

57 Many of the issues discussed in this section are also relevant to the Department of Trade and Industry's recently published Discussion Document *Employment status in relation to statutory employment rights*.¹³

Self-employed

58 In November 2001 Parliament debated the effects of using self-employed workers in the construction industry.¹⁴ It was alleged that contractors often use them, rather than employees, to avoid costs of training, welfare and safety; thus *dumping* the costs and responsibilities of these onto the self-employed workers themselves and, in turn, onto the rest of society. Contractors and subcontractors thereby try to shift responsibility for health and safety away from themselves, on to people who are more vulnerable.

¹² See Regulation 18 of the Construction (Design and Management) Regulations 1994 (CDM), the Safety Representatives and Safety Committees Regulations 1977, the Health and Safety (Consultation with Employees) Regulations 1996 and *Involving the workforce* in the CDM Approved Code of Practice

¹³ See <http://www.dti.gov.uk/er/individual/statusdiscuss.pdf>

¹⁴ See <http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmhansrd/cm011128/halltext/11128h02.htm> and *Undermining construction: the corrosive effects of false self-employment* by Dr Mark Harve, ISBN 1 873271 91 3, published by the Institute of Employment Rights <http://www.ier.org.uk/>

A union viewpoint

Twenty years of deregulation of the labour force has had devastating consequences on the industry. The training base has collapsed and that is why we have got an acute shortage of skills.

The denial of workers' rights within the industry does no good for the image of the industry. And the fragmentation that is allowed to creep in has allowed the cowboys to set the agenda. It is time that we set the agenda together.

59 Many people think that health and safety law does not cover self-employed workers. In fact they are covered, whether or not they are self-employed for tax or national insurance purposes. Indeed, people may think they are self-employed, but if they work under the control of others, they are usually employees under health and safety law.

60 Using self-employed workers does not, in itself, have a detrimental effect on health and safety. But as self-employed workers cannot be appointed as safety representatives, they cannot be represented in the same way as employees and therefore their views are less likely to be taken into account. Using self-employed workers can also increase the fragmentation or casualisation of the supply chain and workforce resulting in an indirect effect where:

- management and control are made more difficult by the typically large numbers of short-term periods of employment in the industry;
- it is hard to organise training, consultation, communication and co-operation and similarly hard to build trust and understanding;
- the incentive to invest in people, eg in their training, is reduced where they are only employed for short periods;
- people are unlikely to feel committed to a particular project when little is invested in them; and
- people working alongside each other for short periods do not learn each others' strengths and weaknesses. In contrast, integrated teams that work together on several similar projects enable people to get to know one another, improve expertise and make continuous improvement possible.

Agency workers

61 Employment agencies often supply construction workers and many of the issues about the use of self-employed workers are relevant to them too. The employment status of agency workers can be difficult to determine. Are they employed by the agency or the contractor who hires them? Under health and safety law, responsibilities for such a worker's health and safety are shared but there needs to be explicit discussion and agreement between the agency, contractor and agency worker to determine who does what.

62 It is particularly important that agency workers are competent and equipped to carry out their duties. This means that:

- contractors must clearly identify what skills, experience and qualifications are required to perform the work;
- workers must provide accurate information about their skills, experience and qualifications;
- agencies must accurately match the contractor's requirements to the worker;

A relative's viewpoint

I just couldn't believe it – he was so strong.

People like him are the backbone of this country. They just go out and try to earn a living and look after their families the best they can.

They deserve more.

- workers must be provided with appropriate induction and information about the particular risks on site; and
- contractors and agencies need to agree before the placement is made who will:
 - carry out risk assessments;
 - provide any additional training; and
 - provide any personal protective equipment.

63 It has been argued that agencies, as employers, should be legally obliged to visit construction sites to assess the nature of the job and the risks involved. We recognise that doing this may not always be straightforward for an agency. However, the contractor should give the agency enough information to enable it to make a suitable and sufficient risk assessment and so judge whether a safe placement is possible. If an agency can't get the necessary information then we believe it must question whether it can adequately perform its risk assessment without making a site visit; and whether a safe placement can therefore be made. Your views would be welcome.

64 You may wish to note that the Department of Trade and Industry is proposing new regulations¹⁵ that will require an agency (or employment business) to obtain sufficient information from a hirer before introducing or supplying a work-seeker. This will include:

- details of the position;
- any risks to health or safety known to the hirer; and
- steps the hirer has taken to prevent or control such risks.

Competence of individuals

65 In general health and safety law there are a number of broad requirements for competence and related issues such as training. Some of these do not apply to self-employed workers; but because of the large numbers in the industry, construction health and safety law requires those carrying out construction work to ensure that *everyone* has the necessary training, knowledge, experience and supervision – this includes those who are self-employed. In other words, everyone must be competent to work safely. HSE believes that health and safety should be integrated with the other training that workers receive. It is a crucial part of the skills needed for work. We would, therefore, welcome views about the adequacy of health and safety training in existing training courses, at all levels.

66 As *Accelerating Change* says: 'An "all qualified workforce" goes far beyond simple health and safety knowledge. The industry needs to build a professional

¹⁵ The Department of Trade and Industry (DTI) has recently published consultation documents on Employment Agencies and Business www.dti.gov.uk/er/agency/newregs.htm and www.dti.gov.uk/er/agency/directive.htm or ring the DTI helpline 08459 555105.

industry, improving its image and helping to change the way the workforce views itself. The quality standard being developed through expansion of, and affiliation to, the CSCS card scheme, or equivalent schemes, is an important element of the Quality Mark Scheme. It should also be in individual client assessments advocated by the Confederation of Construction Clients. All industry sectors should identify how to demonstrate that they have a qualified workforce.' (Paragraph 6.25)

67 This is clearly a key issue and there are several possible routes to achieve it.

Voluntary agreement

68 Some major clients and contractors have already committed themselves to securing a competent workforce in which health and safety is a vital part. For example, the Major Contractors Group has a target to achieve this by the end of 2003, the Civil Engineering Contractors Association by 2007 and the Construction Confederation by 2010.¹⁶ How can we encourage others to follow their example?

- Should the use of a workforce that is certificated as being competent be written into standard contracts?
- Is there scope for joint action with those who share complementary interests in competence? For example:
 - warranties for construction work - those providing them have a vested interest in competence since it is likely to reduce the number of claims. Should they insist on a fully certificated workforce?
 - insurance - should companies require minimum standards of competence before insuring businesses? This could reduce their financial risk, but might exacerbate the problem of uninsured workers in the least well-managed businesses.
- Would a register of construction professionals, independently assessed as competent to carry out particular work, be helpful? Such lists might provide a competitive advantage in the marketplace - but must not be used as artificial barriers to trade.
- A return to apprenticeship schemes is an encouraging sign of commitment.

Legal requirement

69 Should there be legal requirements for construction workers to have independent evidence that they have the basic knowledge, training or experience required for their work? Would the benefits of such a requirement outweigh the inevitable costs?

70 Realistically, these could only be minimum standards. Higher standards would be needed for work where the risks are significantly greater, eg those working alone, and so some assessment would still be involved.

¹⁶ Of course, these targets should not be treated as a licence for people to use workers that are not competent in the meantime.

71 A mandatory system would have to:

- cover all trades and occupations, including those with few members;
- cater for the employment of foreign workers;
- accommodate new courses/qualifications;
- minimise bureaucracy;
- allow trainees to work under supervision;
- provide for refresher training – continuous personal/professional development;
- be subject to accreditation;
- be simple to understand and administer;
- provide reliable evidence of achievement, eg a card like that issued under the Construction Skills Certification Scheme; and
- be difficult to falsify and easy for employers to verify.

72 The rail industry operates a database called Sentinel which records the competencies of individual workers. In due course all such workers will have smart cards containing all of their competence records. These cards will store 30-40 competencies, including expiry dates and interim assessments and possibly details of working hours. New or amended details will simply be written onto them. Assessors, auditors and some supervisors also have access to the live database. The Sentinel database is used by the Sentinel Staffzone software to ensure that only competent workers are scheduled for work. Sentinel Staffzone records details of booked and worked hours to avoid breaches of working time regulations. Some contractors are considering adapting this system for use in other construction work.

To whom should such a requirement apply?

73 HSE considers that any competence scheme needs to cover not only those working on site, but also the work of others who control or influence the work, such as designers and managers, so that other people are not put at risk.

