

SAFE SCHOOLS, HEALTHY SCHOOLS CONFERENCE, 2 MARCH 2006

LORD HUNT - KEYNOTE ADDRESS: SENSIBLE RISK AND THE LAW

Good morning and thank you for that very warm welcome. It is a pleasure to be here today and to have this opportunity to speak to you about managing risk, our approach to it and some of the challenges this presents.

Britain today has one of the best records for occupational health and safety in the world. Since the introduction of the Health and Safety at Work Act in 1974, the rate of workplace fatalities in this country has fallen by two thirds. This is due to the way the health and safety regime as a whole works rather than by any single organisation.

Such success, however, has its downside. Whether it's a matter of fact or perception, there is a culture in which too many people expect regulatory action and/or compensation whenever anything goes wrong. Someone gets hurt – so someone must be to blame. In every single instance. And what is the reaction to all this? Excessive risk aversion.

Risk aversion causes damage in a number of ways. It hits organisational efficiency and delivery of services. It restricts personal freedom particularly for children and young people. And it damages our ability to improve management of the serious risks.

This problem is being recognised at the highest levels. The House of Commons Constitutional Affairs Committee inquiry set up to examine the compensation culture encompasses risk aversion in public bodies. Its report, published yesterday, concludes “risk aversion has a number of complex causes, including advertising by claims management companies, selective media reporting, a lack of information about how the law works and, on occasion, a lack of common sense amongst those who implement health and safety guidelines. Risk aversion of this sort is a concerning modern

phenomenon that has an adverse effect on both individuals and the economy as a whole”.

Let me be clear, I believe we still have far too many accidents and cases of ill health at work. But sound health and safety too often gets the blame for the more ludicrous examples of risk aversion. As the Minister responsible, I want to see significant risks well managed but what I don't want to see is health and safety becoming a bureaucratic paper chase that is more about back-covering than protecting people from real harm. We have all seen stories about 'elf 'n' and safety running mad'. They seem to fall into 3 categories, 'the good, the bad and the ugly':

- Firstly there are those stories that are grounded in some truth, where the organisation or the individual has taken an excessively risk-averse decision, either of their own volition or because someone has told them to. These are made with good intentions to protect people. For example the Head Teacher who required children to wear goggles when playing conkers. This is a painfully good example of a bad decision made with the best of intentions.
- Then there are the urban myths. 'Ladders are banned' or 'hanging baskets outlawed' – these stories are pure inventions with no basis in truth. But they encourage further risk averse behaviour. As the Prime Minister said, “their headlines live on, create a myth and the myth is acted upon”.
- Finally there is the blatantly deceitful. Unpopular decisions often made for financial reasons that use health and safety as the fall guy. Need to cut costs? Why not stop certain educational activities, or cut jobs, and blame it on health and safety. It's a sure-fire winner every time.

Whatever the reason, excessive risk aversion does damage and it is time for us to tackle it, ensuring that the focus is firmly upon the big risks that cause real harm and suffering.

It's easy to see how the debate has become polarised. People either believe that regulation is nothing but needless red tape and should be scrapped, or else we should strive to eliminate all risks completely. I believe that neither position is sustainable. Like it or not, risk is a part of everyday life – it cannot be eliminated altogether, but nor should it be entertained glibly. Risk needs to be responsibly managed. This is where the Health and Safety Commission, the Health and Safety Executive, and myself, are trying to keep the debate focused.

What exactly do we mean by 'sensible' approaches to ensuring peoples' health and safety? A sensible approach in my view is one that focuses attention and effort on serious risks, those that result in real harm and in some circumstances, death. The aim of good risk management is not to generate risk assessments but to protect people from serious harm.

Lets look at an example. One of the most emotive subjects is the health and safety of children – whether in the classroom, on a school trip or on the playing field.

At the outset let me state that I know the vast majority of education activities are carried out safely and responsibly by Local Education Authorities, and by people like you, who take the time to plan and ensure things are done right. You do a great job often in difficult circumstances. As a parent I expect my children to come home each day in one piece, as all parents do, but I recognise that bumps and bruises are a part of growing up. Exposure to well managed risks helps children learn important life skills, including how to manage risks for themselves. It's what makes science lessons exciting and school trips valuable and interesting.

Thousands of school trips take place every year without incident, ski-ing trips, adventure activities, swimming trips. Very occasionally something goes wrong and a tragic incident occurs, such as the one in the Yorkshire Dales last year where a young boy drowned on a caving trip. Thankfully, these serious incidents are extremely rare.

We should not be discouraging such trips, as the benefits to pupils can be immense. I believe very strongly in the educational value of well-planned visits and I am a firm

supporter of outdoor education. It is a vital part of a child's education. I'm sure you would agree it would be a sad day if misplaced risk aversion deprived them of such opportunities. Adventure activities provide the ideal opportunity to make children "risk aware" by involving them in practical decision making in challenging environments. Anyone interested in educational visits, particularly those involving adventurous activities should look at the school trips section of HSE's website, the reference is behind me now, and the excellent guidance produced by the DfES. These give straightforward advice for everyone involved in the management of school trips.

