Delivering the strategy in Scotland

Purpose of the paper

1 This paper reports on activities in Scotland to implement the strategy, including working through, and with stakeholders and the devolved administration. It also makes recommendations following a review of HSE’s main stakeholder forum, the Partnership on Health and Safety in Scotland (PHASS).

Background

2 The Board discussed a paper on significant developments in Scotland at its September 2009 meeting. Over one year on from the introduction of the new strategy, this paper provides highlights on the range of activities to implement it in Scotland.

3 In 2009, the Board agreed work to move the PHASS to a new level. This paper reports on the outcome of a review of PHASS and recommends a fresh approach.

Argument

4 The strategy has provided the rationale for a broad mix of activities and interventions in Scotland, alongside operational work, involving new stakeholders and building on maturing relationships. These encompass clearer working relations with delivery partners in Scotland and closer working with the devolved administration, in line with HSE’s commitment to implement the Calman Commission recommendation.

5 The review of PHASS was conducted in the context of the new strategy and the UK Government’s views on engaging the public and communities. It has concluded that the value of PHASS can be improved by taking it out on the road to reach a wider audience of those in a position to improve Scotland’s health and safety performance, namely duty-holders themselves and members of the Scottish health and safety community.

Action

6 The Board is asked to note the range and balance of activities being delivered from within Scotland to implement the strategy described at Annex 1.

7 The Board is asked to endorse the recommendations from the review of the PHASS (Annex 1 paragraphs 39,40) to:

   a. turn PHASS meetings into events open to members of the public to be held in different parts of Scotland;

   b. theme each PHASS event for a different targeted audience - showcasing PHASS member-organisations’ roles, the support they offer, and inviting wider collaboration to improve health and safety performance; and

   c. encourage equal participation of PHASS members.
Clearance

This paper was cleared at the SMT 1 September 2010.
Annex 1 : Delivering the strategy in Scotland

A. The Scottish context

Workplaces

1 Scotland is home to a broad range of manufacturing, energy, service, and food and drink businesses. There is also a significant chemical, pharmaceutical and onshore chemical sector. It is a hugely diverse country that contains vast remote regions and a coastline that have the potential to produce a significant percentage of Europe’s renewable energy. Rural regions are split into the highlands in the north which accounts for less than 10% of the population and the lowlands in the south. The central belt is home to well over 50% of its current population of 5 million people.

2 The geography of Scotland lends itself to forestry, aquaculture and certain forms of agriculture as well as a flourishing adventure tourism industry that exploits extensive mountain regions, rivers, lochs and coastline. The remote nature of some regions results in a significant reliance on liquefied petroleum gas (LPG) for heating and other industrial and agricultural processes.

3 The country’s whisky, oil and gas industries (offshore and associated onshore support sectors) employ tens of thousands of people and generate a significant part of Great Britain’s revenue and wealth. Utilising the remoteness, climate, topography and exposure, electricity generating companies use hydro, nuclear, fossil and wind sources to generate enough electricity to power Scotland’s requirements and contribute to the UK’s energy balance.

4 The North Sea is one of the most challenging and hostile working environments for oil and gas extraction in the world. The maturing and ageing nature of offshore installations present particular and increasing challenges to the delivery of high standards of health and safety. The economy in North East Scotland is untypically buoyant due to the extraction industries and the sectors they support, not just on the UK Continental Shelf but globally.

Statistics

5 23 workers were killed at work in Scotland between 1 April 2009 and 31 March 2010. This compares with an average of 31 work-related deaths in the past five years across the country, and 26 fatal injuries in 2008/09. Scotland has usually had a higher rate of fatal injury compared to England and Wales. Detailed research explains that this is because of the different make up of industry in Scotland, not because workers doing the same job are more at risk. The rate has however decreased over the long term at broadly the same pace. The number of serious workplace injuries reported fell slightly in 2008/9, the latest year for which figures are available. The overall injury rates for Scotland were 113 per 100,000 for major and fatal injuries combined and 371 per 100,000 for over 3 day injuries. These rates are lower than Great Britain rates. In 2008/09, 104,000 people in Scotland suffered from an illness which they believe was caused or made worse by work. This is not statistically significantly different, for example, from the average across the English regions.