74 There has been encouraging progress in developing training courses and a CSCS card for construction managers. But getting the professions and those controlling construction projects to consider how their actions and decisions affect health and safety has proved difficult. HSE is disappointed at the lack of progress in this area within the construction professions. A research report commissioned by HSE highlights this.¹⁷ Health and safety should be an integral part of the academic learning process for managers and construction professionals, probably as part of the more general topic of risk management, at both undergraduate and postgraduate levels. We challenge the professions, universities and other training organisations to deliver a workable proposal that meets the needs of their

¹⁷ Identification and management of risks in undergraduate construction courses Ref CRR.392/2001, <http://www.hse.gov.uk/research/index.htm>

members, students and those affected by their work.

75 HSE has just launched an e-learning website¹⁸ providing information for use in undergraduate education. It remains to be seen how quickly this will be taken up. We are, however, encouraged that the Construction Industry Council, which represents the construction professions, has committed itself to providing a health and safety *champion* for every Higher and Further Education College offering construction courses.

76 The related issue of corporate competence is addressed at paragraph 124ff.

Employment relationships

The role of trade unions

77 For a variety of historical reasons, relationships between employers and trade unions in the construction industry have tended to be confrontational. As paragraph 6.12 of *Accelerating Change* says: '*Construction sites are often perceived as being adversarial places in which to work leading to lower productivity, as well as a poor industry image.*'

78 Thankfully, that is not always the case. The engineering construction sector is one example where there are good working relationships between employers and trade unions. This sector is also one where the injury rates are lower, although the hazards are, if anything, greater. There is also widespread agreement about the need for:

- an employed and skilled workforce;
- a healthy and safe workforce; and
- action to combat the informal economy.

79 The trade union movement has set up several schemes to promote closer working between employers and union members, including those engaged in construction.¹⁹ For example:

- *Partners in Prevention* runs in connection with the *Revitalising* campaign. Under this, employers and trade unions work together to achieve common goals such as higher safety standards, better working conditions and reductions in accidents and ill health. It can involve solving both individual and collective health and safety problems. It allows both parties to contribute and be involved in finding solutions to problems and thereby can promote more workforce commitment.
- the Union Learning Representatives scheme, in which learning representatives support people in their workplace to improve their skills by providing information, advice, guidance and support.

¹⁸ <http://www.learning-hse.com>

¹⁹ For more information see www.tuc.org.uk

80 The Major Contractors Group has produced a toolkit for establishing consultation arrangements with the workforce setting out clear arrangements tailored to the size of the project and the needs of those on site. One company which implemented the toolkit reported significant improvements in its safety performance.

81 If substantial progress on this issue is to be made, closer working relationships are needed - with better communication and co-operation. In particular, safety representatives need to be seen as a resource, not a threat. There are signs that this has begun, for example the Strategic Forum plans by the end of the year to develop a code of good working practices to be adopted by clients, employers, employees and trade unions. What more should be done to ensure that closer working relationships continue to develop in individual companies and at site level?

Worker safety advisor pilots

82 To test new ways of working, HSC is piloting the use of worker safety advisors (WSAs) in a number of industries, including construction. Consultants have been engaged to run the pilot. The WSA construction pilot began in March 2002 with the support of the Federation of Master Builders. Trade unions provide the advisors who visit workplaces where there are no formal arrangements for worker representation on health and safety and give advice to both employers and workers.

83 Around 30 employers are participating, split evenly around three locations - London and the South East, North West England and Scotland. The project will run until late 2002 after which its success will be evaluated.

Safety representatives for sites

84 Regulations in the Irish Republic²⁰ require a site safety representative on all construction sites where more than 20 people are employed at any one time. They can make representations to the project supervisor about any aspect of health, safety or welfare, investigate accidents and dangerous occurrences and make representations to a health and safety inspector. Would it be beneficial to have a requirement for safety representatives on certain sites in this country?

20 The Irish Safety, Health and Welfare at Work (Construction) Regulations 2001 (SI 481/2001)

Questions

6. Will current industry initiatives deliver a fully qualified workforce, including managers, engineers, designers, etc? If not, what more should be done and what would be the costs / benefits?
7. What more should be done to improve the training of construction undergraduates to equip them with an adequate understanding of health and safety before beginning and throughout their career?
8. How can we best ensure that the whole workforce is properly engaged and treated with respect?



EMPLOYERS ARE RESPONSIBLE FOR SITE SAFETY. BUT YOU CAN HELP. ACCIDENTS HAPPEN EVERY SINGLE DAY. IF WE ALL LOOKED OUT FOR EACH OTHER EVERY JOB WOULD BE A LOT SAFER. AND OFTEN QUICKER. 'WORKING WELL TOGETHER' IS ABOUT EVERYONE MAKING SITES SAFER AND HEALTHIER. PHONE US. GET A LEAFLET. IT SHOWS THERE'S MORE TO HEALTH AND SAFETY THAN LOOKING AFTER NUMBER ONE.

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HSC
Health & Safety
Commission

18998101 Pl, Taylor Woodrow Construction Limited, 400, Suffolk Limited, 314 Occupational Health & Environmental Safety, TAC, Ulster, Construction Industry Advisory Committee (COIAC)

HSE
Health & Safety
Executive

working well together

Chapter five Working better together (organisations)

85 The industry's *Working Well Together*²¹ campaign has identified four values that need to be embedded in the culture if we are to make substantial progress in health and safety. They are:

- **commitment** – to higher standards of health and safety;
- **co-operation** – building up relationships of trust and partnership, so that people work together to identify what needs to be done and then do it;
- **communication** – ensuring health and safety messages are well communicated between all parties involved in a project; and
- **competence** – ensuring everyone is trained and competent to do their work.

86 In this chapter we consider how these values relate to businesses and how, in practice, they can influence health and safety standards. The allocation of topics between the values is somewhat arbitrary, as there are substantial overlaps.

Commitment

87 The importance of the commitment of businesses, directors etc was discussed in chapter 3. It needs to extend to all parties and this aspect will be developed here.

Key role of client

88 HSE believes that clients have a pivotal role in setting and achieving high standards in health and safety. This is because they:

- set the tone for projects;
- have overall control of how contracts are set up and how the work is done;
- make crucial decisions, eg budget and time for projects; and
- select the designers, contractors, etc who carry out the work and decide the timing of their appointments – determining whether they can work effectively as a team.

89 Experience shows that high standards are achieved in projects where clients are committed to health and safety. As *Accelerating Change* says: *'There are good business and ethical reasons to do this. Even though some clients may wrongly seek to distance themselves from health and safety during the construction process they cannot take the same attitude to the safety of the finished product, which will be used by their employees or members of the public ...In direct business terms, accidents on site may involve client liability and will lead to delays.*

The Strategic Forum has rightly identified the importance of client leadership. I am determined, with the help of my ministerial colleagues, to help ensure that the public sector, as the industry's largest client, plays its role in driving forward the change agenda.

Brian Wilson

DTI Minister for construction

²¹ See www.wwt.uk.com for further information

Unhappy workers produce defective work. Poor health and safety performance of the building when in use will result in the ineffective delivery of business objectives. Clients pay the price for all this avoidable waste.’ (Paragraphs 4.5 and 4.6)

90 Sadly, too few clients view the design and construction of their project as part of their business, nor do they realise that the health and safety of people who construct and maintain, as well as those who subsequently work in, their buildings is their responsibility. The health and safety of all these people depends on the quality of the design and construction. Indeed, many of the difficulties faced by designers and contractors are the result of unreasonable pressures put on the price and time by the client.

91 The challenge is to educate and motivate clients about the importance of their role and the benefits of well-managed, safe projects. Many are difficult to reach as they are diverse and often do not see construction as relevant to them. Clear evidence of the costs and benefits, perhaps using real case studies, would be of great assistance and HSE would welcome any such evidence – quantified or anecdotal. Access by clients to independent advice, as discussed by the Strategic Forum,²² could also assist in this process.

92 HSE would welcome views about communicating with clients and whether increasing clients’ legal responsibilities for the monitoring and management of projects would increase their commitment. However, we believe that it is crucial that any legal changes should promote sharing of risk management and the proper apportionment of responsibilities between the various parties.

Designers

A client’s view

An integrated approach to design also delivers health and safety benefits in the operation and maintenance of the facilities produced.

A workshop was designed with light fittings which could be replaced from floor level instead of having to use an expensive ‘cherry picker.’ This saved thousands of pounds each year simply by involving those responsible for this type of maintenance work.

