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HEALTH AND SAFETY COMMISSION

An Update on the Evaluation of the HSC Enforcement Policy Statement

A Paper by Jonathan Russell

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Cleared by Jane Willis on 18 May 2004

Issue

1. This paper sets out
 - The progress made to date in evaluating the impact of the HSC Enforcement Policy Statement (EPS)
 - The findings emerging from the programme's consultation exercise; and
 - The next steps to be taken.
2. The programme's primary intended output is evidence that will inform the next revision of the EPS, which is scheduled for 2007. The intended outcome is improved compliance with health and safety law.
3. The programme is led by CEPS 2. To date, it is delivering to time and to budget.

Timing

4. Not applicable.

Recommendation

5. That this paper be noted.

Background

6. The revised EPS was published in 2002 after extensive consultation and has been well received. It sets out the general approach which the Commission expects the health and safety enforcing authorities to follow. However, it was not founded on a wider evaluation of enforcement policy on compliance with health and safety law. HSC committed HSE to such an evaluation and agreed the programme in 2003.
7. The results of the evaluation programme will impact significantly on HSC's future enforcement policy. To reflect this, and the importance that HSC/E attaches to this work, the HSC Chair acts as programme champion.

Argument

8. → ← [Exemption 2: information that would harm the frankness and candour of internal discussion]

Emerging themes

9. →

10. ← [Exemption 2: information that would harm the frankness and candour of internal discussion].

11. In discussing alternative penalties, one of the emerging themes is how systems of restorative justice, including conditional cautions as introduced by the Criminal Justice Act 2003, may be applied to health and safety offences. There is interest in this as a potential means of instilling long-term cultural change among failing duty holders.

Next steps

12. There are some key stakeholders we have yet to meet; however, the first phase of the consultation exercise is nearly complete. We now intend to survey both HSE and LA inspectors and duty holders. We will distinguish between those duty holders who have experienced enforcement action and those who have not. This should provide useful information as to the role enforcement plays in securing compliance, and to the effectiveness of the existing enforcement tools.
13. We intend to keep stakeholders informed as to the progress of the evaluation and to continue to seek their input.
14. We will work with other government departments and relevant agencies in assessing the feasibility of applying systems of restorative justice, and conditional cautions, to health and safety offences.

Consultation

15. Stakeholders, in particular those whom we have met, have welcomed the evaluation. They have appreciated the approach, have been impressed with the openness of the debate and have welcomed HSE working in new ways. → ← [Exemption 13:

information of a confidential nature: voluntarily given in a legitimate expectation that it will be treated in confidence].

Presentation

16. Not applicable.

Costs and Benefits

17. The programme is being delivered to budget.

Financial/Resource Implications for HSE

18. As before, there is necessarily a high level of uncertainty as to the outcomes of this work and any related actions arising. It is therefore not possible to state what the financial and resource implications for the enforcing authorities will be. However, any specific proposals arising from the evaluation will be costed and these costs will no doubt be taken into account when decisions are finally taken.

Environmental Implications

19. Not applicable.

Other Implications

20. Scotland's legal system may have an effect on how any proposals arising from the evaluation programme are implemented. As with the financial implications, this will be taken into account when decisions on these proposals are finally taken.

Action

21. For this paper to be noted.

ANNEX 1

Face to face meetings have been held with the following stakeholders:

TUC – Tom Mellish, Health and Safety Officer

Association of Personal Injury Lawyers (APIL) – Lorraine Gwinnutt, Head of Legal and Public Affairs

Centre for Corporate Accountability – David Bergman, Director

Federation of Small Businesses – Corinna Langlaan, Head of Health and Safety

Network Rail – Chris Leah, John Abbot (Directors), Andrew Litherland (Legal)

Association of Train Operating Companies (ATOC) – David Weir, Director

CBI – Janet Ascherson, Head of Health and Safety

National Farmers Union – Lisa Wise, Health and Safety Officer

Police Federation – Brian Burdus, Paul Lewis

Forum of Insurance Lawyers – Claire McKinney, President

Engineering Employers Federation – Gary Booton, Head of Health and Safety

Institute of Directors – Geraint Day, Head of Health and Safety