Scottish Government

6 HSE continues to work proactively and reactively with the Scottish Government. We have responded to consultations on a Zero Waste plan, a review of building standards and the accreditation of property managers. MSPs have asked Parliamentary questions on health and safety issues, put forward Motions, examined Public petitions and there are currently a couple of Member’s Bills (one on making it a specific offence to assault certain
workers and another on the right to damages for personal injury or death) whose progress is being monitored.

B. Improving the working environment

Creating healthier, safer workplaces

7 To improve health and safety outcomes in Scotland we are prioritising resources to address those specific occupations, sectors and hazards where the risks of ill health, injury or death are highest. The following are current issues of significance:

LPG inspection programme

8 A major pro-active programme is the inspection of LPG tanks as part of the GB wide initiative. Since November last year we have already visited over 200 sites and issued more than 170 Notices for various failings including: the need for pipework to be checked or replaced; lack of vehicle impact protection; lack of security; clearance of foliage; and inadequate separation distances between properties, tanks or drains. Scottish Local Authorities have been allocated a further 322 sites to visit.

Working with local authorities

9 We have had close working relations with most of the 32 local authorities for a long time. The relatively small number and their long standing commitment to health and safety work means, that rather than having to promote the partnership as an activity in itself, it is possible to concentrate on providing advice and specialist support where necessary. Local authorities in Scotland also appreciate the overview of national priorities that HSE can take in assessing what are the most worthwhile topics to pursue or projects to deliver in their service plans. Discussions are beginning with a number of local authorities on developing an equivalent Scottish version of the Workwell Dorset scheme, with the potential for joint warranting and the possible transfer of responsibilities is being evaluated.

10 At a representative level HSE is also working with other regulators on a forum co-ordinated by the Convention of Scottish Local Authorities (COSLA). This is in the context of Scottish Government’s Single Outcome Agreements with each of the 32 local authorities. There is also discussion with COSLA about leadership within Local Authorities as employers and duty-holders with a view to developing a tailored approach in Scotland.

11 Construction Division is also working more closely with Local Authority building standards managers after HSE’s central approach to the Scottish Association of Building Standards Managers and individually with a number of Local Authorities. This work is at an early stage, but the links are already securing benefits.

Agriculture

12 The Scottish Government’s interactions with farmers are brought together in the Scotland’s Environment and Rural Services (SEARS) partnership. Practical links with this network are being developed which include HSE’s publications and guidance being placed in SEARS rural hubs, as well as at local agricultural shows where there is no HSE presence. HSE is reciprocating by offering SEARS partners the opportunity to feature in safety and health awareness days (of which four are planned this work year). Where HSE does plan a limited, but intensive series of farm inspections, SEARS partners will also be asked to supply relevant and tailored material for HSE to promote.

13 One such series of inspections focused on ATV/quad bikes and was the consequence of a number of fatalities. It was found that two thirds of farms were not using them safely. This outcome was highlighted at the Royal Highland and Agricultural Show in
June where the new Secretary of State for Scotland, Michael Moore MP, was happy to promote proper vehicle checks and the wearing of helmets.

Aquaculture

14 Aquaculture is a significant industry which is virtually restricted to Scotland. The District Marine Safety Committee for Aquaculture (chaired by the Maritime and Coastguard Agency) and HSE are organising a further aquaculture and maritime safety and health awareness day at Kishorn, Strathcarron on 21 September 2010.

Commonwealth Games

15 The Construction Division in Scotland has produced a detailed intervention strategy for the preparations in run up to the Commonwealth Games in Glasgow in 2014. Most of the facilities involve refurbishment of existing venues rather than new build. This is nevertheless high risk activity. Some premises will be enforced by local authorities rather than HSE and consideration is being given to broadening involvement to other parts of HSE and other regulators at the appropriate time, learning from HSE’s London Olympic and Paralympic project.