93 Designers are in a unique position to reduce the risks that arise during construction or subsequent maintenance or demolition work. Their earliest decisions fundamentally affect the risks faced by construction and maintenance workers. It is estimated that 60% of fatal accidents are attributable to decisions and choices made before the work began.

94 As *Accelerating Change* says: *‘Integrated, high quality design should always lead to a lower cost over the lifetime of a building or structure. It will also contribute to improved safety and reduced defects.’* (Paragraph 7.7)

95 Many designers show little interest in, or understanding of, the health and safety implications of constructing or using their designs. As a result, although their decisions may well result in high risks to others, they have no ownership and no commitment to change – for example, they may specify flooring materials that

²² See Chapter 4 and Annex 1 of *Accelerating Change* for further information.

are too slippery for the intended use or omit safe means of access for maintenance. The challenge is to make consideration of health and safety an integral part of their training and the design process, not an afterthought.

Risk management

A contractor's view

Design has an especially pivotal influence on health and safety. But as contractors, how often do we meekly accept the plans that instruct us to build a building using inherently dangerous processes?

96 Extensive experience shows that a well-planned and managed project, whether large or small, is a safe and efficient project – delivered on time, to budget and with a lower total cost of ownership. Since it is estimated that up to half of construction spending can be wasted, investment in good management can reap substantial savings. This is why improving project management is also a key feature in *Rethinking Construction*. Some contractors find that they are able to manage construction work extremely well when working for good clients, but that this is not possible without such client pressure. This indicates an abdication of responsibility and demonstrates a lack of commitment to good business practice and respect for workers on their sites.

97 We need to move to a situation where all employers take responsibility for managing health and safety risks within their control, irrespective of the behaviour of other parties. To do this effectively, managers must have and take time to observe and manage what actually happens on site. They can't manage properly if they are always stuck in the office.

98 Some major projects now operate a risk register, where all the risks are set out and quantified along with the steps taken to mitigate them. Should the use of risk registers be developed further?

99 The Management Regulations²³ require employers to make appropriate arrangements for health and safety. This includes the need to monitor and review preventive and protective measures so that, in effect, they ensure health and safety standards are adequately maintained. Guidance is provided in HSE's *Successful health and safety management*, HSG65. In practice, monitoring and review frequently does not happen. How can we make sure it does?

100 Where contractors are employed, there is no explicit legal requirement for their work to be monitored or managed and case law is complicated. Does this need to be made clearer? If so, how?

101 HSE is concerned about the high proportion of casualties that occur in refurbishment, demolition and dismantling work. This can be high-risk work and requires a high standard of management. What further action would help to make sure that high-risk work is identified and well-managed, with expert advice where necessary?

A contractor's view

How come, when working for a highly safety-orientated client, we have fewer accidents? Why can't we do that on a retail park or residential development? We need to own the patch, take responsibility and influence what happens.

23 The Management of Health and Safety at Work Regulations 1999

Major hazards in construction

102 Many projects have the potential to be a major hazard, possibly leading to multiple fatalities to workers and the public. Examples include tunnelling under occupied buildings or roads, lifting materials with a crane over a busy street, working adjacent to a railway and premature collapse of a structure. Although the likelihood of such an event occurring may be low, the potential consequences can be catastrophic. Is the existing law and the practical management of such construction major hazards sufficiently robust? Are these major hazards properly considered at all stages of the planning and design phases? How can better reassurance be provided that the controls in place are robust and effective and that contingency plans have been drawn up to mitigate the residual risk?

Questions

9. *How can clients be encouraged to make sure that projects are properly planned and executed?*
10. *What more can be done to ensure that designers address health and safety considerations?*
11. *Is there a need to improve the management of high hazard/low probability or low frequency/high consequence construction work? If so, how?*

Co-operation

Integrated teams

103 *Accelerating Change* says 'The CDM Regulations,²⁴ and accompanying Approved Code of Practice, are powerful tools to bring about accelerated progress towards integrated teams by encouraging the early appointment of the "delivery team"... The Forum would like to see regulations encourage the maximum integration of the team at the optimal time, and that improve the balance of responsibilities between the parties in such a way that all share legal responsibility for health and safety, and all are therefore aware of the benefits of integrated working.' (Paragraphs 5.14 and 5.15)

104 HSE agrees that co-operation and co-ordination between all parties is crucial to improving health and safety and needs to be addressed collectively. If health and safety standards are to be significantly improved, all parties involved in a project need to work better together. Integrated teams are a good way of achieving this; chapter 5 of *Accelerating Change* explains what they are and sets

24 The Construction (Design and Management) Regulations 1994: SI 1994/3140

A lawyer's view

The use of small print in contracts to heap risks on those least capable of managing them has caused the industry to become what it is.

out their practical and economic benefits. For example, teams that work together on several similar projects get to know one another and can develop greater expertise – making continuous improvement possible.

105 Contracts are sometimes written to avoid or transfer risk, often to those least able to manage it. There can be similar problems where each party in a project is separately insured. For this reason, *Accelerating Change* recommends a move towards project insurance (see paragraph 51). The traditional approach reinforces adversarial attitudes, and even provides incentives for people to overlook or conceal risks in an attempt to avoid or transfer responsibility. Integrated teams that are appointed early in a project and long-term partnering arrangements can help to avoid this.

106 In many projects clients do not understand the importance of their role in facilitating co-operation and co-ordination; the design is prepared without discussion between designers, manufacturers, suppliers and contractors.²⁵ This means that the designer cannot take advantage of suppliers' or contractors' knowledge of buildability or maintenance requirements and the impact these have on sustainability, the total cost of ownership or health and safety. *Accelerating Change* says:

'Through integration of the supply team, pre-planning can allow "designing in" for health and safety and designing out certain risks (eg falls from height). Designers, whether they be architects or engineers or are designing temporary works or scaffolding need to become more aware of the opportunities they have to minimise risks on a whole life cycle, as well as their responsibilities under the CDM Regulation and associated ACOP.' (Paragraph 6.10)

107 HSE would appreciate your views on the benefits of integrated teams and about the need for regulation as opposed to encouragement in this area. We would also welcome views about the universal relevance of this approach, particularly to smaller projects.

108 Greater standardisation of design elements would make prefabrication under controlled conditions more viable and could significantly reduce risks through exposure to hazardous substances or from work at height. Given the high capital costs of setting up new manufacturing facilities, how can the use of prefabrication be encouraged?

²⁵ Contractors and suppliers often carry out design work, in which case they are also designers. See paragraph 109 of the CDM ACOP for further information.

Gateways

109 *Accelerating Change* also ‘requests HSE to include in their Approved Code of Practice reference to a system of “gateways”. At each gateway there should be a checklist for assessing the relevant health and safety risks associated with critical stages in the planning and design process. At each stage the integrated team should be required to certify that they have – as a team – considered the health and safety risks in order to ensure that the facilities currently developed will be safe to build and safe to maintain and operate.’ (Paragraph 5.16)

110 The Office of Government Commerce developed the gateway process²⁶ to ensure that government contracts are properly reviewed at key points in the lifecycle of a project. This could be adapted to encourage all members of the team to address risks to health and safety in a systematic way at each stage, including those involved in later maintenance and demolition. The Strategic Forum believes that this would help to ensure *buy-in* by the whole delivery team. It could:

- focus greater attention on safe design and planning; and
- ensure that designers take contractors’ practical knowledge of the process into account at the earliest possible stage.

but could also:

- result in increased bureaucracy and delays if everyone engages consultants to vet the designs through the fear of being sued; or
- be treated as a paper exercise with designs signed off without adequate consideration, just to get them off someone’s desk.

The planning supervisor

111 CDM requires a planning supervisor to be appointed, in particular to ensure that all those who carry out design work on a project, particularly during the design phase, collaborate to reduce risk. They also advise on the competence and resourcing of designers and contractors and on the construction phase health and safety plan.

112 The role of planning supervisor is contentious and the debate is not helped by their inappropriate title – their legal duties don’t involve either planning or supervision²⁷ – or their sometimes unfair reputation for creating excessive bureaucracy. CDM gives planning supervisors certain duties, including:

- ensuring HSE is notified about projects;
- ensuring a pre-tender health and safety plan is prepared;
- ensuring a health and safety file is prepared;

A contractor’s view

Health and safety is an industry issue and we all share responsibility. So:

- clients must commission;
 - design teams must design;
- and

- contractors must build buildings that are safe to build, maintain and operate.

