

Health and Safety Executive Board		Paper No: HSE/08/69	
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PROPOSALS FOR AMENDING THE HEALTH AND SAFETY INFORMATION FOR EMPLOYEES REGULATIONS 1989 (HSIER) - UPDATE ON OUTCOME OF CONSULTATION			

Purpose of the paper

1. This paper:
 - reports on the outcome of the consultation on a new health and safety poster (which showed strong support for the proposals);
 - recommends that the Board advises DWP Ministers to amend the HSIER; and
 - asks the Board to note that work is underway to develop a new and more visually appealing Health and Safety Law poster/leaflet.

Background

2. In December 2007 the then HSC agreed to consult on proposals to improve the impact of the approved health and safety law poster and leaflet and, if possible, reduce the administrative burden on business - principally by removing the requirement to write in and update contact details for the local enforcing authority and EMAS (HSC/07/81).
3. The consultation began on 19 May and closed on 11 August. Respondents were asked:
 - whether they agreed with the proposal that new approved posters advise workers to contact HSE Infoline to get information on how to contact their enforcing authority and EMAS, and
 - whether they agreed with the proposal that employers should be able to continue to display the current version of the poster after HSE has approved a new poster, provided the information on it is current and readable.
4. In parallel with the consultation on proposed amendments to the HSIER, work has begun on improving the visual impact of the poster and leaflet. Communications Delivery Service (CDS) has consulted external sources of expertise, including Judith Donovan, on design and presentation aspects. And HSE and local authority inspectors are helping identify the key health and safety messages for employees.
5. For illustrative purposes, a mock-up showing how a future poster might look is attached at Annex 1. This is intended as an example only - the poster and leaflet are still in development, and will undergo testing with the target audience. The Board will be asked to consider and sign off the new poster and leaflet at a later stage.

Argument

6. The outcome of the consultation is summarised in Annex 2. Overall, 89% of respondents agreed with the first proposal (a new improved poster), and 69% agreed with the second proposal (no fixed timescale for replacement – see paragraphs 9-12 below).

7. There were 195 responses, of which 25 were from representative organisations - 5 representing workers, 5 representing employers, and 15 others. All these representative organisations agreed with the proposal that new approved posters advise workers to contact HSE Infoline to get information on how to contact their enforcing authority and EMAS.
8. There were one or two other points raised by respondents around having the poster and leaflet available electronically, in languages other than English and Welsh, and in other formats. CDS will be considering these further. However, it is already the case that the Health and Safety Law leaflet can be downloaded from the HSE website, and distributed electronically, so an electronic version of the poster is unnecessary.

Fixed timescale for poster replacement?

9. Although there was a majority in support of HSE's proposal not to set a fixed timescale for replacement of the old unrevised poster (69% overall, 80% of representative organisations including the majority of union and all employer representative organisations) a significant minority including five representative organisations disagreed.
10. The new poster will be a significant improvement on the current version and we would expect it to benefit both employees and employers in providing clear information along with clarifying rights and responsibilities – very relevant to the Board's new strategy. There is a certainly an argument, as made by a sizeable minority of respondents, that such benefits for all should be enacted as quickly as possible and that, contrary to the outcome of the consultation, a fixed timetable for the replacement of an approved poster should be considered.
11. There would, however, be financial implications in such a change of direction. Officials are urgently assessing these and a supplementary note will be provided for Board members before the meeting. The benefits from a legal duty to display the new approved poster within a fixed period need to be assessed alongside the costs to all employers of purchasing a new poster or leaflet and the implications for HSE's Simplification Plan and Regulatory Budget.

Recommendation

12. The Board agrees to recommend to DWP Ministers that the Health and Safety Information for Employees Regulations 1989 should be amended so that employers no longer need to write on new approved posters, or give notices detailing, the enforcing authority's name and address and the address of the local office of the Employment Medical Advisory Service for the premises.
13. The Board considers in the light of further financial information whether there is a specified period of grace after which all employers are required to display the new approved poster or give the new approved leaflet to the employee.

Financial/Resource Implications for HSE

14. A full note on the costs and benefits of these proposals will be made available to the Board in a separate note before the 26th November 2008 meeting.

