HSC

Health and Safety Commission

From the Chair

Bill Callaghan

Rose Court
2 Southwark Bridge
London SE1 9HS

Tel: 020 7717 6610
Fax: 020 7177 6616
chairman@hse.gsi.gov.uk

www.hse.gov.uk

Lord Hunt of Kings Heath OBE
Parliamentary Under Secretary
Department for Work and Pensions
Richmond House
79 Whitehall
London
SW1A 2NS

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Dear Lord Hunt

Directors' Responsibilities for Improving Health & Safety

Last year, your predecessor asked the Commission to evaluate the effectiveness of the current approach to securing Director commitment to improving health and safety and whether new legislation on Directors' duties was required. I am writing now to let you know the Commission's conclusions to date.

We have reviewed the evidence presented in the paper HSC/05/90 and discussed with stakeholders at seminars this autumn. Stakeholders' views were mixed: there were differing judgements about the most appropriate policy levers to achieve the desired changes in Director behaviour.

At our meeting on 6 December, there was a general consensus that the current activities were having a positive impact on behaviour, for example the guidance on Directors' responsibilities and the leadership case studies. There was also a consensus that the Executive's proposal to step up advice and enforcement action had merit. We agreed that a range of approaches is needed to motivate Directors to provide leadership on health and safety, including:

- **authoritative guidance** setting out what is expected of Directors. This should clarify expectations of Board level leadership and appropriate collective action, taking account of modern business models, such as the growth of contracting out. The intention is that this will be developed by a senior business figure, with extensive Board level experience, and with full involvement of key stakeholders;
- **consistent and perhaps more robust enforcement** of current legislation (in particular, Section 37 of the HSWA and seeking greater use of Director Disqualification as a penalty), with well targeted publicity to maximise the demonstration effect;
- **serious examination of the options for legislative change** to strengthen director leadership.

We also agreed that any approach needs to cover both the public and private sector, and Directors of all sizes of company. Against the background of the Hampton Report, we noted that it was unsatisfactory that enforcement falls disproportionately on small firms and that the legislation may have been ineffective in tackling rogue Directors. The research shows that over the last 10 year's 86 Directors have been convicted of health and safety offences, of these 11 were jailed. These cases all relate to small firms.

In light of our discussion, we agreed to ask the Executive to advise us further, following a short review of the options, on possible legislative action to strengthen Director leadership in health and safety. The review will consider the scope for reformulating Section 37, along with options including placing a positive duty on Directors. It will also consider what kind of due diligence defence might be necessary.

We have asked the Executive to report back to us their findings in the Spring, enabling us to provide you with further advice on possible legislative change.

Yours sincerely

Neal Stone

pp **Bill Callaghan**
Chair, Health and Safety Commission

Signed by Neal Stone at the request of the HSC Chair

CC. Rt Hon John Denham