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HEALTH AND SAFETY COMMISSION

Final draft of new HSC/Institute of Director's guidance on director responsibility for health and safety

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Cleared by Jonathan Rees on 20 August 2007

Issue

1. Draft guidance for directors on their leadership for health and safety, prepared at HSC's request by a steering group led by the Institute of Directors (IoD).

Timing

2. Launch of the guidance is planned for 29 October 2007.

Recommendation

3. The Commission agrees to publication of the draft at Annex A, and the plans for promotion and evaluation at Annex C.

Background

4. At the Commission's request, the IoD has been working with a stakeholder steering group (with HSE providing the Secretariat) to prepare new guidance for directors on their responsibilities for health and safety. The steering group (SG) is comprised of nominees from key representative bodies (see Annex B) and is chaired by Michael Large, vice-chairman of the IoD.

5. The SG commenced its work in October 2006 and in the following May issued a draft for public consultation; this draft was tabled at the Commission's June 2007 meeting (paper HSC/07/34). Commission members were sent a copy of the SG paper that outlined the results of this consultation on 25 July 2007. The SG considered these results, including of course comments made by the Commission in the June discussion. The latter included the need for the case studies to be made more compelling; stronger emphasis on leadership and that a separate SME version was not needed. These are all points that the SG has taken account of in this final draft, which it recommends for publication.

Argument

Development of the guidance

6. The guidance has been drafted with a view to informing boards and their members, in the public, private and voluntary sectors, how to behave so as to help their organisation meet its legal obligations as an employer under the HSW Act. It has been produced in the form of an action plan, **enabling a board to provide a lead on the planning, delivery, monitoring and review required for effective health and safety performance.**

7. The main themes of the consultation responses, to which the SG has in its amendments sought to respond, were:

- Reinforcing the language to emphasise leadership and the governance context
- Making the checklist more suited to the role of directors, with less on management
- Clarifying the meaning of some of the core actions
- More clearly making the case for boards taking action and illustrating the consequences of failure (with three case studies towards the end)

8. There were two issues raised in responses which the SG felt it could not fully take on board:

- The reiteration (by a number of TU respondents) of the view that new legal duties are required. It was not of course the SG's role to take a view on this. HSC has itself agreed and advised Ministers (in May 2006) that it will return to the issue at a subsequent meeting once wider developments, notably on corporate manslaughter, penalties and directors' duties under company law are clearer and the implications for director responsibility for health and safety better understood. HSE has preparatory work underway to enable a future Commission discussion to be informed by an up to date assessment of enforcement under the current regime and recent wider legislative developments, including the Corporate Manslaughter and Corporate Homicide Act 2007, which comes into force on 6 April 2008.
- The view of some that more prominence should be given to the 'Baker Report' and the US Chemical Safety Board report following the BP Texas City refinery explosion in the US. The SG considered doing this through a case study; however, this risked unnecessarily singling out the company; instead, case studies illustrating the unambiguous consequences of failure of leadership, from several different sectors, have been added. (The guidance also points to further advice that HSE has published on leadership for those in major hazard industries). Work to ensure that lessons from recent events, including Texas City, are properly learnt is being picked up under HSE's Major Hazards Strategic Programme (this was discussed by HSC at the meeting on 6 February 2007).

9. The guidance will not stand alone. An associated 'director leadership' webpage will be created on the HSE website in time for the launch. This will provide links to further information, including other relevant guidance, case studies and contacts.

10. The guidance is to be jointly badged by HSC and IoD. Badging by the other organisations involved was considered but the steering group felt that this would delay the publication excessively (since it would involve all the organisations concerned formally clearing the guidance). However, the participation of the organisations is credited in the guidance.

Promotion

11. The guidance will be launched on 29 October 2007, at the IoD HQ in Pall Mall. Both the Secretary of State and Lord McKenzie have agreed to attend and speak, as have the Director General of the IoD and Judith Hackitt.

12. Several organisations have agreed to assist in the promotion of the guidance including those representing the interests of board members, such as the CBI and the NHS Confederation; and those who can influence board members such as the Institute of Chartered Secretaries and Administrators. This will involve them in such activities as articles, interviews and distribution of the guidance in members' magazines, coverage in conferences and regional meetings.

