

## Summary: Intervention & Options

Department /Agency: <b>HSE</b>	Title: <b>Impact Assessment for Revising the guidance on employee consultation requirements in health and safety</b>	
Stage:	Version:	Date: <b>02 June 2008</b>
Related Publications:		

Available to view or download at:

<http://www.>

Contact for enquiries: **Dan Hodges**

Telephone: **020 7717 6998**

### What is the problem under consideration? Why is government intervention necessary?

In 2006, HSC consulted on improving worker involvement with options aimed at increasing the quality of worker involvement in health and safety risk management. The strategy contained three pillars to achieving full worker consultation - legislation, guidance and encouraging voluntary action. Consultation with stakeholders found that there was no consensus on regulatory change, and limited interest in developing voluntary approaches. However, there was agreement on the need for improved and revised guidance including practical examples with case studies on how to consult the workforce.

### What are the policy objectives and the intended effects?

The objective of improving the guidance for employers on worker consultation is to facilitate better dialogue and co-operation on health and safety matters, and so improve health and safety standards at work. The aim is to make it easier for all employers to understand what the law says and means about worker consultation, and then work towards an improving culture of mutual co-operation and communication where risks are managed sensibly, people are protected from harmful or dangerous situations, and accidents and ill health rates are reduced.

### What policy options have been considered? Please justify any preferred option.

Amendments to legislation were previously considered but turned down due to a lack of stakeholder consensus. In this impact assessment publishing best practice guidance is considered against the baseline option of doing nothing. The preferred option is publishing best practice guidance, due to the agreement of stakeholders that this would be a useful and realistic way of achieving the objectives..

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The policy will be reviewed after a three year period.

### **Ministerial Sign-off** For SELECT STAGE Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

.....Date:

## Summary: Analysis & Evidence

Policy Option: 1

Description: Do nothing

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' There are no costs associated with this option
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	£		
	<b>Average Annual Cost</b> (excluding one-off)		
	£		<b>Total Cost (PV)</b> <b>£ 0</b>

Other **key non-monetised costs** by 'main affected groups'

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' There are no benefits associated with this option
	<b>One-off</b>	<b>Yrs</b>	
	£		
	<b>Average Annual Benefit</b> (excluding one-off)		
	£		<b>Total Benefit (PV)</b> <b>£ 0</b>

Other **key non-monetised benefits** by 'main affected groups'

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £ 0
-----------------	-------------------	-------------------------------------	---

What is the geographic coverage of the policy/option?		UK	
On what date will the policy be implemented?		n/a	
Which organisation(s) will enforce the policy?		HSE & LAs	
What is the total annual cost of enforcement for these organisations?		£ n/a	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ n/a	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of £	Decrease of £	<b>Net Impact</b>	<b>£ 0</b>

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Summary: Analysis & Evidence

Policy Option: 2

Description: Publish good practice guidance on employee consultation

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Over the 10 year appraisal period: £884K in purchasing costs to employers. Up to £1.6m cost to employers through providing extra facilities £9.7m cost to employers through familiarisation costs £186.1K one-off staffing costs to HSE <p style="text-align: right;"><b>Total Cost (PV)    £ £10.7m - £12.4m</b></p>
	<b>One-off</b> (Transition) <b>Yrs</b>		
	<b>£ £186.1K</b>		
	<b>Average Annual Cost</b> (excluding one-off)		
	<b>£ 1.2m - £1.3m</b>		

Other **key non-monetised costs** by 'main affected groups'

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' Over the 10 year appraisal period: Averted costs to society from a reduction in work-related injuries and ill-health would lead to a total of £5m to £54m in benefits. Reduction in admin burden baseline yields benefits to businesses of £316m <p style="text-align: right;"><b>Total Benefit (PV)    £ 321m - £369.6m</b></p>
	<b>One-off</b> <b>Yrs</b>		
	<b>£</b>		
	<b>Average Annual Benefit</b> (excluding one-off)		
	<b>£ 42.1m</b>		

Other **key non-monetised benefits** by 'main affected groups' n/a

**Key Assumptions/Sensitivities/Risks** Figures are based on current sales of the existing guides on the legislation - sales figures may go up or down which could affect costs and benefits in a proportional manner.