Emerging energy technologies

16 Energy policy is devolved and the Scottish Government's energy priorities are distinct from those of the rest of the UK. Offshore wind, tidal and wave energy are major priorities in Scotland, and there is also a rapidly growing energy contribution from biomass and waste-to-energy sources in Scotland.

17 Specifically, the Scottish Government is promoting carbon capture and storage (CCS) as a major element of its approach to non nuclear baseline power generation. It is clear from research they have commissioned that Scotland’s offshore areas have significant potential for storage of CO$_2$, including the capacity to import CO$_2$ from Europe. The 2008 CCS Directive facilitates export of CO$_2$ between member states.

18 Scottish Power and partners are participating in the DECC competition to bid for money to implement carbon capture at Longannet Power Station and undersea storage of CO$_2$. Between now and March 2011 various parts of HSE will be working with Scottish Power through the permissioning and consent arrangements that may ultimately apply to this process. Needless to say HSE is giving the same support to all other competitors. The winner is to be announced next spring. The Scottish Government and DECC are working closely together under a MoU. Campbell Gemmell, Head of the Scottish Environment Protection Agency (SEPA) is head of the European Environment Regulators CCS Forum and is proactive in promoting CCS technologies.

Avoiding catastrophe

19 As in the rest of Great Britain, HSE’s aims are to embed a highly developed safety culture in those industries that can potentially cause great harm to their workers, environment and the public if not properly managed. The following are current issues of particular significance in Scotland:

Offshore safety

20 The Board will be familiar with HSE’s offshore key programmes, the most recent (KP4) being the ageing and life extension inspection programme launched in July. Offshore installations are serviced, refurbished and repaired by a myriad of onshore companies. This sector on its own makes a major contribution to the regional economy as well as to UK exports and generates considerable work for HSE in enforcing for conventional health and safety risks in the north of Scotland.
21 An inspection project focusing on food and water standards offshore has raised the profile of a matter often taken for granted. It has resulted in several notices and two further projects will involve inspecting accommodation standards on installations and looking at noise and vibration.

Land use planning

22 In May this year HSE and the Scottish Government Department for the Built Environment co-hosted a land-use planning seminar for Scottish Planning Authorities. The aim was to open up debate on the reasons for HSE providing advice, the legal framework and use of PADHI+ with case studies. HSE's role is to provide advice but primacy for decision making lies with the Planning Authority. The point was made however that if applications are approved contrary to HSE's advice, HSE may recommend that Scottish Ministers call in the case for further consideration.

23 Discussions have also been held with the Scottish Government about recently created local review bodies (LRBs) who can grant planning permission for certain types of development (eg housing developments under 50 houses) without notification to Ministers. In effect, this change has removed the scope for HSE to recommend call-in for such developments should they be given consent contrary to HSE advice. HSE has suggested that LRBs be given guidance on HSE's advisory role in land use planning through an amendment to Scottish Government guidance; but there are currently no plans to review the relevant guidance.

COMAH

24 HSE and the SEPA work together as the Competent Authority (CA) under the Control of Major Accident Hazard Regulations 1999 (COMAH) regulating onshore petrochemical and other high hazard industries. The COMAH CA is implementing changes to improve the effectiveness of the COMAH regime including a more coherent and long-term CA strategy for ensuring process safety leadership in these industries, and closer working and sharing of information between the CA partners. Industry will also benefit from the 'remodelled' regime by way of a more long-term, transparent and consistent approach from the CA in Scotland. HSE also works closely with local authority emergency planning authorities with responsibility for off-site emergency plans around major hazard sites.