13. Development of the guidance has already been promoted in a number of speeches given by the Minister, the HSC Chair and senior officials in HSE and IoD. Speaking material is being prepared for use with future speeches, which will be copied to Commissioners; messages will be refined for each sector, including SMEs. More detail on the plans for communications is attached in Annex C.

Evaluation

14. We consider that evaluation of the guidance needs to be undertaken in two stages:

- i) assessment of the extent to which the guidance reached its target audience and of its initial impact (was it read, was it considered relevant, did it trigger any initial action). This to be done six months after launch, enabling a relatively early opportunity to take remedial action if necessary; and
- ii) assessment of the impact of the guidance on the behaviour of board members. A series of surveys carried out for HSE¹, culminating in 2005, which looked at board level direction of health and safety provides a suitable baseline. This to be done 18 months after launch.

Consultation

15. HSE's Legal Advisors Office have said they are content, CoSAS is happy with the plans for evaluation and the Communications Directorate has been consulted and are satisfied with the overall presentation.

¹ ["Health and safety responsibilities of company directors and management board members: 2001, 2003 and 2005 surveys"](#) HSE Research Report RR414 prepared by Greenstreet Berman Ltd.

Presentation

16. See above, para. 9ff.

Costs and Benefits

17. The Commission considered a Regulatory Impact Assessment² (annexed to paper HSC/06/44) when it took the decision in May 2006 to proceed with this guidance.

Financial/Resource Implications for HSE

18. Costs to HSE of providing the Secretariat to the IoD Steering Group and producing the guidance amount to approx £115,000, ie.

- Staff costs - £70k over a 21 month period (Sept 06 – March 08);
- Journalist fees estimated at - £5k;
- Initial promotion costs estimated at £20k;
- Production cost estimated at - £20k for a 200,000 initial production run;

19. CoSAS advice is that evaluation in 2008 and 2009 would best be carried out by HSL under current arrangements. HSE's estimate of the resource cost to HSL for this work is £80,000 during 2008/09 and 2009/10 – it is not included in the estimates in para 18.

20. IoD have and will provide resources, facilities and administration for the Steering Group, the consultation, the launch event and promotion to their members.

Environmental Implications

21. None.

Other Implications

22. None

Action

23. The Commission is invited to:

- Agree to:
 - publication of the guidance at Annex A.
 - the plan for promotion

² <http://www.hse.gov.uk/aboutus/hsc/meetings/2006/090506/c44e.pdf>

- the plan for evaluation

The SG's recommended draft guidance

INSTITUTE OF DIRECTORS
Steering group
for the production of joint IoD/HSC guidance on
directors' responsibility for health and safety

Members of the steering group

Name	Nominated by	From
Michael Large	Steering Group Chair	IoD
Dr Peter Doyle	CBI	formerly of ICI
Mike Welham	Federation of Small Businesses	Total Control Risk Management, Norwich
Paul Lankester	Local Government Association	Stratford upon Avon DC
Bud Hudspith	TUC	Amicus
Professor Frank Wright	Lawyer/academic	University of Warwick
Richard Jones	H&s professionals	IOSH
Dr Rowland B Hopkinson	NHS confederation	Heart of England NHS Foundation Trust, Birmingham
Eva Garland	National Council for Voluntary Organisations	The Princess Alice Hospice, Surrey
Alan Morley	Secretary	HSE
Mark Beishon	Copywriter/journalist	
Geraint Day	Observer	IoD
Patricia Peter	Observer	IoD
Tom Nash	Observer	IoD
Jenny Eastabrook/Elizabeth Hodkinson	Observer	HSE
Laurence Golob	Observer	HSE

PROMOTION OF THE NEW GUIDANCE FOR BOARD MEMBERS - AN OVERVIEW

Messages to board members to raise awareness and interest in the new guidance

Board members' role

- Board members have a vital, leadership role in achieving success in all aspects of their organisation's performance, and health and safety is a key aspect.
- Success in health and safety will bring benefits to your organisation - reduced sickness absence, reduced loss time, improved staff morale, improved company reputation.
- Leading on health and safety is not difficult, but it does require some time and commitment from you to do it properly;

What the guidance can do to help Board members

- New health and safety guidance for board members; it does not add new requirements, but it does explain in practical language what board members need to do. It has been produced as an action plan, enabling a board to provide a lead on planning, delivery, monitoring and review required for effective health and safety performance.
- Here is authoritative guidance – a step by step guide written “by directors, for directors” [or by “board members for board members”] – to help you.
- If the introduction of the Corporate Manslaughter and Corporate Homicide Act in April 2008 prompts you to re-assess your organisation's health and safety performance, use this guidance to judge whether the board is playing an effective role.