In other words, we need a holistic, integrated approach to health and safety throughout the supply chain.

²⁶ Further information about the gateway process is contained in Annex 2 of *Accelerating Change* or can be obtained from the OGC website: www.ogc.gov.uk/index.asp?docid=337

²⁷ Of course, planning supervisors should contribute to the early planning of projects.

- being able to give advice to designers about competence and resources of other contractors when they are considering appointments; and
- co-ordinating health and safety in design work during construction;

but:

- CDM does not require planning supervisors to do these tasks themselves, nor do they have any authority to require people to provide the information required to achieve them;
- they are often appointed too late to influence the design; and
- in practice, planning supervisors may have very little contact with contractors, so it is difficult for them to carry out their duties during the construction phase.

113 Although many would like us to abolish the role completely, this is not possible because the Temporary or Mobile Construction Sites Directive²⁸ requires the client to appoint a *co-ordinator for safety and health matters*. Some options for change are, however, set out below and you may think of others. HSE is looking for a solution that will improve co-operation and co-ordination, particularly at the design/planning stage of projects.

Option	Points to consider
a) Retain the role of planning supervisor, as at present	How to address the current criticisms and improve co-operation and co-ordination.
b) Transfer the duties of the planning supervisor to a new role of lead designer during the pre-construction phase and to the principal contractor during the construction phase.	<p>A lead designer is:</p> <ul style="list-style-type: none"> • not an artificial creation; • likely to be appointed at the very start of the design phase; • a natural focus for the co-ordination of design work which is needed where there is more than one designer; <p>but may not:</p> <ul style="list-style-type: none"> • be in a position to give independent advice to the client about appointments; • be in a position to form an independent view of the design; • be knowledgeable regarding health and safety or buildability issues in design; or • improve co-operation and co-ordination with contractors.

28 This is Directive (92/57/EEC) and is implemented in Great Britain mainly through CDM and CHSW. The full text of the Directive is available at: http://europa.eu.int/eur-lex/en/lif/dat/1992/en_392L0057.html. Whatever changes are made to CDM, we must continue to ensure we implement the provisions of the Directive.

Option	Points to consider
	<p>A principal contractor is better placed to:</p> <ul style="list-style-type: none"> • co-ordinate health and safety aspects of design during the construction phase; • improve co-operation and co-ordination of contractors; and • collect information from contractors for the health and safety file.
<p>c) Transfer the duties of the planning supervisor to the client.</p>	<ul style="list-style-type: none"> • Clients have the authority and financial control to ensure all of the duties are carried out. • Clients can set up contracts and other arrangements to foster co-operation and co-ordination. • Increased duties on clients may encourage them to take a more active interest in health and safety. • One-off clients are unlikely to know what is expected of them and so are likely to need assistance from others in the construction team. • Clients would need to decide how to allocate these duties – whether to one individual or to different members of the supply team. • The approach is consistent with the Strategic Forum’s proposed move towards integrated teams and their proposal for independent advice for clients, as explained in Chapter 4 of <i>Accelerating Change</i>.

Questions

12. *If you have worked as part of an integrated team, what was the effect on health and safety performance?*
13. *Should HSE require or encourage use of integrated teams?*
14. *Should HSE include requirements for a gateway process? If so, how?*
15. *How should the role of planning supervisors be discharged in future?*

Communication

Foreign workers/literacy

114 The construction industry comprises workers who speak a variety of languages. There have always been significant numbers of manual workers whose reading and writing skills are poor. It is, however, vital that everyone involved in a project can communicate. Provision of comprehensible information is a legal requirement under CDM and the Management Regulations. The inability to read safety information, method statements or warning signs, and the use of differing languages among the workforce on a site, causes communication difficulties and can result in increased risks. Of course, businesses also have a duty not to discriminate on the grounds of race.²⁹ We would like to use this opportunity to assess the scale and significance of this communication problem. How have companies overcome the language/literacy problem? If HSE were to look to have some of its key publications translated, what languages predominate among the construction workforce?

Local safety groups

115 There are many local safety groups who meet to share good practice and discuss health and safety issues in construction. Some are Working Well Together support groups, others a result of Good Neighbour Schemes, where employers are encouraged to share their experiences of managing health and safety. A number of best practice clubs have also been set up under the M4I programme. The majority of members come from medium and larger contractors, but other sectors of industry and HSE are also often involved.

116 HSE would welcome the views of anyone involved with such groups on their effectiveness and how they could be used to reach a larger audience, particularly very small businesses. It has been suggested that such groups could co-operate more – for example, sharing presentations or guidance material that they have developed. This might be easier if there were a national register of such groups. As a first step towards this, if you represent such a group and provide us with basic relevant information and your contact details, we will publish that information on the Working Well Together website.³⁰

Work with intermediaries

117 Much of HSE's work is carried out with intermediaries. These include trade associations, trade unions, training organisations (including the Construction Industry Training Board) and the professional institutions. Many of these

29 The Race Relations Act 1976 – see www.homeoffice.gov.uk/raceact/guide.htm.

30 www.wwt.uk.com

organisations are represented on the Construction Industry Advisory Committee (CONIAC), which advises HSC on issues relating to construction health and safety. We have also worked closely with the Strategic Forum.

118 We encourage these groups to engage in health and safety matters and discuss key issues with their members or contacts. One example was in preparation for the construction summit in February 2001 where we worked closely with various industry bodies, resulting in the action plans that were announced at the summit.

Publicity and publications

119 HSE recognises the importance of communicating with all construction stakeholders to encourage improved health and safety standards. Emotion is a powerful tool in communicating health and safety messages. One of the best examples of this is the video that was produced especially for the construction summit. It showed the impact of a number of incidents on those who were injured and on bereaved families, and probably had more long-term impact than all of the speeches. (Copies of the video have been given to construction companies who have requested them.)

120 Our research suggests that the greatest fear of construction workers is not being killed, but being injured so that they become permanently dependent on others. We have used this and have particularly targeted smaller construction firms through adverts like those reproduced in this document. HSE also organises campaigns, stands at exhibitions, conferences, seminars, direct mail and research. Our website provides free guidance as well as information about campaigns and our work.

121 HSE supports CONIAC's Working Well Together campaign. Research has shown it to be particularly successful in raising awareness of health and safety issues. A Working Well Together bus promotes the campaign on sites around the country. It is backed by selective advertising in national and regional media, at national and regional conferences, workshops and exhibitions and through the campaign website. We also manage the annual Working Well Together awards to encourage people to participate in the campaign. A newsletter is sent to campaign participants informing them of activities.

Communicating with smaller businesses

122 Even if we significantly raise standards on big projects, we shall not succeed unless we also engage smaller construction businesses since they make up about

85% of the industry. Much of our work with intermediaries and through publicity is, therefore, aimed at this large segment. We want to:

- understand their needs and views; and
- help and motivate them to improve their health and safety standards.

They are, however, very hard to reach because of the numbers involved and because they are so busy running their businesses. HSE would welcome comments on the effectiveness of our activities and suggestions for ways in which, working together, we can all address what is arguably our single greatest challenge.

Experiences of others

123 We can undoubtedly learn from the approach to health and safety in other industries or countries and from initiatives that individual organisations have taken to improve health and safety standards. Please share your experiences with us.

Questions

16. How commonly are there communication difficulties on site due to people speaking different languages or being unable to read and write? What risks have resulted and how have they been addressed?

17. How could we communicate better with smaller businesses?

Corporate competence

124 *Accelerating Change* says: 'Corporate competence is a vital adjunct to the requirement to engage competent workers. The forum recommends that work to enable corporate competence to be readily assessed and, if necessary, validated should be carried out, and recommendations made, by September 2003. All firms and their workforce within integrated teams should be qualified and competent.' (Paragraph 5.17)

125 HSE agrees that corporate competence is crucial and this is why it is a fundamental requirement in CDM. Many dutyholders, however, find it very difficult to decide if prospective appointees under CDM are competent. This uncertainty has contributed to excessive bureaucracy without any obvious improvement in standards.

126 Some people have suggested that we revoke the requirements altogether, on the grounds that they are too difficult to comply with or to enforce. (These requirements are not contained in the Temporary or Mobile Construction Sites Directive, so this would be possible.) Others, like the Strategic Forum, would

prefer some independent assessment of competence.

