

Health and Safety Executive Board		Paper No: HSE/08/59	
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Acting Chief Executive's Report to the Board			

Evaluation of LA:HSE Partnership

1. The evaluation of the partnership is now complete and the draft management summary has been circulated, attached to MISC/08/17. The evaluation concludes that our model for partnership working is effective and has produced a step change in our relationships with LAs and hence delivery of our strategic objectives for health and safety. The findings support continuing with partnership as the way we work with LAs. Key to this success and the continued health of the partnership is the resourcing and support of HSE's regional Partnership Managers and their teams, including the secondees from LAs who support our partnership work.
2. The report makes a number of further recommendations regarding development of the partnership, including refining and publicising better definitions of the roles and responsibilities of the governance structures, reinforcing the performance management arrangements to secure more consistent participation and delivery by HSE and LAs, better alignment of LA and HSE planning cycles and more sharing of good practice. The recommendations from the evaluation will be discussed with LA representatives and a paper will be brought to the October Board meeting.

SCS Event

3. The latest SCS Leadership Event was held in Liverpool on 12 September. The Chair attended the morning session to speak and answer questions and gave her perspective on the organisation since taking up her role a year ago. She also gave a presentation on progress with the strategy and outlined the emerging key strategic objectives and the plans for consultation with staff and stakeholders. This was the first time the SCS had seen the core of the strategy and they spent much of the rest of the day considering the content and how it might best be implemented by HSE. They focused discussions on the questions of what HSE should continue doing and what it should do differently to deliver the strategy. Their views will be fed into the work that will be taken forward to develop HSE's business plan. There was general support for the propositions in the core and keen interest in helping and supporting delivery. Geoffrey Podger closed the event by updating the SCS on a number of current issues of interest for HSE.

HMS Tireless

4. The Ministry of Defence (MoD) laid in Parliament on Monday, 15 September its latest report on HMS Tireless. MoD's Defence Equipment and Support (DES) committed to make public findings from its investigation into the circumstances of two fatalities on HMS Tireless, following publication of a MoD Board of Inquiry report on 12 June 2008. In March 2007 two seamen were killed when a self-contained oxygen generator - SCOG - misfired and exploded while the submarine HMS Tireless was on exercise in the Arctic. HSE was approached by Royal Navy Police

investigators in late 2007 for it to explore any health and safety aspects of their investigation into the deaths. The MoD published a Board of Inquiry report into the incident in June 2008.

5. This latest DES report is a technical account of the management and supply of SCOGs to the fleet, including Tireless, and makes 14 recommendations for improvements across the logistics management process. It also concludes that disciplinary action against individuals is not justified. HSE will now study this report alongside the other outputs relating to the incident, and then will communicate its findings to the bereaved families and the Coroner. HSE has consistently held the line that its jurisdiction is limited to GB shore-based activities, and that our consideration of risk is circumscribed to matters that pose risk to workers and others in GB. Armed Forces Minister Bob Ainsworth, in his Written Ministerial Statement, noted that HSE was being kept fully informed.

Asbestos Exemption

6. Judicial Review proceedings have been brought against HSE by a local resident in Hartlepool. The Claimant is challenging HSE's decision to grant an exemption certificate under the Control of Asbestos Regulations 2006 to Able UK to allow the importation of asbestos contained in a French naval ship. Able UK have won a contract from the French Government to dismantle the ship in Hartlepool. A preliminary hearing is listed for the week commencing 29th September 2008.

HSE and the Polish National Labour Inspectorate (NLI)

7. Following my visit to Warsaw earlier this year HSE agreed to a number of bilateral initiatives with the Polish NLI, which are progressing well. For example;
 - two inspectors from Construction Division recently attended an international seminar in Wroclaw to address 'Large construction investments and the safety of migrant workers';
 - an exchange of inspectors, part funded by the European Commission, is underway with a Principal Specialist Construction Inspector from Poland visiting Birmingham, Liverpool and London to assist in making and improving contacts with the Polish Communities; to joint visit with inspectors to identify issues for Polish workers in the construction industry; to identify recruitment channels for Polish workers, with a view to influencing them; and to provide an understanding of standards and practice in Poland to inform our understanding;
 - a delegation from the Polish NLI is due to visit HSL and Redgrave Court in October.