Price Base Year 2008	Time Period Years 10	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
-------------------------	-------------------------	-------------------------------------	---

What is the geographic coverage of the policy/option?		UK	
On what date will the policy be implemented?		Publication October '08	
Which organisation(s) will enforce the policy?		HSE/LA	
What is the total annual cost of enforcement for these organisations?		£ Unchanged	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ n/a	
What is the value of changes in greenhouse gas emissions?		£ n/a	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	No	No	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)	
Increase of    £	Decrease of    £316m	<b>Net Impact</b>	£ 316m decrease

Key:      Annual costs and benefits: Constant Prices      (Net) Present Value

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

### Purpose and Intended Effect

1. Worker involvement forms a central element of the Health and Safety Commission's *Strategy to 2010 and Beyond* as workers are often best placed to spot issues and bring about improvements. Consulting employees or safety representatives can raise health and safety awareness among both managers and employees, affect improvements in arrangements for managing health and safety, improve the practical implementation of these arrangements, and contribute to improved health and safety performance. More importantly, it is a means by which employee voices can be heard and acted upon to the benefit of those who experience the risks in a workplace.
2. Employers have a legal duty to consult on health and safety matters that affect their employees, either directly or through representatives. Such co-operation and consultation contributes towards improvements in health and safety management and achieving shared objectives.
3. Research in the UK suggests that consulting employees and their representatives about health and safety at work has a significant role to play in bringing about improvements in health and safety and has identified a link between health and safety representatives being present in the workplace and lower rates of injuries and ill health<sup>1</sup>. The reduction in injury rates caused by worker involvement has been estimated with a wide range between reports from a 14% reduction to a 50% reduction<sup>2</sup>. Evidence suggests that half of all workplaces are currently covered by some kind of health and safety representative, which accounts for about three quarters of all UK employees<sup>3</sup>.
4. In 2006, The Health and Safety Commission (HSC) consulted on improving worker involvement with options aimed at increasing the quality and quantity of worker involvement in health and safety risk management. The strategy contained three pillars to achieving full worker consultation - legislation, guidance and encouraging voluntary action. Consultation with stakeholders found that there was no consensus on the case for regulatory change, and limited interest in developing voluntary approaches. However, there was agreement on the need for improved guidance, to make it more streamlined and coherent, providing more practical examples, illustrative case studies and advice on how to consult the workforce. The Commission agreed that work should progress on revising guidance for the Safety Representatives and Safety Committee Regulations 1977 and related guidance<sup>4</sup>.

### Objectives

5. The objective of improving the guidance for employers on employee consultation is to facilitate better dialogue and co-operation on health and safety matters, and so improve health and safety standards at work. In producing two new publications, the aim is to make it easier for all employers to understand what the law says and means about worker consultation in the HSE Legal series and how to consult through good practice guidance in the HSG series publication.
6. The intention is to encourage employers to think about the best way to consult in their business, and then work towards an improving culture of mutual co-operation and communication where risks are managed sensibly, people are protected from harmful or dangerous situations, and accidents and ill health rates are reduced.
7. It is thought that if these objectives are accomplished, they will improve the effectiveness of consultation and co-operation on health and safety matters in the workplace which in turn will

<sup>1</sup> HSE Research Report RR363 *The role and effectiveness of safety representatives in influencing workplace health and safety*

<sup>2</sup> See RR363 and Reilly et al – Unions, Safety Committees and Workplace Injuries, *British Journal of Industrial Relations* 1995 Vol 33, 273-288 respectively

<sup>3</sup> Contract Research Report CRR 268/2000 – Workplace Consultation on Workplace Health and Safety

<sup>4</sup> See Commission papers HSC/07/M03 and HSC/07/M06

contribute to improved health and safety management resulting in a lower rate of workplace injuries and ill-health.

## Risk Assessment

8. Table 1 sets out the incidents and rates of injuries and new cases of work related ill-health to workers in 2005/06. Ideally injury rates would be split into those for employees covered by health and safety representatives and those who are not covered. This is not possible due to data limitations. This paper compiles injury and ill-health rates for the two separate groups using assumptions on the current reduction in these rates caused by health and safety representatives.