Planned awareness raising activities to board members, and their influencers

- Corporate stakeholders and other organisations are being consulted to promote the guidance (e.g. in magazines, newsletters, emails, regional meetings, conferences);
- Distribution of hardcopy, via Institute of Directors (IoD) and possibly others.
- Promotion of the launch through press articles – health and safety press, press aimed at directors (e.g. IoD publications, CBI) national press (Financial Times);
- The launch of guidance for the Corporate Manslaughter/Homicide Act will refer to the new HSC/IoD guidance for board members;
- A launch event with the IoD at their Pall Mall HQ on 29 October;
- Speeches made by Ministers, Commissioners, senior HSE officials, IoD staff, steering group member organisations and others (see table below);
- Sustained coverage through follow up articles, surveys, discussion at regional meetings (e.g. CBI), possible RoSPA roadshows (see table below).

Communications material and routes

Communications material is being produced to help organisations that agree to publicise the guidance to their members. Internal communications will also be undertaken, particularly with FOD, HID and NSD.

The guidance will be produced both in hardcopy and on the HSE website, where it will be available both as a downloadable/printable pdf file and also as easy-to-view webpages.

The balance between promotion of the web version and distribution of hardcopy needs to be kept under review. Whilst HSE's Comms considers that the web should be used as the main means of distribution, the IoD steering group overseeing the production of the guidance is clear that it is important to get a hard copy into the hands of board members since this is the most effective way of getting them to read it

The main methods of promotion planned are to partner with a range of organisations across all sectors that are capable of reaching directors/board members or those who can influence them. The main material that HSE intends to support promotion activities are:

- content or complete articles for publications that will mention the web version;
- succinct copy, links and images for promoters' websites;
- speeches and content for speeches;
- hardcopies of the guidance for meetings and conferences (quantities to be decided);
- for a few major publications an interview with a senior HSC/E and/or IoD official;
- distribution of 50,000 copies with the IoD Director Magazine; This is currently the only planned large-scale distribution though the hardcopy option will be offered to other relevant organisations;
- promotional A5 flyers advertising the website for use at conferences or in publications;
- PowerPoint slides and/or other promotional material/briefing that HSE can provide or speak about at meetings (e.g. SBTAF, CBI, British Chambers of Commerce)

High Priority Groups for awareness raising

The most important groups to reach are the board members and equivalents.

- a) Executive and Non-executive Directors of Registered Companies.
- b) Public sector board members, including.
 - NHS Chief Executives and Directors.
 - Local Authority Chief Executives,
 - School Governors and Further/Higher Education Directors.
- c) Third sector Chief Executives, Directors and Trustees.
- d) Armed Forces Directors.
- e) Directors of Mutual Societies.

High priority needs to be given to the following influencers:

- a) Health and Safety Enforcers (HSE, LAs, ORR).
- b) Health and Safety Managers.

- c) Steering group member organisations (IoD, CBI, FSB, LGA, TUC, IOSH, NCVO and NHS Confederation).
- d) Health and Safety Consultants.
- e) Health and Safety Media.
- f) General Media.
- g) Trade Associations.
- h) Insurers and Investors
- i) ICSA (Company Secretaries)
- j) Chartered Institute of Personnel and Development

Reaching the high priority groups

The following section shows the main organisations/routes that are being considered with the aim of raising awareness and interest amongst the target audiences listed above.