How and Where We Work

8. Further to the first Flexible Early Release scheme (FER) scheme earlier this year for those staff in scope under the How and Where We Work Programme, a second scheme was launched on 17th September. The criteria for the second scheme are broader, with a view to attracting a greater number of applicants, while the benefits individuals receive and the costs to DWP will stay the same. In most cases, staff will leave under the scheme, by March 2009.

Senior Staff Changes

9. **Kevin Myers** and **John Osman** have been successful in open competitions overseen by the Civil Service Commission. Kevin has been appointed Deputy Chief Executive and will take up post on 13 October; and John has been appointed Chief Medical Adviser and will take up post on 1 October 2008. John will also continue to act as Head of Epidemiology.
10. **Sandra Caldwell** will retire in February. **David Ashton** will continue as Acting Director of FOD and **Peter Baker** will become Acting Director of HID from 13 October. Both temporary appointments will cease when substantive appointments can be made following open competition.
11. **Stephen Williams** will take up the new post of Director of London and the Olympics (including related construction issues). Stephen will continue as Chief Inspector of Construction until the post is filled through open competition.

SANDRA CALDWELL

Management

- The SMT met on 3rd September and discussed: finance and staffing (inc recruitment activity to maintain frontline capacity); the health and safety performance of HSE; domestic gas safety; and, the progress with the development of the new HSE strategy.

Operations

- 14 Fatalities were reported to HSE in August. Brief details are given in Annex 2

Significant prosecutions in August included:

- Scottish Coal Company Ltd was fined a total of £400k after pleading guilty to breaching S3(1) of the HSWA following the death of two men who were crushed by a dumper truck.
- R Maskell Ltd of Loughton, was fined £150k (plus £30k costs) after pleading guilty to S2(1.) of the HSWA and Reg 18 of the Construction (Health, Safety and Welfare) Regulations 1996.
- Spanclad Ltd, in the West Midlands, was fined £80k (plus £10,000 costs) after pleading guilty to breaching S2(1) of the HSWA following the death of a contractor who fell from a tower scaffold. Additionally, the principal contractors, Westminster Building Co Ltd, was fined £40k (plus £10k costs) after pleading guilty to breaching Section 3(1) of the HSWA.
- LCH Contracts Ltd of Great Burstead, was fined £70k (plus £14k costs) after pleading guilty to two Health and Safety breaches of Regulation 15 of the Control of Asbestos at Work Regulation 2002 and Regulation 7 of the Control of Asbestos at Work Regulations 2002.
- Kingswood Learning and Leisure (Group) Ltd in Norwich, was fined £12k (plus £11k costs) after pleading guilty to breaching section 3(1) of the HSWA., when an eight-year- boy was injured during a school trip to the Kingswood Activity Centre at West Runton. He fell six metres from a climbing wall, sustaining a broken ankle and bruising to his pelvis, upper leg, left ankle and arms.

Myth of the Month

- **“HSE bans this, that and the other”.**
- There have been many reports of HSE, and health and safety law, being responsible for banning all sorts of things. Actually, HSE has banned very little outright, apart from a very few high-risk exceptions (e.g. asbestos which kills over 5,000 individuals a year).
- HSE believes that health and safety should be about taking practical steps to manage real risks, not bureaucracy leading to the banning of everyday activities.

FOI Requests

- 451 Freedom of Information requests were made to HSE in August.

Consultations

- There were no consultations in August.

Parliamentary Business

- There were no PQs in August.