Action

15. If the Board agrees with the approach set out in this paper, HSE officials will:
- arrange for a letter and proposals package to be sent from the Chair, on behalf of the Board, to DWP Ministers informing them of the outcome of the public consultation and recommending the HSIER are amended, with effect from April 2009.; and
 - continue work on redesigning the poster and leaflet, for the Board to consider and approve new versions at a future meeting.
16. Once Ministers have indicated they intend to accept the Board's recommendation, HSE will implement a communications plan that will ensure all stakeholders are fully aware of the proposed changes.

Paper clearance

17. This paper was amended after the Senior Management Team meeting on 4th November 2008 and subsequently cleared by Geoffrey Podger.

Annex 1

Public consultation on proposals for amendments to the Health and Safety Information for Employees Regulations 1989 (HSIER)

Summary

The consultation began on 19 May. Over 200 organisations and individuals subscribed to the online consultation. A total of 195 responses were received by the closing date of 11 August, including 193 online questionnaire responses.

In total, 172 respondents (89%) agreed with the first proposal for **new approved posters and leaflets displaying information on how employees can contact their local enforcing authority and EMAS**. 21 respondents (11%) disagreed – these were all individuals, not representative organisations. 116 respondents provided comments on this proposal.

133 respondents (69%) agreed with the second proposal **that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet**. 59 respondents (31%) disagreed with this proposal. Five of these were representative organisations, and 54 were individuals. 117 respondents provided comments on this proposal.

Of the 176 respondents who expressed a view about the consultation itself, 165 (93%) thought it explained the issues and proposed changes either 'very well' or 'well'. 11 respondents (7%) thought it did so 'not well' or 'poorly'.

Detail of responses

Responses from representative organisations

Organisations representing workers

Responses were received from the GMB, NASUWT, the Royal College of Nursing (RCN), TUC, and Unite the Union. With the exception of the RCN, these organisations agreed with both proposals. The RCN agreed with the first proposal, but favoured a timeframe for phasing out the unrevised poster, once a new poster is approved.

GMB suggested introduction of digital licensing for the poster, so that employers of migrant workers could also download translated versions.

Organisations representing employers

Responses were received from the Chemical Business Association, Engineering Construction Industry Association, Federation of Master Builders, National Association of Master Bakers, and Well Services Contractors Association. These organisations agreed with both proposals.

Other representative organisations

Responses were received from the Actuarial Profession, Association of Occupational Health Nurse Practitioners (UK), Association of Personal Injury Lawyers, Association of Police Safety and Health Advisers (Scotland), British Safety Council, Charities Safety Group, ChurchSafety, Confederation of British Wool Textiles, Construction Health and

Safety Group Ltd, Federation of Petroleum Suppliers Ltd., Heritage Railway Association, Institute of Directors, LACORS, Rail Safety and Standards Board, Scottish Council on Deafness, Society of Occupational Medicine.

All of these organisations agreed with the first proposal. Three-quarters agreed with the second proposal that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet. The Actuarial Profession, APIL, Charities Safety Group and the Scottish Council on Deafness disagreed, preferring a timeframe, such as 3 or 5 years, in which unrevised posters and leaflets should be replaced. The Charities Safety Group, for instance, considered this proposal would create a dual standard and possibly discriminate against those groups of workers who cannot read or understand the existing poster.

Responses from organisations and individuals

Do you agree with proposal for new approved posters and leaflets displaying information on how employees can contact their local enforcing authority and EMAS?

Comment	No. of mentions
Will overcome problem of blank or out-of-date information boxes	20
More user friendly, simple, immediate and eye-catching, plain English	12
Practical benefits – avoid problems of fading/illegibility	10
Poster/leaflet available should be electronically available/downloadable	9
Should also provide details of HSE website	5
Not convinced of arguments about reducing administrative burden	4
Proposal unnecessary	4
Will make employers more complacent	3
Agree with arguments about reducing administrative burden	2
Content of poster should more closely fit with current risk profile	1
Will increase confusion about enforcing authority	1

Do you agree with proposal that employers be allowed to continue displaying a legible unrevised poster or giving an unrevised leaflet after HSE has published a new approved poster and leaflet?

Comment	No. of mentions
There should be a fixed transition period – for example, 3-5 years	20
Will be confusion with several versions on display – needs consistency	16
Agree there should be no fixed transition period – otherwise will be extra burden on business	15
It is desirable that employers should have to find out the information needed	1
Should have electronic version of leaflet available for field staff	1