127 There are already a number of such schemes including ConstructionLine,³¹ Quality Mark,³² Contractors Health and Safety (CHAS) Assessment Scheme³³ and the OCR 1322 Scheme – *Management of health, safety and welfare for small and medium sized businesses in the construction industry*, which aim to encourage the adoption of a sound health and safety culture. To be really useful, such assessments need to be widely accepted and address all the issues that clients are interested in, such as management ability and financial viability, as well as health and safety competence and resourcing. HSE is not resourced to administer such schemes, but would be prepared to contribute.

128 Other schemes are being developed in Scotland and a common system has recently been introduced in Northern Ireland and the Irish Republic. We would welcome information about how they, or other relevant schemes, work in practice, as well as about constructive approaches to assessment of competence.

129 In summary, the options are to:

- revoke the requirement for competent appointments altogether;
- develop the existing approach, providing further guidance about how to make the judgement; or
- establish accreditation schemes to act as a baseline.

Question

18. Should all construction businesses, or just those in specified trades, be registered or even independently accredited? If so, how, by whom and what would be the costs/benefits?

31 www.constructionline.co.uk/

32 www.dti.gov.uk/construction/qmark/index.htm

33 www.chas.gov.uk/

Chapter six Tackling health in construction

130 Construction rightly has a reputation for being a particularly unhealthy industry because its rate of work-related illness is one of the highest of all occupational groups. Health problems within the industry are prevalent because of the number of high-risk work activities involved and the peripatetic nature of the workforce. There are also concerns about the poor level of general health in parts of the workforce. **The challenge is to create a healthier workforce in the construction industry.**

About half a million construction workers are at risk of vibration white finger from using vibrating tools

How can this be achieved?

- Prevention of work-related ill health.
- Promotion of general good health and healthier lifestyles.
- Rehabilitation of people who have been ill, whether caused by work or not, facilitating their speedy return to work.

What needs to be done?

- Raise awareness of health risks and associated issues in the industry.
- Address health risks in the design and planning of new projects, in the design of equipment and in the selection and use of products and materials.
- Provide support for employers/managers and workers/safety representatives.

Raising awareness

131 Both workers and employers need to be aware of the major health risks and how to make sure that they do not make people ill. The key risks are asbestos, musculoskeletal disorders, hand-arm vibration, dermatitis, respiratory sensitisers, occupational lung disease, skin cancer (from exposure to sunlight), noise and stress/psychosocial factors. Action regarding risks should follow the normal hierarchy (elimination, substitution and control) and risk assessments should identify circumstances in which health surveillance is required. The advantage of health surveillance is that it can detect adverse health effects at an early stage, thereby enabling managers and those at risk to make sure that further harm is prevented.

132 The effects of *health on work* as well as those of *work on health* should be considered. The workplace can be an ideal place to promote general good health. Advice on healthy lifestyles (such as diet, exercise, smoking, etc) and proactive preventive policies (such as health screening) can positively impact on the health

The cost of ill health

In 1998 South West Water calculated³⁴ the cost of ill health. They found that the average cost for:

- hand-arm vibration syndrome was £11498
- work-related upper limb disorders was £5251

³⁴ See www.hse.gov.uk/costs/ for further information.

Around 750 construction workers die each year as the result of past exposure to asbestos, perhaps 20 or more years ago

Around 96 000 people suffer from a musculoskeletal disorder caused by work in the industry

of employees. The benefits to employers can not only include a reduction in sickness absence, but also a happier, healthier workforce with increased morale and motivation. Health screening (for deteriorating eyesight or illnesses such as coronary heart disease) can be especially important for drivers and others performing safety-critical tasks. As well as reducing the risk of serious accidents, health screening of this kind can also benefit employers by reducing insurance costs and the risk of litigation.

133 The personal cost of work-related ill health to construction workers and their families can be devastating; however, there are also heavy costs borne by construction employers and society as a whole:

- **Workers** – It is estimated that 7.5% of all those currently or recently working in construction are suffering from an illness caused by their work. Construction had the highest rate of self-reported musculoskeletal disorders in 1998/9, along with a high incidence rate for upper limb disorders and by far the highest rates of IIS³⁵ cases of asbestosis and mesothelioma. Construction workers need to be made aware not only that elements of their work can pose a serious risk to their health but also of the detrimental effect that it can have on their working, social and family life.
- **Employers** – Because of the peripatetic nature of much of the workforce and the common practice of using sub-contractors, employers often attribute no financial costs to the effects of work-related ill health. However, the CITB has predicted that over the next five years 350 000 extra construction workers will be needed – through a combination of staff retention and recruitment and training – to meet a skills shortage in the industry. Rehabilitation of those made ill by work is an important element of staff retention. If rehabilitation of skilled workers is not initiated on a large scale, employers could find that the skills shortage will burden them with increasingly higher financial costs for skilled labour.
- **Society** – The costs of work-related ill health are often invisible to employers. The financial burden of the treatment of injured and sick construction workers usually falls on the NHS and in most cases it is the state that pays incapacity benefit for the long-term sick. But all of us end up paying for this through corporate and personal taxation.

134 There are a number of initiatives aiming to raise awareness and standards of health and safety within the construction industry. HSE and CONIAC's *Working Well Together* campaign challenges industry stakeholders to commit themselves to raising health and safety standards by continuous improvement. *Respect for People*, part of the *Rethinking Construction* initiative (see paragraph 155ff), encourages construction employers and managers to value workers as assets and adopt policies that promote healthy work practices.

35 New cases of assessed disablement under the Industrial Injuries Scheme

'Designing in' occupational health

135 Designers exercise a major influence over the materials used in construction projects and consequently the risks that those carrying out work have to face. For example, designers may specify heavy and awkward concrete blocks, thereby potentially contributing to the thousands who suffer strains and sprains through handling heavy materials. HSE is often asked to ban the use of such materials, but no one would want to prohibit the use of heavy materials or prefabricated elements that can be moved safely using mechanical handling equipment. The way materials are used is also significant; for example, the risk from use of a solvent in a confined space can be quite different to its use in the open air. It is also probable that banning such materials would be considered an unfair barrier to trade within the EU, and so be illegal.

136 The CDM ACOP³⁶ says designers should, where possible, design out health and safety hazards. This is stated as an objective and so allows various approaches to be adopted. Manufacturers and suppliers have an important contribution to make by providing simple, easy to follow advice on safe and inappropriate use of their products or by developing products that minimise hazards in use/installation. They can also develop arrangements for transport and distribution that reduce risks, particularly those arising from manual handling.

137 Another method of minimising health risks during a construction project is to build provision of occupational health support into the contract before a project starts. The contract could be written to require best practice standards and not just minimum statutory requirements. Consideration could be given such things as:

- incentives – this could take the form of payments for compliance with occupational health best practices, ie a percentage of the price payable for works could only be made if certain practices are complied with;
- inclusion of specific items in tender documentation for things such as health screening, induction training, good site welfare facilities, toolbox talks on health issues, on-site facilities for blood or urine tests (lead workers or work on contaminated land), treatment of minor injuries, physiotherapy, etc, to reduce down time; or
- ensuring contractors price the work so it is possible to assess the appropriateness and degree of resources allocated to occupational health.

*Hearing difficulties
in construction
workers are
roughly twice the
national rate*

³⁶ *Managing health and safety in construction* – HSG224 – paragraph 127.

Providing support

138 HSE believes that the priority needs of *construction employers and managers* are:

- education about health problems, ways of complying with legislation, how to obtain advice and ways of involving workers in the control of health risks;
- help with hazard identification, risk assessment and implementation of simple, focused and specific controls;
- practical help with prevention of ill health through the use of tools like monitoring sickness absence, health surveillance and systems that allow a balanced flow of work; and
- advice on fitness for work issues, redeployment and rehabilitation.

139 HSE believes that the priority needs of *construction workers and safety representatives* are:

- occupational health support that is objective and independent of undue employer or other management influence;
- support and advice on risk prevention, disease prognosis and referral for treatment in a way that is not prejudicial to income or job security;
- support tailored to peripatetic construction workers and the means of ensuring that their occupational health history is not 'lost' through job moves; and
- training to allow safety representatives and other workers to become involved in health risk prevention strategies.

