

Health and Safety Executive Board		Paper No: HSE/10/97	
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IMPLEMENTATION OF A RISK BASED APPROACH FOR SELECTING COMPLAINTS ABOUT DUTYHOLDERS: A FURTHER UPDATE			

Purpose of the paper

1. This paper updates the Board on FOD's handling of complaints about dutyholders and fulfils the commitment given to the Board in January 2010.

Background

2. In January 2009 the HSE Board supported changing HSE's policy for dealing with complaints about dutyholders, to one where complaints are selected for investigation on the basis of the health and safety risk they present. The Board noted some possible difficulties or disadvantages and asked for a progress report in due course.

3. To implement the policy, FOD created a dedicated complaints handling team in each division. This was described to the Board in July 2009.

4. In January 2010 the HSE Board was updated on FOD's implementation of the risk-based complaints handling policy. The Board congratulated FOD on the success of the new approach and agreed it was now to be adopted as a permanent procedure. The Board asked that the new arrangements were kept under review with the Board receiving a further update to include:

- a) The impact of the new approach on improving health and safety standards.
- b) Arrangements to equip complaints officers to recognise decisions that might be reversed on appeal.
- c) Arrangements to ensure consistent handling within and between offices.

5. Previous Board papers can be found at:

- HSE 10/09 Implementation of a risk based approach for selecting complaints about dutyholders: an update
<http://www.hse.gov.uk/aboutus/meetings/hseboard/2010/270110/pjanb1009.pdf>
- HSE 09/70 Introduction of a risk based approach in FOD for selecting complaints about dutyholders
<http://intranet/boards/hseboard/2009/papers/pjulb0970.pdf>
- HSE 09/10 Introduction of a risk based approach for selecting complaints about dutyholders
<http://www.hse.gov.uk/aboutus/meetings/hseboard/2009/280109/b10.pdf>

Impact on Improving Health and Safety Standards

6. In the first 6 months of 2010/11 FOD received about 6,700 complaints about dutyholders. 5,600 were assessed as 'significant' or 'high' risk and were followed up. 1100 were assessed as low risk and no further action was taken by HSE.

7. Of the 5,600 complaints, inspectors investigated 1100 and served 259 notices.

8. As a comparison, the numbers of notices served in relation to complaints over the last 3 years is given below.

FOD	07/08	08/09	09/10	10/11 (Half year stage)
TOTAL	665	601	569	259

9. The remaining 4,500 complaints were followed up remotely by complaints officers; generally by phoning dutyholders. FOD conducted a small scale project earlier this year, to assure ourselves that complaints followed up in this way are also effective in securing necessary improvements to health and safety standards.

10. In August and September FOD checked nearly 100 complaints that had been dealt with remotely by complaints officers based in our East South East division. Documentation was examined and site visits made to establish whether dutyholders had actually taken the action they had agreed with complaints officers.

11. The results were as follows:

- In 81% of cases, dutyholders had taken the action they agreed AND health and safety conditions in relation to the complaint AND elsewhere on site were fully satisfactory.
- In 9% of cases, dutyholders had taken the action they agreed AND health and safety conditions in relation to the complaint were fully satisfactory BUT conditions elsewhere were not satisfactory.
- In 6% of cases dutyholders had taken the action they agreed BUT additional measures were necessary to secure health and safety conditions in relation to the complaint.
- In 4% of cases the dutyholders had taken no action. Two related to reversing vehicles where training had been planned but had not taken place by the time of the check-visit; one related to refresher training for manual handling and one where the welding shields provided were not in use.

12. Inspectors continue to work with dutyholders in the above cases to ensure that necessary health and safety standards are achieved.

13. In conclusion, this check did provide a reasonable degree of assurance about our approach to complaints handling. However, we will continue to refine our approach, seeking to further improve standards.

Appeals

14. The number of appeals remains low, accounting for less than 0.5% of complaints received.

15. In terms of numbers, FOD received 28 appeals in the first 5 months of the 2010/11 and 6 of these were upheld. Appeals relate to our decision that their complaint was low risk (and therefore not followed up) and also where the complainant was not satisfied with the result achieved. Examples of appeals are provided in the annex.

16. All appeals are considered by a Principal Inspector.

17. There is an on-line community forum for the managers of complaints officers where information of a wider significance is shared.

Arrangements to ensure consistent handling within and between offices

18. The new approach introduced a single team in each division where complaints are assessed and handled by specialised and dedicated complaints officers. This approach is designed to provide consistent and justifiable decisions as well as increasing the professional quality of our dealings with complainants and dutyholders. Board members will have an opportunity to meet staff members of the complaints team based at the Leeds office after today's meeting.

19. However, to pick up major inconsistencies between offices, the numbers of complaints handled by each one along with the numbers of appeals, the percentage of complaints investigated by inspectors and enforcement arising are reviewed periodically.

Action

18. This is an update paper for information only.

Paper clearance

19. This paper was cleared by the SMT at its meeting on 1 December 2010.

EXAMPLES OF APPEALS THAT ON RE-ASSESSMENT REMAINED LOW RISK 'GREEN'

- Automatic doors closing too fast.
- Work on a footpath
- Construction work that had finished
- A particular design of knife in the British Meat Processors Guidance
- Looking into chemical used at a workplace in the 1980s
- Hot water dripping
- Risk of a tree in parkland falling on someone.
- Provision of toilet facilities in premises not enforced by HSE
- Slope of a garden in a new build property
- Oil fumes from a neighbouring domestic house
- Lighting levels in a council office

EXAMPLES OF APPEALS THAT ON RE-ASSESSMENT WERE MOVED FROM LOW RISK 'GREEN' TO SIGNIFICANT RISK 'AMBER'

- Electrical competence for PAT testing and other work