**Table 1: 2005/06 incidents and rates for workplace injuries and ill-health:**

	Number of incidents	Rate per 100,000
Fatal	164	0.63
Major	57,828	222.63
Over 3-day	238,090	916.59
Ill-health (new cases)	523,000	2,013.44

Source: Injury data from RIDDOR statistics, adjusted for underreporting. New cases of ill-health are from the Labour Force Survey. For further information see <http://www.hse.gov.uk/statistics/sources.htm>

9. Clearer guidance on the regulations is intended to reduce the injury and ill-health rates in workplaces by creating better management of health and safety through improved co-operation and consultation between employers and employees.

## OPTIONS

### Option 1.

10. Do nothing. No changes to the current regulations or guidance.

### Option 2.

11. Publish good practice guidance on employee consultation along with an updated legal series publication on the two current sets of regulations<sup>5</sup>
12. By publishing clear guidance with examples of how employers can consult their employees about health and safety issues, this option would facilitate better dialogue and co-operation between employers and employees in managing health and safety matters and increase the effectiveness of health and safety representatives, and so improve health and safety standards at work. In producing two new publications, the aim is to make it easier for all employers to understand what the law says and means about employee consultation and how to consult their employees through good practice guidance in the HSG series. It would not be expected to lead to any extra health and safety representatives, but would instead aim to increase the effectiveness of representatives already present in the workplace.
13. This option would also take the opportunity to publish the two existing sets of regulations alongside each other in one document.

<sup>5</sup> L87 *Safety representatives and safety committees* and L95 *A Guide to the Health and Safety (Consultation with Employees) Regulations 1996*

## Costs and Benefits

### Data Sources and Background Assumptions

14. The base year used in this impact assessment is 2007, with admin burdens measured in 2005 prices in line with the Administrative Burden Measurement Exercise.
15. Information is drawn primarily from the HSE commissioned Contract Research Report by the Institute for Employment Studies<sup>6</sup>, with their results weighted from responses to an employer and a health and safety representative survey they conducted. Their results are broadly comparable to WERS98 data.
16. Information was also drawn from the Department of Trade and Industry's (DTI – Now BERR) Consultation Document: *Workplace Representatives: A review of their facilities and facility time*. This was largely based on WERS04 data. This document primarily regards all workplace representatives and so much of it can not be used for dedicated H&S reps. However, it does contain some H&S specific details which have fed into this impact assessment.
17. All the costs to businesses are opportunity costs reflected by lost output as a result of carrying out duties or familiarisation time. It is assumed that the value of this lost output is equal to the time spent carrying out the duties multiplied by the average wage (adding 30% for non-wage labour costs including superannuation and employers' National Insurance contributions).
18. Both costs and benefits have been discounted in line with Treasury guidance. Discounting is a method used to convert future costs and benefits to present values using a 'discount rate'. Costs have been discounted at a rate of 3.5%, meaning the present value of a future pound is assumed to decrease by 3.5% per year. Health and safety benefits have been up rated by 2%, then discounted at 3.5%, giving an effective discount rate of 1.5%. Costs and benefits are calculated over an appraisal period of ten years and expressed in present value terms so that future costs and benefits can be compared.
19. Health and Safety representatives can be either trade-union affiliated or not. Research shows that there are differences in the characteristics of these two types of representative in terms of time spent on duties and suchlike. Lacking any evidence to the contrary, however, this impact assessment assumes that all health and safety representatives have the same impact on injury and ill-health rates and that the same costs would be incurred by employers irrespective of whether or not their representative was trade-union affiliated. Henceforth, therefore, no distinction will be made between union affiliated and non-union affiliated health and safety representatives. Furthermore, as this paper only considers health and safety representatives and no other types of representative any general reference to "representatives" or "reps" will refer solely to health and safety representatives.

### Sectors and Groups Affected

20. The regulations to which the guidance relates are appropriate across all business sectors and company sizes. Research shows that at present a greater proportion of large companies have health and safety representatives than smaller companies<sup>7</sup>. This is due to the relative ease with which employers in small companies can consult directly with employees on health and safety matters.