140 HSE would welcome comments on whether these are the correct priorities. We would also be interested to learn about other initiatives on occupational health support and rehabilitation.³⁷

Current/future HSE projects:

Occupational health support scheme pilots

141 At the *Tackling health risks in construction* conference in October 2000, representatives of every part of the industry indicated their willingness to co-operate in establishing a national occupational health scheme to be funded from a payroll levy paid by employers. Subsequently, HSE commissioned two pieces of work that concluded that a national scheme could be feasible and recommended that pilot studies should be undertaken. The Union of Construction, Allied Trades and Technicians has published *The case for a national occupational health scheme for the construction industry*.³⁸

A union viewpoint

Everyone involved in construction has a lot to gain by the introduction of a national occupational health scheme. It is only through tackling occupational ill health that the industry can deal with issues such as skills shortages, days lost due to ill health and the early retirement of skilled workers.

³⁷ For nine TUC case studies about retention and rehabilitation systems see www.tuc.org.uk/h_and_s/tuc-5264-f0.cfm

³⁸ This can be obtained from Jonathan Green, tel. 020 7622 2442 or email jgreen@ucatt.org.uk

About 10% of bricklayers leave the industry after developing allergic dermatitis from chromates in cement

142 HSE is currently developing proposals for such pilots. These might provide worksite advisors to:

- visit sites;
- advise on risk assessment;
- assess risk control measures;
- advise on improvements (control measures);
- advise on compliance with the law and best practice;
- monitor progress in improving health risk management;
- respond to specific needs;
- identify the need for specialist support; and
- advise on the purchase of, and arrange for the delivery of, specialist support.

143 It is hoped that there will be free basic support in the pilot areas. There would also be access to specialist support, where necessary, though this would not be free. This could include:

- medical/health surveillance as required under regulations;
- medical/health surveillance as specifically identified as necessary by risk assessments;
- pre-assignment employee health assessment;
- advice to employers on the importance of exposure management; and
- training where necessary.

144 The pilot projects will be subject to independent evaluation. If the evaluation shows that the pilot schemes achieve their aims and the model used is effective, a case will have to be made for a national scheme, although this would require a change in legislation.

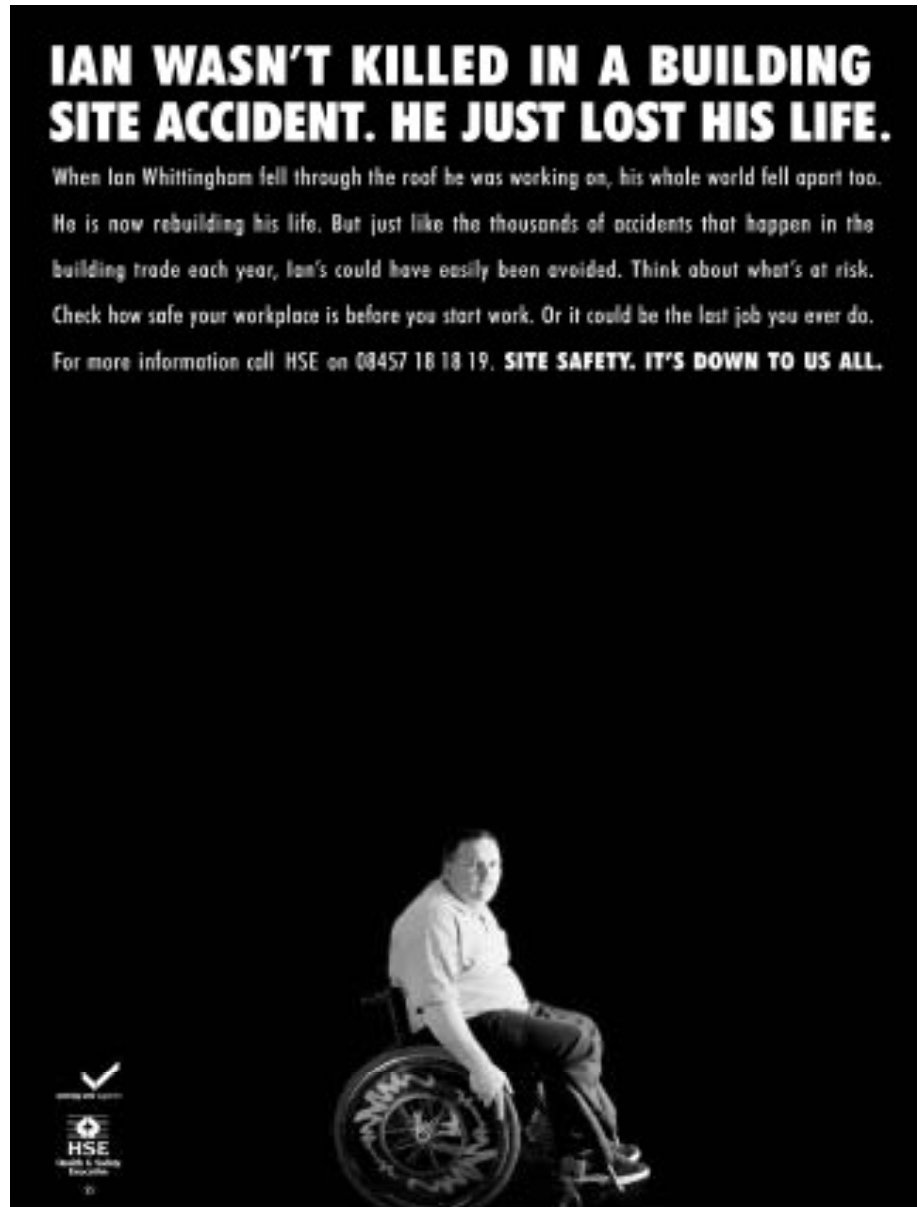
145 HSE's contribution to achieving the health targets set by CONIAC is being co-ordinated through its Construction Priority Programme. The establishment of the new Construction Division gives HSE an opportunity to focus inspection activities in ways that will encourage the industry to deliver its programmes for improvement and embark on a road towards cultural change. In 2002/3, HSE's Construction Division will concentrate on particular health issues (asbestos, cement dermatitis, hand/arm vibration, manual handling (especially of kerb stones) and noise-induced hearing loss) to ensure a co-ordinated approach to these issues in a way that will secure real improvements in standards.

Questions

19. *How can we get people to recognise, understand and avoid health risks?*
20. *How can unhealthy processes, materials and equipment be designed/planned out of projects?*

IAN WASN'T KILLED IN A BUILDING SITE ACCIDENT. HE JUST LOST HIS LIFE.

When Ian Whittingham fell through the roof he was working on, his whole world fell apart too. He is now rebuilding his life. But just like the thousands of accidents that happen in the building trade each year, Ian's could have easily been avoided. Think about what's at risk. Check how safe your workplace is before you start work. Or it could be the last job you ever do. For more information call HSE on 08457 18 18 19. **SITE SAFETY. IT'S DOWN TO US ALL.**



Chapter seven Government as initiator, legislator and enforcer

Government

146 Government initiates, creates and enforces the law, either directly or indirectly, for example through local authorities. In the case of construction, local authorities and HSE carry out direct enforcement. Also, Government (local and national) agencies and non-departmental bodies, taken together, account for about 40% of spending on construction procurement.³⁹ Several parts of central and local government have interests in construction health and safety, in its widest sense, including those dealing with planning, building control and fire safety as well as working with the industry to encourage sustainability, efficiency and innovation.

147 As *Revitalising Health and Safety* said: '*Government must lead by example. All public bodies must demonstrate best practice in health and safety management. Public procurement must lead the way on achieving effective action on health and safety considerations and promoting best practice right through the supply chain. Wherever possible wider Government policy must further health and safety objectives.*'

148 HSE and various local authority officers visit construction sites and discuss related issues with construction clients, designers and contractors. There might be scope for improving our collective efficiency and effectiveness if, for example:

- local authorities, as part of development control or building control, could:
 - provide basic literature on health and safety issues when planning applications are submitted (some local authorities already do this);
 - request⁴⁰ health and safety plans or confirmation that applicants have met basic CDM duties (eg appointing a planning supervisor and preparing a health and safety plan) when applying; or
 - promote safe working practices when visiting sites to carry out their duties;
- local authorities and HSE could agree joint campaigns on topics of mutual interest, for example to improve competence;
- the Building Regulations could further emphasise the need to ensure that health and safety risks are identified and designed out. They already address some occupational health and safety issues, in Parts F and N, and Part A may be extended to ban fragile roofing materials. (Falls through fragile roofs still kill 10-15 workers each year.) There is also the possibility of including more health and safety messages or links in the Approved Documents;
- local authorities could be empowered to enforce health and safety law for more construction work. See paragraph 154.