- **Executive and Non-executive Directors of Registered Companies**
The following routes are being investigated for reaching this group of directors: IoD; Institute of Chartered Secretaries and Administrators (ICSA); Confederation of British Industry (CBI); Business pages in national papers.
- **Public sector board members**
The following routes are being investigated to reach public sector board members: Local Government Association (LGA); Local Government Employers (LGE); Society of Local Authority Chief Executives and Senior Managers (SOLACE); Local Authority Co-ordinators of Regulatory Services (LACORS); Cabinet Office; Devolved Authorities (Scotland and Wales).
- **NHS Chief Executives and Directors**
NHS Employers is being contacted.
- **Small Business**
The Federation for Small Business (FSB), HSE's Small Business Trade Association (SBTAF) are being consulted, as will others to be confirmed.
- **School Governors and Further/Higher Education Directors**
Various routes are being investigated including: Higher Education Forum (HESH); Further Education Forum (FESH); Local Authority Forum; Independent Schools Bursars Association; OFSTED; Learning and Skills Council; National Governors Association.
- **Armed Forces Directors**
The MoD is being made aware of the guidance.
- **Local Authority Chief Executives**
The following routes are being investigated: LGA, LGE; LACORS; SOLACE.
- **Health and Safety Enforcers**
Direct contact to be made with: HSE; LACORS; Office of the Rail Regulator (ORR).

- **Health and Safety Managers / Health and Safety Consultants**
IOSH and RoSPA are being consulted about promoting the guidance to these audiences.
- **Health and Safety Media and General Media**
Press Office is being consulted
- **Charity Sector**
National Council for Voluntary organisations (NCVO) and the Charities Commission are being contacted.
- **Trade Associations and other industry bodies**
Direct contact will be made with trade associations including: EEF, Strategic Forum for Construction.
- **Insurers and Investors**
British Insurance Brokers' Association (BIBA) and the Association of Insurance and Risk Managers (AIRMIC) are being consulted. (ABI will promote the guidance on their website).
- **Directors of Mutual Societies**
The Financial Services Authority will be made aware of the guidance
- **Relevant HSE corporate stakeholders**
Relevant stakeholders are being contacted with the knowledge of the lead HSE contacts.

Planned Promotional Activity

Activity	Date	Audience
Communications to HSE operational staff	Sept / Oct 2007	Enforcers
Communications to other health and safety enforcers	Sept / Oct 2007	Enforcers
HSE speaking at RoSPA Scotland Directors' Health and Safety Responsibilities Conference	26/9/07	company directors and senior managers, health and safety professionals, risk and insurance managers and business advisers
CBI Corporate Manslaughter conference, where Maria Eagle, PUSS at Ministry of Justice, will be launching guidance on Corporate Manslaughter. HSE officials are participating – we are asking for the Minister to mention our new guidance for board members in her speech.	11/10/07	Business leaders, directors, business opinion formers
Launch event at IoD HQ	29/10/07	Wide-ranging
Article in IoD Director magazine along with a copy of the guidance	Nov 2007	Directors/board members.
BIBA to promote on website and monthly email to its members	Nov 2007	Insurers.
ICSA to promote through an article in Chartered Secretary magazine	November 2007	Company Secretaries.
Articles in other press (national, health and safety, membership organisations aimed at directors and those that can influence them)	Oct/ Nov/ Dec 2007	Directors, influencers, opinion formers, standard setters
Awareness raising of web version – flyers for use at conferences / in conference packs	Nov 2007 – April 2008	Directors, influencers, opinion formers, standard setters
Distribution of hardcopy	Nov+ 2007	Directors, influencers
Promotion through FSB magazine, newsletter (TBC)	Nov+ 2007	Small business directors
Work Related Deaths Protocol National Liaison Committee meeting on corporate manslaughter	Autumn	Enforcers
HSE official speaking at RoSPA Directors' Health and Safety Responsibilities Conference, London	26/11/07	See earlier RoSPA entry.
Lord McKenzie and an HSE official speaking at RoSPA conference	26/11/07	As above.
Article in CBI's Business Voice magazine (TBC)	Dec 2007	See earlier CBI entry.
Presentations / material for CBI regional meetings (TBC).	Nov 2007 – April 2008	As above.
RoSPA Road shows (TBC)	Nov 2007+	See earlier RoSPA entry.
HSE Major Hazards stakeholder conference.	28/4/08	Directors
Promotion is being planned across all sectors highlighted under 'High Priority Groups' (e.g. Trade Associations, TUC, NHS, Education, Local Government, legal services etc.)		