Annex 2

FATALITIES REPORTED TO HSE DURING AUGUST

These initial notifications are not validated in that investigation has not as yet confirmed that all the deaths were work related

AGE	REGION	INDUSTRY SECTOR	DESCRIPTION
N/K	London	Food & Agriculture	Large roadside tree fell over and struck DPs transit van
20	Scottish Borders	Agriculture	DP driving 2 seater all terrain vehicle in convoy when vehicle veered off and rolled down embankment for unknown reason
50	Norfolk	Agriculture	DP was transferring oxygen from a large cylinder on a mini welding set when a length of old hydraulic pipe failed
48	Cheshire	Construction	DP employed by sub-contractor on a water distribution project and fell down a hole 16m into an underground tank whilst collecting bricks
29	Cambridge	Manufacturing signs	DP crushed by large sheet of glass whilst unloading it from a container
15	Norfolk	Entertainment	DP went swimming outside marked area of swimming lake in the broad when they got into difficulties
49	Lancashire	Social & personal care sector	DP had physical and mental disabilities and was left in living room with food and died of Asphyxia and inhalation of food
54	Worcestershire	Agriculture and food	DP became trapped between the collector eel and auger at the front of an open cab combine harvester
33	Oxford	Health & social care public services sector	DP was sectioned under Mental Health Act and placed in a secure unit, they suffered injuries to head and face in unit and apparently asphyxiated themselves
49	Inverness	Construction	Guardrails in 2 rows along flatbed and lorry driver stood on far side of lorry during unloading. Forklift truck forks extended beyond nearside guardrails and caught far side guardrails causing them to topple onto lorry driver
44	Nr Thirsk	Pet food manufacture	DP checking to see if bins were empty or not when backing up a truck when they got their head crushed between the top of the bin and the superstructure of a LT canopy
61	Staffordshire	Agriculture	DP was trapped in large silage round baler while bailing silage
28	Oxfordshire	Construction	DP operating cherry picker which overturned trapping them between the basket and the roof structure
78	Derbyshire	Agriculture	DP walking through field with dog when they were trampled by cattle

UPDATE ON EU HEALTH AND SAFETY DOSSIERS

This annex to the Chief Executive's Report provides the Board with a monthly update on progress with EU health and safety dossiers that HSE leads on for HMG or other dossiers that HSE has an interest in but not the lead. To help the Board keep track of developments, each dossier is either marked '[UNCHANGED FROM LAST BOARD UPDATE](#)' or '[NEW DEVELOPMENTS](#)'. For further information about this annex, please contact Stephen Taylor, EU Coordinator in HSE's International Unit (Tel: 020 7717 6677 or e-mail: stephen.taylor@hse.gsi.ov.uk)

ON THE HORIZON:

Initiative on 3 rd List of Indicative Occupational Exposure Limit Values (IOELVs)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC's Advisory Committee on Safety and Health at Work has voted on its opinion on a draft Commission Directive establishing a 3rd list of IOELVs under Directive 98/24/EC on Chemical Agents.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Initiative on Musculoskeletal Disorders	
Current status (NEW DEVELOPMENTS): The EC is currently carrying out an Impact Assessment (IA) on the socio-economic impact of a range of policy options that will decide the next step for the initiative. HSE officials have met with the EC on the IA and to discuss the possibility of a new Directive, which now seems likely towards the end of 2009.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Neville Higham, MSD Programme, 0207 717 6831, neville.higham@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Initiative on Carcinogens and Mutagens	
Current status (UNCHANGED FROM LAST BOARD UPDATE) The second stage of social dialogue on potential amendments to the Carcinogens and Mutagens Directive (2004/37/EC) ended without an agreement. The EC has tendered for a contractor to undertake an Impact Assessment to help decide the next steps for the initiative.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Initiative on Needle Stick Injuries	
Current status (NEW DEVELOPMENTS): The EC has extended the second stage of social dialogue to see if a sectoral agreement is still possible. The EC has indicated that it may pursue a legislative option if social dialogue fails again, with the possibility of a proposal appearing in October 2008.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Delyth Dyne, Specific Interventions, 020 7717 6234, delyth.dyne@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

PRE-PROPOSAL STAGE:

Proposed amendment of Electromagnetic Fields Directive (2004/40/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The 4 year delay in the implementation of the directive has been adopted. The EC has now issued an open invitation to tender for the contract to carry out an impact assessment, to inform policy options and help to decide the next steps for this issue.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Malcolm Darvill, Specific Interventions, 020 7717 6182, malcolm.darvill@hse.gsi.gov.uk SCS Lawyer – Stephen Amos
Proposed revision of Biocidal Products Directive (98/8/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC has held a number of stakeholder workshops as means to begin looking at a revision of the Directive. A proposal is expected late 2008.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Gill Smith, Corporate Specialist Division, 0151 951 4919, gill.fod.smith@hse.gsi.gov.uk SCS Lawyer – Caroline Croft
Proposed revision of Seveso II Directive (96/82/EC) – Linking GHS to Seveso	
Current status (UNCHANGED FROM LAST BOARD UPDATE): An EC technical working group is currently looking at the implications of bringing GHS into the Seveso Directive. A proposal is not expected until late 2009	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Sandra Ashcroft, Specific Interventions, 0151 951 3531, sandra.ashcroft@hse.gsi.gov.uk SCS Lawyer – Caroline Croft
Proposed recast of Basic Safety Standards Directive (96/29/EURATOM)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): A Working Party of the EC's Article 31 Group of Scientific Experts is currently considering a recast of the directive. A proposal is not expected until late 2009.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Robert Parkes, Biological Agents & GMOs, 01245 70 6246, robert.parkes@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Proposed simplification of Pressure Equipment Directives	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The EC has decided that the review of the directive will not take place until 2010, after which next steps will be decided.	
Lead Department HSE contact	BERR SCS Lead – Dr Elizabeth Gibby HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

UNDER NEGOTIATION:

Regulation on Existing Substances (No. 793/93) – Risk Assessment and Risk Reduction Strategies	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The UK is working to complete Risk Reduction Strategies for four outstanding substances before the regime folds and is replaced by REACH. The strategies are due for completion by 1 December 2008.	
Lead Department HSE contact	HSE (UK Competent Authority) SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS lawyer – Stephen Amos

Dangerous Substances Directive (67/548/EEC) – 31 st Adaptation to Technical Progress (ATP)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This should be taken into GHS so there will be no need for the UK to implement the 31st ATP. However enforcement regulations will be needed for GHS.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Marketing and Use Directive (76/769/EEC) – Restrictions on marketing and use of Dichloromethane	
Current status (NEW DEVELOPMENTS): The EC has published a proposal to restrict the marketing and use of Dichloromethane (DCM) based paint-strippers. This is currently going through co-decision via the Council Working Party on Technical Harmonisation (Dangerous Substances) and the European Parliament's (EP) Environment, Public Health and Food Safety (ENVI) Committee. A UK negotiating strategy has been cleared by Ministers. The EP's ENVI Committee voted on 9 September 2008 for a ban on professional and consumer use of DCM based paint-strippers. The next Council Working Party meeting is in November.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Proposed Regulation on Globally Harmonized System (GHS) on Classification, Labelling and Packaging of Chemicals

Current status (NEW DEVELOPMENTS):

Council negotiations concluded at the end of June 2008, and informal agreement has been reached with European Parliament (EP) on the text of the Regulation. **The EP voted on 3 September 2008 to secure a First Reading deal.** The Regulation is expected to enter into force in late 2008/early 2009.

**Lead Department
HSE contact**

HSE
SCS Lead – Steve Coldrick
Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk
SCS Lawyer – Stephen Amos

Proposed Regulation on Community Statistics on Public Health and Health and Safety at Work

Current status (UNCHANGED FROM LAST BOARD UPDATE):

Common position adopted by the Council on 25 July 2008 with a view to the adoption of the Regulation. This could happen by the end of the French Presidency.

