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HEALTH AND SAFETY COMMISSION

Review of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 - Progress and Strategic Steer

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Cleared by CE / DCE on 11 July

Issue

1. A strategic steer on next steps with the review: the options are some streamlining/process improvements which should generally be welcome but may not be worth the effort and more radical change which would deliver savings to us and business but which will be more controversial, especially with Local Authorities.

Timing

2. Routine. A view is needed at this stage to determine the way forward. If directed to proceed, HSE will return in early 2007 with detailed consultation options for approval.

Recommendation

3. That the review should only proceed to the next stage if the Commission wishes HSE to develop a package for consultation on the basis of radical change.

Background

4. RIDDOR's fundamental purpose is to:
 - Enable investigation and reactive enforcement, and
 - Provide intelligence to steer resource application.

But, much of the information required for intelligence is obtained from sources other than RIDDOR, most notably on health (see Annex A).
5. Stakeholders have said RIDDOR is complex and confusing. Compliance levels are poor overall and reduce effectiveness in both the above areas. Levels vary widely by sector and size of undertaking. Compliance is generally good among larger firms, but gets much worse with the decreasing size of the firm. There are concerns that the compliant are disadvantaged by being targetted for enforcement, and potentially excluded from tendering for work by some organisations.

6. Building on stakeholder views collected by last year's discussion exercise, the review aimed to identify essential information enforcing authorities need and use, and consider the presentational effects of change on health and safety management practice. The main objective has been to seek opportunity for simplification to improve focus on essentials, and improve compliance in those areas. In summary, the review has found that :
- to contribute to effective enforcement, enforcing authorities need reports of fatal and major injuries;
 - the disease reporting requirement is ineffective. Little use is made of the information. It could be dropped and other routes (e.g. involving GPs and Workers) explored to supplement the existing intelligence sources;
 - The reportable dangerous occurrences can be simplified and reduced in number;
 - There is a mixed view on enforcing authorities' need for reports of accidents at work leading to more than three days absence from normal duties (o-3-d accidents).
 - HSE does not need o-3-d reports for enforcement, but a majority of local authorities wish to retain the requirement;
 - There is some need in HSE for intelligence extracted from o-3-d reports, for example to steer the Injury Reduction Programme;
 - RIDDOR does have some influence on good recording practice as part of health and safety management, but is by no means the only driver, and is arguably not the best way to promote good practice;
 - To comply with European law, we must continue to require employers to record o-3-d accidents and report some (e.g. those which are major) to meet enforcing authorities' needs. European law also requires reporting of some information collected via Dangerous Occurrences.
7. Annex B summarises the background to RIDDOR, the current review and its objectives and main findings.

Argument

8. Overall, the review has concluded that abolition is not an option. However there is support for change, but debate over the scale. Any change brings costs, particularly for duty holders (changing systems, briefing staff etc), and so must deliver worthwhile benefits to balance that burden of change, particularly in terms of improved compliance among SMEs.
9. On regulatory change, there is scope to **streamline** the requirements in two main areas:
- Drop the disease reporting requirement in Regulation 5, but retain the dangerous occurrence covering escape of substances likely to damage health, and explore using the incident contact centre as intelligent support for a new facility for GPs, workers and safety representatives to notify health issues;
 - Simplify and reduce the number of dangerous occurrences. In specialist areas we rely on information gathered, but there is scope to streamline the 'general' list.
10. This would represent a low-risk approach supported by consensus among enforcing authorities over impact on information needs. It would address two areas where understanding and compliance is very poor. However, it would not simplify areas where

poor compliance has a significant impact on targeting enforcing authority enforcement and HSE's judgement is that the likely longer-term benefits to duty holders would not be worth the immediate burdens of change.

11. A more **Radical** overhaul would involve:

- Making the changes above; and
- Greatly simplifying the major injury reporting requirement, by changing the reporting trigger from reference to a schedule of 13 types of harm, to accidents where the worker is taken to hospital. This would align it with the trigger for injuries to non-workers; and
- Either
 - removing the requirement to report o-3-d accidents, while retaining the recording requirement but exploring linking it more clearly with the well understood duty to maintain an accident book; or
 - exploring the possibility of excluding small undertakings (e.g. less than 10 employees) from the duty to report (but still record) o-3-d accidents. This is based on the HSE view that these reports are used primarily for intelligence, not reactive enforcement. Recording could be linked more clearly to the accident book, as above.

12. This radical overhaul would make promoting the duty to small firms much easier, address the problem of complexity, and would focus on improving compliance in essential areas. The likely benefits to duty holders would outweigh the cost to them of change.