Investigations and securing justice

25 Scotland continues to have the highest pro-rata number of fatalities to investigate of all regions. This has been a noticeable trend for years and reflects the make up of the Scottish economy and the job risk profile of individual sectors within it. Recent notable prosecutions include:

- Leith’s Scotland Ltd – an Aberdeen-based quarrying company - was fined £95,000 at Elgin Sheriff Court after a worker was crushed by a mechanical digger. The case highlighted the dangers of working with workplace transport without adequate training and support.

- John Hogarth Ltd was fined £16,750 (reduced from £25,000 to take account of the company’s guilty plea) at Jedburgh Sheriff Court following an incident where a worker suffered a traumatic amputation of his right arm by a rotary valve in February 2008.

- Alpha Group Security Ltd was fined £7000 following carbon monoxide poisoning of a man employed as a security guard on a construction site in the city. He died at an on-site flat used as a base for employees and had been working as a security guard on the construction site at Hamilton.
• East Ayrshire Council was fined £56,000 after a man suffered fatal injuries when he fell from an over-extended elevated work platform at Kilmarnock Academy whilst fixing overhead lights.

26 A very good working relationship has been developed between the HSE and the Health and Safety Unit of the Crown Office and Procurator Fiscal Service (COPFS), which was established just over a year ago. The Health and Safety Unit have been working to secure more convictions on indictment and collaborative working is also now producing reports that are likely to reduce not guilty pleas and result in more significant fines.

27 HSE has been actively involved in, or monitoring of, a number of Fatal Accident Inquiries (FAIs) over the last few months. These include: one related to a “gorge jumping death”; the Rosepark Fire; the mineshaft fatality; and deaths at a major opencast site. Even where HSE is not called to provide witnesses, proceedings are followed in the media, monitoring statements and outcomes to ensure that they are accurate. This can consume considerable resources.

28 The public inquiry (under Lord MacLean) into deaths associated with the *c. difficile* outbreak at the Vale of Leven Hospital is similarly demanding. The inquiry held hearings in June and July, and will recommence in October. HSE is not a core participant but having investigated the outbreak at the behest of COPFS, proceedings are being monitored for: matters arising from the joint Police/HSE investigation; issues pertaining to future HSE intervention in healthcare associated infections; and, HSE’s role in enforcing HSWA Section 3 in relation to recipients of healthcare. It is not anticipated that there will be a final report until the spring or summer of 2011.

C. Taking responsibility

The need for strong leadership

29 A series of breakfast meetings with major Scottish companies earlier this year provided the opportunity to reinforce messages about leadership and to hear first hand about the impact of the current climate on health and safety and what HSE can do to help. Discussion of concerns about competence and lack of risk management knowledge within the graduate job market revealed some innovative business partnerships with local colleges and a welcome for a consultants’ registration scheme. The preponderance of different schemes in construction remains a source of frustration.

30 Offshore Division is working with the North Sea Offshore Authorities Forum (NSOAF) to host a conference of senior executives of all major oil companies operating in the North Sea. The aim is to discuss the challenges of extending the life of North Sea offshore assets; consider the role of Key Performance Indicators in offshore safety leadership; and, examine the difficulties of how to help the workforce understand process safety/major hazard risk issues. Offshore Division is also undertaking one to one interviews with oil company senior executives looking at how they demonstrate process safety leadership within their companies.

Building competence

31 Action is being reviewed to increase HSE’s referral rate to the Scottish Centre for Healthy Working Lives (SCHWL) of SMEs who have no in-house competence. Exchanges of training between Health and safety Awareness officers (HSAOs) and SCHWL Advisers are improving competence and mutual understanding of each others’ role.
Involving the workforce

32 Scotland is still relatively more highly unionised and HSE works closely with the Scottish TUC on the role of workers offering support at events to increase their knowledge and representatives’ competence. The worker involvement element of the offshore Step Change strategy remains a model for other similarly cohesive sectors. Recently a series of workshops have been held for safety representatives and the workforce with the OJAC workforce involvement group; and a specific inspection project is focusing on compliance with Safety Representatives Regulations.