**Lead Department
HSE contact**

ONS
HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson
HSE Policy Lead – Francis McGuigan, Enforcement Policy Unit, 020 7717 6423, francis.mcguigan@hse.gsi.gov.uk
SCS Lawyer – Stephen Amos

UNDER IMPLEMENTATION:

Artificial Optical Radiation Directive (2006/25/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The Directive was adopted on 27 April 2006 and member states have until 27 April 2010 to implement the directive. HSE has begun work on transposing the Directive by the deadline.	
Lead Department	HSE
HSE contact	SCS Lead – Les Philpott Policy Lead – Malcolm Darvill, Specific Interventions, 020 7717 6182, malcolm.darvill@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

EC Regulation concerning the import and export of dangerous chemicals (689/2008)	
Current status (NEW DEVELOPMENTS): The EC Regulation came into force on 1 August 2008. UK enforcement regulations were laid before Parliament on 8 August and came into force on 3 September 2008.	
Lead Department	HSE
HSE contact	SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)	
Current status (UNCHANGED FROM LAST BOARD UPDATE) The regulation came into force on 1 st June 2007. At Community level, HSE officials are working with other Member States, the Commission and key stakeholders in a number of committees and other groups to establish the working principles for the Regulation. Key recent developments include Commission proposals regarding inclusion of some cosmetics ingredients, review of annexes to the Regulation including a challenged exemption on different forms of carbon, and issues with possible unintended consequences regarding the supply of asbestos, publication of a draft Candidate List for substances that will eventually require authorisation, and set-up of a task group to consider application of REACH to nanomaterials.	
Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Dangerous Preparations Directive (2006/8/EC)	
Current status (NEW DEVELOPMENTS): GB implementing regulations were laid before Parliament on 5 September 2008 and will come into force on 1 October 2008. Northern Ireland Regulations will follow shortly. This should lead to closure of the current infraction proceedings against the UK on this Directive.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 020 7717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This Directive was adopted on 4 April 2008 with transposition required by 5 April 2009. Options for transposing the Directive are currently being worked up and will be presented to the Board for consideration and clearance.	
Lead Department HSE contact	HSE SCS Lead – Les Philpott Policy Lead – Andy Miller, Mines, Quarries and Explosives Policy, 020 7717 6345, andy.miller@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Dangerous Substances Directive (67/548/EEC) – 30th Adaptation to Technical Progress (ATP)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This should be taken into GHS so there will be no need for the UK to implement the 30th ATP. However enforcement regulations will be needed for GHS.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, International Chemicals Unit, 0207 717 6990, robin.foster@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Machinery Directive (2006/42/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): BERR has now completed work on the implementing Regulations. These will come into force on 29 December 2009.	
Lead Department HSE contact	BERR HSE SCS Lead – Dr Elizabeth Gibby HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Services Directive (2006/123/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): BERR is currently working on measures to implement the Directive in the UK.	
Lead Department	BERR
HSE contact	HSE SCS Lead – Jenny Eastabrook/Elizabeth Hodkinson HSE Policy Lead – Francis McGuigan, Enforcement Policy Unit, 020 7717 6423, francis.mcguigan@hse.gsi.gov.uk SCS Lawyer – Stephen Amos

Regulation reviewing the New Approach Directives that set out the essential requirements which must be met before products can be sold in the UK or elsewhere in the European Community	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Adopted at the June 2008 Agriculture Council. This EC Regulation sets out the requirement for accreditation and market surveillance relating to the marketing of products in the EU. The Regulation will apply from 1 January 2010.	
Lead Department	BERR
HSE contact	HSE SCS Lead – Dr Elizabeth Gibby HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

Regulation on Mutual Recognition of Goods in the European Union (764/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Adopted at the June 2008 Agriculture Council. This EC Regulation defines the rights and obligations of, on the one hand, national authorities and, on the other, enterprises wishing to sell in a Member State products lawfully marketed in another Member State, when the competent authorities intend to take restrictive measures about the product in accordance with national technical rules. The Regulation will apply from 13 May 2009.	
Lead Department	BERR
HSE contact	HSE SCS Lead – Dr Elizabeth Gibby HSE Policy Lead – Phil Papard, STSU, 0161 952 8402, phil.papard@hse.gsi.gov.uk SCS Lawyer – Caroline Croft