'I'm committing the Government to show clear leadership as an employer, procurer and policy maker. I hope this will inspire others right across our diverse economy to commit to new action and share in the benefits of good health and safety management.'

John Prescott
Deputy Prime Minister

³⁹ See http://www.ogc.gov.uk/sdtoolkit/library/p_and_cd/guide10.html for details of the Government's policy on health and safety in procurement

⁴⁰ If this were to be enforceable, new legislation would be required

HSC/E

149 HSC/E exerts an influence on the construction industry in several ways and has taken a number of decisions to increase the efficiency and effectiveness of its work. These include:

- the creation of a Construction Priority Programme managed by the Chief Inspector of Construction to:
 - improve the impact, co-ordination and delivery of the various elements of the programme; and
 - develop new regulatory approaches;
- the creation of a new Construction Division directly managed by the Chief Inspector of Construction, with enhanced resources, drawing together all HSE frontline construction inspectors.

150 Investigation of all fatal and many serious incidents, together with handling the large number of construction complaints that we receive, occupies about half of our inspectors' time. We want to fully exploit the opportunities that accident investigations offer us and inspectors will be delving deeper into underlying causation. In our proactive work we also wish to focus more on the roles and responsibilities of designers and clients in addition to our traditional site-based approach.

151 To make real progress we need to develop ways of increasing the level of contact with, and impact on, smaller construction businesses. More innovative methods are required to achieve this, both in terms of our approach and the resources used. We propose to:

- host *Safety Awareness Days* for small builders next year and hope to work in partnership with builders merchants to improve our targeting of information;
- organise more short sharp inspection campaigns focused in particular areas on particular risks; and
- organise other health and safety events through the *Working Well Together* campaign.

Enforcement

152 We shall continue with firm but fair enforcement of health and safety law.⁴¹ Details of this action are published on the Internet.⁴² In managing our enforcement activities, we always aim to be:

- **proportionate** – taking account of how far someone falls short of what the law requires and the extent of the risks that result when we decide what action to take;

⁴¹ A full statement of HSC's enforcement policy can be found at www.hse.gov.uk/pubns/hsc15.pdf

⁴² Details of HSE prosecutions which resulted in a conviction and enforcement notices can be found at www.hse.gov.uk/statistics/enforce.htm

- **accountable** – we are accountable to the public for our actions and have arrangements for handling complaints;
- **consistent** – taking a similar approach in similar circumstances;
- **targeted** – focusing on those whose activities give rise to the most serious risks or where the hazards are least well controlled; and
- **transparent** – making clear what people have to do and, where relevant, what they don't.

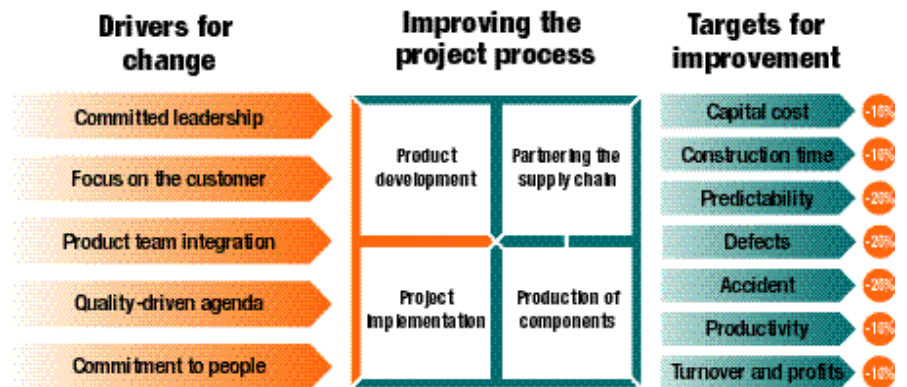
153 All work-related deaths are jointly investigated with the police to determine whether there may have been offences of manslaughter committed, as well as breaches of health and safety legislation. Earlier this year the owner of a small business was jailed following the death of two of his workers. This sent a clear message to everyone in the industry about their personal responsibility for the safety of others.

154 Many small sites especially involving domestic work are not notifiable to HSE and are unlikely to be visited for health and safety purposes. However, local authority officers may visit them for other reasons, including nuisance and building control. It might, therefore, be a more efficient use of resources for local authority officers to deal with health and safety issues at the same time. If more construction health and safety work became the responsibility of local authorities, many other issues would need to be considered – including resourcing, training and support. These would need to be fully explored if there was a broad level of support for such changes.

Rethinking construction

155 Industry initiatives like *Rethinking Construction* can significantly complement government efforts to improve the industry's health and safety performance. Such initiatives often stimulate and communicate best practice and improve health and safety standards as well as the issues that were the main focus of the campaign.

156 The central message of *Rethinking Construction* is that, through the application of best practice, the industry and its clients can collectively act to improve their performance. There is recognition that the industry can and indeed must do much better. This is being achieved through a series of demonstration projects, which exemplify some of the innovations advocated in the *Rethinking Construction* report. Their model for cultural change is shown on page 46:



157 The work is being carried forward by Rethinking Construction Ltd, which is sponsored by the industry and the Department of Trade and Industry. Its four strands are:

The Movement for Innovation (M4I)

Non-housing construction in the private sector. www.rethinkingconstruction.org/about/m4i.html

The Housing Forum

House building, refurbishment and repairs and maintenance in the public and private sectors. www.rethinkingconstruction.org/about/hf.html

The Local Government Task Force (LGTF)

Best practice for local government clients. www.rethinkingconstruction.org/about/lgtf.html

The Central Government Task Force (CGTF)

Best practice for central government clients www.rethinkingconstruction.org/about/cgtf.html

These strands all work in partnership with:

The Construction Best Practice Programme

Raises awareness of the benefits of best practices, and provides the construction industry and its clients with the skills and knowledge to implement change, www.cbpp.org.uk/

The Government Construction Clients Panel

Ensures that all government clients have the skills to become and remain best practice construction clients, www.ogc.gov.uk/gccp/

158 Initial analysis of Demonstration Projects under the M4I programme has estimated that their accident rate is half that of the industry as a whole, saving £255 million or 8.5% of turnover.⁴³

159 The main focus of the work of the Strategic Forum has been to embed the principles of *Rethinking Construction* more firmly and accelerate their adoption more widely within the industry. HSE has been closely involved in this as health and safety has been a key cross-cutting theme in all of this work.

160 The construction industry cannot function without the contribution of its workforce. One of the *Rethinking Construction* initiatives is the *Respect for People*⁴⁴ agenda, which encourages businesses to appreciate the worth of its employees and adopt policies to promote:

- diversity;
- health and safety;
- good site conditions; and
- welfare and training.

161 *Respect for People* has been well received, but much more remains to be done.

Structure of new regulations

162 Changes to the Construction (Health, Safety and Welfare) Regulations 1996 (CHSW) are already under consideration in order to implement the Temporary Work at Height Directive (TWAH).⁴⁵ This will probably result in the replacement of CHSW regulations 6 to 8 and schedules 1 to 5. Other minor changes are likely to be made to CHSW. Further changes to CHSW (and to CDM) may follow from a reform of fire safety legislation being proposed by the Office of the Deputy Prime Minister (ODPM).⁴⁶ This leaves two options:

- combine the remaining regulations with whatever emerges from the review of CDM; or
- keep these as a separate, short, freestanding set of regulations.

43 *Accelerating Change*, p15

44 www.rethinkingconstruction.org/respect/

45 This Directive was adopted by the European Union last year and implementing legislation has to be in place by July 2004. The Health and Safety Commission proposes to do this by means of a single set of regulations applying to all industries. As a result, the relevant parts of CHSW will probably be revoked. A separate consultation exercise on this will take place shortly. (Further information can be found at www.hse.gov.uk/spd/content/spdwem.htm – ecdir.)