### Benefits

#### *Option 1 – Do Nothing*

21. There are no additional benefits associated with this option

#### *Option 2 – Publish good practice guidance on employee consultation*

22. This option would improve the effectiveness of consultation and co-operation between employers, their employees, and safety representatives. There are currently 150K trade union affiliated H&S

---

<sup>6</sup> Contract Research Report CRR 268/2000 *Workplace consultation on health and safety*  
<sup>7</sup> See CRR 268/2000 pp.7

representatives in the UK<sup>8</sup>. Combining this information with the proportion of H&S representatives that are union and non-union affiliated<sup>9</sup> determines that there are currently a total of 420K H&S representatives in the UK, of which 150K are trade-union affiliated and 270K are not.

23. With research inconclusive on the current effectiveness of co-ordinated and participative approaches in reducing workplace injuries and ill-health (see paragraph 3), this impact assessment considers a range of reductions at the conservative end of the scale. Specifically, reductions in workplace injury and ill-health rates attributed to a workplace being covered by a H&S representative of 10%, 15% and 20% are considered.
24. If the new guidance is successful in increasing the effectiveness of co-operation and consultation there would be a greater reduction in injury rates. As there is no evidence as to how much more effective representatives will become a range is considered here. Increases in effectiveness of current reps of 1% and 5% are considered for each level of current effectiveness so, for example, if the current reduction is 10% and effectiveness increases by 5% the new reduction in injury and ill-health rates attributable to a workplace being covered by a H&S rep would be 10.5%.
25. The value of this reduction in cases of work-related injuries and ill-health is calculated using appraisal values for 2005 based on human cost, the cost of lost output and resource costs. The appraisal values, along with more information on how they are compiled, are available on the HSE website.
26. Table 2 sets out the range of averted costs over the ten year appraisal period if one and a half per cent of all current reps were to become more effective each year as a result of the new guidance. Benefits to society under this scenario range from £10K to £1.1m in the first year and accrue cumulatively each year after. Over the ten year appraisal period, these benefits would range between £5m and £54m.

**Table 2: Averted costs from an increase in the effectiveness of 1.5 per cent of all current H&S representatives each year (Net Present Value over ten year appraisal period, £m)**

Increase in effectiveness of reps	Current level of reduction in injury/ill-health rates		
	10%	15%	20%
1%	6	9	12
5%	28	44	61

27. The Admin Burden Measurement Exercise (ABME) identified that employers providing information to safety reps cost businesses £50.4m per annum. Through clarifying the requirement and clearly stating that employers do not need to provide any information that they do not already possess or provide this information as a separate package (and using the ABME assumption of 100% compliance), this guidance will save businesses £36.7m per annum or £316m over the ten year appraisal period in current prices.

## Costs

### *Option 1 – Do Nothing*

28. There are no additional costs associated with this option

### *Option 2 – Publish good practice guidance on employee consultation*

29. Improved guidance would inform employers of areas in which they can support H&S reps in carrying out their functions. These include allowing paid time to perform their functions, providing facilities and assistance to reps and allowing time for, and covering the costs of, training. Unions would normally cover the cost of training their appointed representatives whereas employers would cover the costs for elected representatives.

<sup>8</sup> DTI Consultation Document – *Workplace Representatives – A Review of their facilities and facility time* January 2007

<sup>9</sup> 48% of workplaces covered by H&S representatives of which 14% are trade-union representatives only, 52% are non-union only and 34% are covered by both union and non-union H&S representatives. CRR 268/2000

30. It is assumed that reps will not spend any more or less time on their functions as a representative but will instead utilise the time they do spend better, leading to the benefits outlined above. No extra costs, therefore, are incurred through time spent on duties.
31. Almost all employers with reps currently pay for time away for training although only two-thirds of employers pay the full cost of training<sup>10</sup>. With already high compliance rates it is assumed that the new guidance will not lead to any extra training costs.
32. There will be costs to employers through the purchase of the documentation. Trends in sales of other HSE guidance before and after recent updates seems to indicate that there is a fairly steady (if not decreasing) sales level throughout. This impact assessment, therefore, assumes that sales will be at a similar level as the past two years. Sales of all related priced publications in 2005 and 2006 are set out in table 3.