13. There are, however, mixed views on the desirability of the over-three-day change options:

- HSE does not need o-3-d reports for reactive enforcement purposes. However, loss of the intelligence from the reports would mean some reduction in the ability of the Injuries Reduction elements of the Fit3 Strategic Delivery Programme to target interventions at the sub-sector level. Provided resources continue to be made available, enhanced surveys together with major injury data could provide much of the higher-level intelligence needed for more tactical targeting of Fit3, but they could not replace the o-3-d intelligence used to finely target interventions by HSE staff who deal with specific industry sectors.
- For local authorities, the clear majority view of the LACORS Health and Safety Policy Forum¹ is that o-3-d reports are an invaluable source of information and it would impact on local authorities' business if their collection were stopped. As a result, the Policy Forum has recommended that removing o-3-d reporting should not be part of any consultation on changes to RIDDOR. As one half of the health and safety enforcement resource in GB, local authorities are concerned their view should be taken into account, and see this as an important test of the balance of the partnership. LACORS was not asked to consider the option of a small-firm threshold.

14. In addition to any change to the Regulations, there may be scope to build on the customer friendly Incident Contact Centre reporting system by making process improvements. Marketing a clearer, simpler message than we do at present about the

¹ Made up of representatives from Heads of Service of Environmental Health, and Environmental Health Officers with a specialist role in Health and Safety from each English region, Wales and Scotland.

reporting duty could minimise time spent by duty holders, particularly smaller businesses, understanding complex definitions and requirements.

15. More information on the streamlining and radical options for change is given at Annex C.
16. The RIDDOR Review Discussion exercise floated the specific issue of making work-related road traffic incidents RIDDOR reportable, and responses suggested real-world demand for such a requirement, primarily to signal the importance of the issue. Since the end of 2005 however, we have been engaged with DfT in a programme of work designed to raise awareness of employers' (and employees') responsibilities in relation to safe driving. One element of this was to agree new guidance with the police to reinforce a mechanism whereby the police provide us with information on accidents where there is reason to suspect that failures in health and safety management were a significant causal factor. In view of these considerations and the review's objectives, we advise the Commission to agree that any consultation document should make the case against including a requirement to report on work-related road traffic incidents.

Consultation

17. Building on consultation from the public discussion exercise and small firms research last year, HSE has consulted with LAs via LACORS, the Small Business Trade Association Forum, Association of British Insurers, and Other Government Departments (Cabinet Office, Department of Health, Department of Work and Pensions, the Office of Rail Regulation, and HM Revenue and Customs). HSE has also sought an early view from the internal Better Regulation Challenge Panel.
18. Further stakeholder engagement on shaping the detail of the possible new package would be conducted as part of the next stage, if the review were to continue.

Presentation

19. Proposals for any change would have presentational implications that would need to be managed. Change could send inadvertent signals about the relative importance of issues like health and the degree of monitoring necessary to manage effectively. However, the review has found that RIDDOR is by no means the only driver for record keeping as part of good health and safety management practice. A key part of developing any consultation package would include producing a communications strategy that covers issues raised, potential messages sent to stakeholders, and how to signal intended messages.
20. Any communication strategy associated with change would need to focus on reinforcing the importance of good health and safety management practice and sending the messages that:
 - Sensible management systems and record keeping on injuries and ill-health are required to comply with the Management of Health and Safety at Work Regulations 1999. This does not change. RIDDOR requirements focus on what enforcing authorities need and are complementary to, not a complete definition of, duty holder's record keeping responsibilities.
 - Health remains a significant issue to address – but most intelligence for the enforcing authorities to support their role in that is now obtained from more effective sources than the very poorly complied with RIDDOR requirement.

Costs and Benefits

21. In November 2005 the Prime Minister announced a target for HSC/E to reduce administrative burdens imposed by compliance with health and safety regulation by 25%. Against this background the Commission will wish to note that RIDDOR is 15th in the top 20 list of health and safety administrative burdens. Although RIDDOR is one of the best known health and safety administrative requirements, this position in the list reflects the good fit with normal business practice regarding recording absence and work already done in recent years to make the reporting system more customer-friendly via introduction of the Incident Contact Centre. There will be an opportunity for HSC to discuss the overall approach to administrative simplification at the September meeting.

Financial/Resource Implications for HSE

22. The cost to HSE of the review project to date has been £146,000. If the Commission agree to consult on a radical overhaul of RIDDOR it could lead to:

- Further review project costs (excluding communications which is yet to be determined) of £250,000.
- Potential cost savings through the re-negotiation of the ICC contract, depending on how the ICC will be used in future; but also
- Potential increased costs from ICC involvement in any new GP/worker ill-health notification facility; and
- A potential increased requirement for spending on new occasional surveys to collect intelligence at the over-three-day accident level no longer acquired through the new RIDDOR (possibly through the ICC and HSL), calling on employers' accident book records. However, if injuries reduction programmes move to a more tactical level of targeting, increases are likely to be modest when expressed as a yearly average.

Action / Next Steps

23. The Commission is asked:

- (i) To consider if the review should continue, in the light of HSE's views on the cost-benefit balance of change options, and mixed views on the need for o-3-d reporting;
- (ii) If so, agree the next step is a consultation document with proposals for radical change (paragraph 12-13)
- (iii) If not, decide the review should stop now and HSE policy resource be redeployed; and
- (iv) ask the HSE to consider (if resource permits) the potential for modest process improvements to the telephone reporting service ahead of recontracting (paragraph 14).