46 ODPM issued a consultation document *Reform of Fire Safety Legislation* in July 2002 – closing date for comments is 22 November 2002. Details are at www.safety.odpm.gov.uk/fire/conindex.htm

163 Some possible advantages and disadvantages of merging the regulations are set out below.

Advantages

Disadvantages

-
- | | |
|---|--|
| a) Simplicity/transparency: all construction-specific issues are dealt with together, helping clients and designers to understand the hazards to be controlled. | a) Many of the issues covered by CHSW are not immediately relevant to clients and designers. |
| b) CDM is too often regarded as a paperwork issue. Integration would emphasise that the management of projects is directly linked to site health and safety, and is crucial – even on the smallest sites. | b) One set of regulations focuses on management issues, the other on technical matters. |
| c) Avoids repetition of terms and definitions, for example <i>construction</i> . | c) Changes CHSW, just when people are beginning to get used to them. (But owing to TWAH, major change is required anyway.) |
| d) Ensures that the terms in both sets of requirements have exactly the same scope. | d) The combined set of regulations would be longer. |
| e) Implements all of the construction-specific requirements of the Temporary or Mobile Construction Sites Directive in a single set of regulations. | e) There is a risk of excessive bureaucracy for small projects. |
| f) Clients' duties concerning information and the health and safety file, and management requirements, could be applied to all construction work, not just work currently covered by CDM. | |

Questions

21. *Is the current enforcement demarcation between HSE and local authorities clear and appropriate? Does it make the best use of the available resources?*
22. *Should the Building Regulations and/or the guidance to them address health and safety in construction and maintenance?*
23. *How should we structure future construction health and safety regulations?*

Chapter eight Responding

How do I respond?

You can respond in two ways:

by e-mail to:

DD.construction@hse.gsi.gov.uk

(See also www.hse.gov.uk/disdocs/construction.htm)

It would greatly assist us if you could respond electronically.

or in writing to:

John Gibson

Health and Safety Executive

Construction Policy (SPD C2),

5SW, Rose Court,

2 Southwark Bridge,

London SE1 9HS

Fax: 020 7717 6908

All responses must reach one of the above addresses no later than 31 December 2002.

We are sorry but we cannot accept responses to the Discussion Document by telephone. We would prefer replies to be e-mailed to us, as this will make them easier to process. However, all replies will be given equal consideration, irrespective of whether they are e-mailed or posted.

Queries or requests for clarification should, in the first instance, be addressed to John Gibson at the above address, tel: 020 7717 6710, but we have also set up an online discussion forum (see www.hse.gov.uk/disdocs/construction.htm) so that the debate can continue publicly during the discussion period.

To help you respond, we have included a summary which draws together the questions and key issues. (A more detailed version is available online, see www.hse.gov.uk/disdocs/construction.htm) Do not feel that you have to answer all of the questions; please concentrate on those that are of interest to you.

Remember that we are not only interested in your ideas, but also the reasons and evidence behind them.

Do not feel constrained by those issues raised in this Discussion Document. Please provide any suggestions for improving health and safety that are specific to the construction industry. However, please note that **we do not wish to re-open**

the more general debate addressed by the exercise that led to the *Revitalising Health and Safety strategy statement*. (See www.hse.gov.uk/revital/)

What will HSE do with the responses?

Given the wide scope of the Discussion Document, we cannot make any specific commitments. Our action depends on your responses. But we do promise to:

- carefully consider all responses, so as to identify practical ideas that may help improve health and safety standards in the industry;
- pass on to other parts of government any ideas that fall outside the responsibilities of the Health and Safety Commission and Executive;
- work with the industry and other parts of government to identify and implement the best ideas;
- publish our conclusions. If you provide your e-mail details, we will tell you when this happens.

The Executive tries to make its consultation procedure as thorough and open as possible. Responses to this Discussion Document will be lodged in the HSE's Information Centres after the end of the discussion period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to the Discussion Document are invited on the basis that anyone submitting them agrees to their being dealt with like this. Responses, or parts of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases a note will be put in the index to the responses identifying those who have asked that their views, or part of them, be treated as confidential.

Many business e-mail systems now automatically append a paragraph stating the message is confidential. If you are responding to this DD by e-mail and you are content for your responses to be made publicly available, please make clear in the body of your response that you do not wish any standard confidentiality statement to apply.



Response to Discussion Document DDE20

1. Please provide some background information about yourself/your organisation

Name	<input type="text"/>	Telephone No	<input type="text"/>
Address	<input type="text"/>	Email address	<input type="text"/>

Role: *(Please tick one box)*

Client	<input type="checkbox"/>	Designer	<input type="checkbox"/>	Planning supervisor	<input type="checkbox"/>	Principal contractor	<input type="checkbox"/>
Contractor	<input type="checkbox"/>	Manufacturer/supplier	<input type="checkbox"/>	Trade union	<input type="checkbox"/>	Trade association	<input type="checkbox"/>
Other	<input type="checkbox"/>	please specify	<input type="text"/>				

Sector: *(Please tick one box)*

General building	<input type="checkbox"/>	Building control	<input type="checkbox"/>	Civil engineering	<input type="checkbox"/>	Facilities management	<input type="checkbox"/>
Insurance	<input type="checkbox"/>	Education and training	<input type="checkbox"/>	Refurbishment and maintenance	<input type="checkbox"/>		
Other	<input type="checkbox"/>	please specify	<input type="text"/>				

Size of Organisation *(Please tick one box)*

1-5	<input type="checkbox"/>	6-10	<input type="checkbox"/>	11-25	<input type="checkbox"/>	26-50	<input type="checkbox"/>	51-100	<input type="checkbox"/>	101-500	<input type="checkbox"/>	Over 500	<input type="checkbox"/>
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2. In your view how well does this document identify and address the key issues? *(Please tick one box)*

Very well	<input type="checkbox"/>	Well	<input type="checkbox"/>	Not well	<input type="checkbox"/>	Poorly	<input type="checkbox"/>
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3. Is there anything you particularly liked or disliked about this exercise? *(Please continue on a separate sheet if necessary)*

Revitalising Health and Safety in Construction

Summary of issues and questions from the Discussion Document

Introduction and background – Chapters one and two

1. What changes would lead to the greatest improvements in construction health and safety standards and how would you make them happen?
2. What are the greatest barriers to change?

Leaders and levers – Chapter three

Leadership issues – industry-wide, business, clients

3. How can we improve collective leadership of the industry and encourage greater focus on health and safety performance by boards and directors? (If possible, please provide examples of good practice.)

Corporate responsibility, insurance

4. What is your view of the economic levers described above and are there others that we could use to improve construction health and safety?
5. What can be done to address health and safety issues created by the informal construction economy?

Construction workers – Chapter four

Competence of individuals, voluntary approach, joint approaches, industry registers, new legal requirement, managers, professionals, etc.

6. Will current industry initiatives deliver a fully qualified workforce, including managers, engineers, designers, etc? If not, what more should be done and what would be the costs / benefits?
7. What more should be done to improve the training of construction undergraduates to equip them with an adequate understanding of health and safety before beginning and throughout their career?

Employment relationships, self-employment, agencies, role of trade unions, worker safety advisors, safety representatives

8. How can we best ensure that the whole workforce is properly engaged and treated with respect?

Working better together (organisations) – Chapter five

Commitment

9. How can clients be encouraged to make sure that projects are properly planned and executed?
10. What more can be done to ensure that designers address health and safety considerations?

Risk management, design, monitoring contractors, construction major hazards

11. Is there a need to improve the management of high hazard/low probability or low frequency/high consequence construction work? If so, how?

Co-operation, integrated teams, gateways

12. If you have worked as part of an integrated team, what was the effect on health and safety performance?
13. Should HSE require or encourage use of integrated teams?
14. Should HSE include requirements for a gateway process? If so, how?
15. How should the role of planning supervisors be discharged in future?

Communication, language, literacy, local safety groups, intermediaries, publicity, learning from company and foreign initiatives

16. How commonly are there communication difficulties on site due to people speaking different languages or being unable to read and write? What risks have resulted and how have they been addressed?
17. How could we communicate better with smaller businesses?

Corporate competence

18. Should all construction businesses, or just those in specified trades, be registered or even independently accredited? If so, how, by whom and what would be the costs/benefits?

Tackling health in construction – Chapter six

Occupational health support and rehabilitation initiatives

19. How can we get people to recognise, understand and avoid health risks?
20. How can unhealthy processes, materials and equipment be designed/planned out of projects?

Government as initiator, legislator and enforcer – Chapter seven

Government as client, etc, links with planning and building control, work of HSC/E

21. Is the current enforcement demarcation between HSE and local authorities clear and appropriate? Does it make the best use of the available resources?
22. Should the Building Regulations and/or the guidance to them address health and safety in construction and maintenance?

Structure of new regulations

23. How should we structure future construction health and safety regulations?



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