Lets take another example. Swimming lessons. There will always be a small risk but without them children will never learn to swim – a skill that may one day save their lives.

And what about science. Science education is crucial to the UK's future capacity for innovation. Our scientific future depends on a strong foundation at school level. Yet a survey of science teachers indicated that 87% had not allowed their students to undertake some form of experiment or practical work because current health and safety regulations prohibited or deterred them from doing so. Although not a frequent occurrence the survey showed that this happens occasionally. There are two organisations that you may know of, CLEAPSS (Consortium of Local Authorities for the Provision of Science Services) and ASE (Association for Science Education) that produce very good and very practical, commonsense guidance that helps make science both safe and fun. Stopping pupils from participating in experiments is certainly not how HSE or myself intend health and safety guidance to be applied. Exposure to well managed risks is good for education and good for children in helping them learn how to manage risks for themselves.

I think it is fair to say that the taking of risks for some benefit is instinctive behaviour in all of us. It's a survival response and allows us to continue to enjoy the quality of life we have. And I think it is right and proper that children have the opportunity to develop the attitudes and attributes that enable them to function in a risky and uncertain world.

But there is one important point I must stress. A sensible approach to health and safety means recognising that no one size fits all. Whatever the visit or activity you are involved with, different controls may be appropriate for different circumstances and it is sensible

risk assessment that should indicate what is appropriate. We know that, contrary to popular belief; excessively bureaucratic systems actually undermine the sensible risk approach. Remember, risk management is part of an enabling process - it allows schools to deliver highly rewarding, education. Paperwork on its own never saved a life. But we would be throwing the baby out with the bathwater if we dumped risk assessment altogether. What we need is to remember that a risk assessment is a means to an end – a way of ensuring good planning. Unfortunately risk assessment is seen by many as a complex process. This need not be so – risk assessments should be fit for purpose. A simple, short risk assessment that is actually implemented and kept up to date is worth a thousand long and complex dissertations that sit on the shelf gathering dust.

My thoughts aren't just about the safety of children during their time at school. Today's school children are tomorrow's workforce. HSE is thinking ahead and is developing a training package for schools on 'basic hazard awareness', which has links to key stage 4. I'm looking forward to seeing how that develops.

But what if something goes wrong I hear you say. I know there is a widely held belief that individual teachers are bound to be prosecuted if it does. I want to dispel this myth. Set against the many thousands of educational activities, prosecutions of individual teachers are extremely rare, as you can see from the table behind me, and have occurred only when an individual has flagrantly departed from clear instructions or any semblance of common sense. For example, a teacher who was advised by the safety adviser not to use an unguarded drilling machine but still went ahead and instructed a pupil to use it and as a result that pupil suffered a serious accident. Where clear instructions are ignored that's when you get into trouble.

No-one is saying either that employers can be absolved of all responsibility. We should quite rightly expect employers to protect their employees and members of the public affected by their work. But we can't have it both ways. It's no good complaining about red tape and then when something goes wrong crying 'why wasn't something done?' What we have to do is give confidence to school heads to take on a sensible rather than an over-cautious approach and to encourage those in leadership positions to lead and to have the courage of their convictions.

So we need to manage risks in proportion to their severity. We cannot eliminate all risk and it is counterproductive to try. We need to strike a sensible balance between risks and benefits, between planning and paperwork.

The Constitutional Affairs Committee report that I mentioned earlier accepts that while health and safety issues can be an easy scapegoat for many problems far more has to be done to educate the public that responsible risk management does not equate to the avoidance of all risk. HSE will be working to ensure that its approach is proportionate and not over-regulatory in vulnerable sectors but instead that it offers appropriate advice and support.

What is HSE doing then to help you to focus on the real risks and not the trivia? What is it doing to help you avoid all the unnecessary bureaucracy?

- An on-going research study looking into the root causes of excessive risk aversion. A final report will be ready in April, which aims to give an indication of the scale of excessive risk aversion as well as an insight into the drivers for such decisions. The report will identify where HSE needs to put its effort in countering excessive risk aversion.
- Developing a set of principles that set out what sensible risk management should, and should not, be about. They will be aimed at stakeholders and supported by examples as well as a specific commitment from HSE as to how they will be put into practice.
- Reviewing guidance on risk assessment and risk management, including a revision of the popular '5 steps to risk assessment' guidance. This will build on the success of the original but will emphasise the principles of sensible risk management as well as making the leaflet easier to follow. This is expected to be ready to launch in May/June time.

I hope this gives you a flavour as to how we see the issues and the approach we are taking. I know that there will always be differences of opinion as to exactly where the balance should lie between risk control and risk taking. This is a part of healthy debate and long may it continue. However, I do hope that we can find common ground in respect of the broad themes that I have talked about. Through further discussion and consultation we can identify the core principles to which we can all sign up to. If we do so we can ensure that the focus is moved away from trivia and myth and on to the risks that cause real and lasting harm to people.

Thank you