**Table 3: Sales of related priced publications<sup>11</sup>**

Publication		2005	2006	Average	Total Cost
L87 – Brown book		6,434	5,759	6,097	£35K
L95 – guide to HSCER		674	556	615	£5K
INDG232	Free single copies	25,209	12,197	18,703	-
	Priced packs of 10	366	158	262	£1.3K
				<b>TOTAL</b>	£41.3K

33. The L87 and L95 are priced at £5.75 and £8.00 respectively (for single copies). The INDG232 *Consulting Employees on Health and Safety: A Guide to the Law* pack of leaflets is priced at £5. The two new publications would be priced at around £12 each.
34. Assuming that sales of the revised legal series document follow the average sales for the Brown Book over the last two years and sales of the new guidance match this, with each document selling six thousand copies per year at a total cost to employers of £144K or a total increase in cost of £110K per year or £935K over the ten year appraisal period. This is akin to reaching 1.5% of current health and safety reps each year.
35. The new guidance makes it clear that managers are obliged to provide their representatives with appropriate facilities they need to perform their functions. As there is currently widespread compliance with this section of the regulations<sup>12</sup> only a small increase in these costs may be expected.
36. The DTI consultation paper<sup>13</sup> estimates the current weekly cost of providing facilities to workplace representatives to be between £95K and £475K. This equates to £5m to £25m per annum. If 1.5% of reps were provided with ten per cent extra facilities as a result of the new guidance there would be an increase in costs of £0.7K to £37K per annum, which would accumulate cumulatively to £33K to £1.7m over the ten year appraisal period
37. There would also be familiarisation costs for employers with health and safety representatives. As the new guidance would be a fairly lengthy document it seems likely that employers would be most likely to refer to the overview initially and then refer to relevant sections as and when they need to. It seems reasonable to assume that an employer would spend a total of five hours over the course of the first year familiarising themselves with the new guidance in this manner. If the employers of 1.5% of all

<sup>10</sup> See CRR 268/2000 pp.35

<sup>11</sup> The L87 and L95 would be replaced by a new document for both sets of regulations. The new guidance would be released alongside this, intended to serve as a practical guide of how to consult employees.

<sup>12</sup> For example, 92% of employers provide communications facilities and 73% of employers provide information in books or software format (CRR 268/2000 pp. 26)

<sup>13</sup> DTI Consultation Document – *Workplace Representatives – A Review of their facilities and facility time* January 2007 (pp.95)

current reps bought the new guidance each year this would lead to a cost of £1.1m per annum or £9.7m over the ten year appraisal period.

38. The HSE will incur staff costs in the production of the new documentation, launch and promotion of the new guidance, equal to £38K in 2007/08 and £149K in 2008/09. The one off cost in NPV terms is £186.1K. There will also be a £17.5K cost of publishing the guidance, based on a run of 5000, but this would be recouped through sales and, therefore, be passed on to businesses. This element of the cost is inherently included in paragraph 34 and not here.
39. Combining these costs gives a total annual cost of £1.3m, or a cost over the ten year appraisal period of £10.7m – £12.4m.

## **Effects on the Administrative Burden**

40. Option 2 will reduce the administrative burden baseline by £36.7m per annum or £315m over the ten year appraisal period, as detailed in paragraph 29.

## **Effects on Small Firms**

41. Health and safety representatives are spread disproportionately across different sized firms. Large firms are far more likely to have a representative than small firms. The costs involved with the new guidance will, therefore, fall more on large firms. The benefits gained, however, will be spread more evenly, as representatives in small firms are likely to be more effective than in large organisations.

## **Competition Assessment**

42. Due to the wide reach of the options and the low cost to individual firms there is not expected to be any adverse effects on competition.

## **Enforcement Sanction and Monitoring**

43. The HSE and local authority inspectors would be responsible for enforcing the regulations above, as it currently the situation. Voluntary standards would not, however, fall under their remit.

## **Implementation and Delivery Plan**

44. For transparency and clarity, the chosen policy change should be communicated to affected stakeholders in advance of implementation.

## **Other specific impact tests**

45. There are no other expected impacts on specific groups or the environment.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

## Annexes

< Click once and paste, or double click to paste in this style.>