33 RoSPA Scotland has recently completed a review for FOD Scotland of what works in worker involvement in smaller, non-unionised workplaces. This has provided material and case studies which can be used to embed and support the legacy from the ‘Safe and Sound – Do Your Bit’ training programme.

D. Transforming the approach

Customising support for SMEs

34 A clearer working relationship with SCHWL, now recognised as one of HSE’s corporate stakeholders, has been in place since the end of last year. Its practical implementation and value will be reviewed at the end of the year. SCHWL’s main client base is SMEs and they are promoting HSE guidance and offering free customised support to businesses including some referred by HSE.

35 Together with HSE and other partners a “Health Risks at Work – Do You Know Yours?” tool has been developed which distils HSE’s guidance on occupational health risks into a DVD and reference material in bite-size chunks. It is being delivered to SMEs by a range of partners and by our HSAOs. The project is being evaluated with the support of NHS Health Scotland. The tool could be rolled out in England and Wales in conjunction with the Estates Excellence approach and might be a model for delivering other types of customised support to SMEs.

Taking a wider perspective

36 Devolved government has provided a series of opportunities and challenges and by taking a deliberately pro-active approach, we have been able to increase understanding of our role as a reserved regulator.

37 HSE in Scotland has been able to report positive progress to DWP and the Scotland Office on implementing the recommendations on the Commission on Scottish Devolution (Calman Commission). The Scottish Parliament and Ministers have been informed of the publication of HSE’s first Scotland Business Plan, derived from HSE’s overall Business Plan, and work is underway to publish online a second Scottish Parliamentary newsletter “Safer, Healthier Workplaces”. More systematic monitoring of Scottish Parliamentary activity has identified a range of matters directly or tangentially related to HSE’s interests allowing HSE to offer support, or in some cases to correct misunderstandings, via Scottish Government officials.

38 The process of the exchange of secondees with the Scottish Government continues and the mapping work done this year has demonstrated the sheer range and extent of reserved and devolved overlapping responsibilities from fish farming to sunbed regulation. This has produced more detailed information on the devolved administration’s priorities, its competence to act and its expectation to be consulted on issues related to health and safety, which is being shared across HSE. The aim is to strengthen guidance for HSE staff, in particular, policy advisers and sector teams and to improve devolved awareness in handling the Scottish media and stakeholders.
The close knit nature of Scottish business and public life has permitted the Partnership on Health and Safety (PHASS) to operate successfully since its inception five years ago. At the last Board meeting in Edinburgh (September 2009), it was requested that a review be undertaken into the workings of PHASS in the light of the new strategy. This has now reported and key findings are the success of PHASS as an important central facilitator of specific partnership delivery projects (which were showcased at IOSH 2010 in March); and the need to reach and engage a wider audience utilising PHASS members’ wider networks within the constituencies they represent. The following proposals for reform have been discussed and are supported by PHASS members:

- PHASS should continue to meet about three times a year but its meetings should be open to the public and held in different parts of Scotland incurring little or no cost for accommodation.

- PHASS should theme these events to engage a wider audience but a targeted one, according to the chosen theme, using PHASS members’ networks and communications channels to attract interest.

- The events should be used to showcase PHASS members’ ‘offer’ both collectively and individually and also to encourage collaboration in improving Scotland’s health and safety performance.

- To promote equal participation of PHASS members, PHASS members should share facilitation and presentation.

The Board is invited to endorse these changes with a view to the first new-style PHASS event taking place before the end of this year.

E. Conclusion

HSE in Scotland is using the strategy to realign our work where there is case for tailored Scottish initiatives. As the GB-wide strategic themes are embedded into intervention and regulatory strategies for key sectors, more specific plans can be developed for the Scottish health and safety system. The strategy goals have focused effort on fewer areas where a real difference can be made, but the range of contributory activities has diversified bringing in more organisations and people from other parts of the health and safety system. Scotland’s relatively smaller, cohesive health and safety community offers the potential for an expansion of this co-operation and co-ordination in the coming years.