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The role of sector strategies in the development of effective and efficient regulatory intervention

Purpose of the paper

1. This is an update to paper HSE/12/09, discussed by the Board in January 2012 and:
 - Explains the broad strategic approach to proactive regulatory interventions within the context of HSE's strategic and political objectives
 - Updates the Board on the promulgation of the sector strategies.

Background

2. HSE and LA regulators have a key role within the health and safety system of Great Britain. However, they are only one element of this system as recognised in "[Health and Safety of Great Britain - Be Part of the Solution](#)" (HSE Strategy). With about a million work places to regulate and with finite resource, it is important that HSE's proactive interventions are efficiently prioritised and targeted, use intervention techniques that are effective and efficient and achieve gearing to maximise impact. The same applies to Local Authorities who are responsible for regulating in over a million workplaces.
3. Board members will be aware of the critical importance of HSE's reactive work (investigating significant incidents of ill health, accidents and complaints and securing justice through prosecutions where there have been significant shortcomings in risk control and management) as a major component of the health and safety system. HSE's selection criteria and enforcement policies provide the framework for directing these interventions.
4. In respect of proactive, elective work, Paper HSE/12/09 explained how an industry sector based approach to prioritisation along with the development of sector strategies provides a framework for the deployment of HSE's proactive resource¹. It enables HSE to apply a problem solving approach within the specific context of a particular sector. The strategies seek to identify the root causes of key health and safety issues, highlighting areas where proactive intervention is most required and/or where it could be most effective.

¹ This work excludes the nuclear sector, subject to a separate strategy <http://www.hse.gov.uk/nuclear/onr-strategy.pdf>

5. There are a number of intervention techniques available to HSE and LAs² (inspection and enforcement, campaigns, working through intermediaries & stakeholders, conducting research, etc.) These are listed in Annex A. The challenge is to select the intervention type and mix likely to be the most efficient and effective in addressing a defined problem but in the context of existing policy and relative priorities. The sector strategies have been used to develop the range of initiatives being taken forward across the business.

Argument

Prioritised sector strategies

6. Sector strategies have been developed from a holistic industry sector perspective helping to clarify both the role of the regulator and others in the context of the wider health and safety system. They identify and prioritise the most important problems within the health and safety system of Great Britain. They use a combination of statistical and historic data, operational intelligence, major hazard potential, political and social context and expert judgment to translate the high level goals of the HSE Strategy into bespoke aims for 16 'core' industry sectors.
7. Stakeholder involvement in the development of sector strategies has continued, with feedback from consultation on the draft strategies during 2012 having been incorporated into the versions which are now publicly available on HSE's strategy web site [<http://www.hse.gov.uk/strategy/index.htm>]. The site provides a landing page that includes a high level overview contextualising how the strategies are used to inform interventions. By way of example of the content and structure of a sector strategy, the construction sector, for which the Board received a detailed paper in August (HSE/12/63), is included as annex B.
8. The size, organisation and maturity of each sector determined the extent and timing of consultations. In many cases existing tripartite forums including standing Industry Advisory Committees were used to consult employer and employee representatives (e.g. agriculture, construction, explosives, quarries, etc). For other sectors without such existing structures, a more bespoke approach was followed to consult employer and employee representatives (e.g. Public services – Education and Local Government sector contacts for both employer and Trade Unions).

Strategic Approaches to Proactive Intervention

9. The evidence and analysis provided by the sector strategies have enabled HSE to make relative judgements about the level of hazard and risk associated with each sector. They have also highlighted areas where proactive HSE attention is most required, or could prove most effective. The potential for industry and other stakeholders to assume ownership of problems and deliver interventions has also been considered. Taken together, these factors have been used to define four broad sector groupings and the general approach to intervention for each:

² HSC/05/65 "*HSC's Intervention Strategy*" by David Ashton and Neil Craig (HSC Meeting 6 September 2005).

- a) Higher hazard or risk priority sectors requiring high attention from both the health and safety system and the regulator. Most intervention types from proactive inspection campaigns, joint stakeholder initiatives, research, partnership delivery, guidance and information are adopted. This category also includes sectors with permissioning and/or licensing schemes that seek to control risk at or before the point of its creation.

(Chemicals, Construction, Explosives, Mines, Offshore oil and gas, Onshore Gas & Pipelines, Waste and Recycling).

- b) Sectors where system / stakeholder intervention has been deemed potentially more appropriate than direct regulator input. The predominant approach to intervention for this category will be to challenge, engage, catalyse and support others within the health and safety system to address core problems. There will be pockets of poor performance or specific sub-sectors requiring greater regulator attention, e.g. use of isocyanate paint in motor vehicle repair.

(Agriculture, Logistics, Manufacturing, Public Services, Quarries)

- c) Predominantly relatively lower risk sectors or sectors generally with mature health and safety management systems. Many will also have influential and informed intermediaries, who are well placed to deliver interventions and improvements. Reactive HSE investigations and enforcement will continue to take place where appropriate, as per HSE's enforcement policy statement and established incident selection criteria. Some proactive intervention may also be undertaken in specific sub-sectors, e.g. fairgrounds.

(Beauty & Cosmetics, Downstream Gas, Electricity, Leisure)

- d) Comparatively lower risk sectors not included in the above where health and safety problems are generally well understood and for which there is normally clear guidance available and good management standards are applied. Some may have specific activities / areas of risk that are covered by other sector strategies, (e.g. Water Utilities – construction / repair activities are considered under the Construction Sector Strategy). These sectors will still be subject to reactive regulatory attention and HSE will continue to monitor their performance to ensure they continue to justify a predominantly reactive approach to intervention. Included in this category are sectors primarily regulated by LAs.

(Finance, Hospitality, Telecommunications, Water Utilities, Passenger Transport)

Selecting Interventions in the Planning Process

10. The priorities for the type and mix of interventions are dynamic and feed into the annual business planning cycle. They are subject to change by evidence of poor performance / emerging issues. It is important to emphasise that no sector will be free or 'immune' from intervention. Individual workplaces or employers in all sectors may be chosen for inspection with the emergence of evidence of

shortcomings. There may also be particular issues emerging in specific sub-sectors that give rise to concern, for example; the regulatory approach to ports and docks (Logistics, group b above) has been to support industry stakeholders on the development of port safety guidance and enabling leaders to recognise their responsibilities for H&S within the industry, for example on control of contractors. However, as a result of a number of serious incidents, the approach has been extended to include proactive inspection of a few specific topics (e.g. crane maintenance, etc.).

11. Another example of where priorities have changed, leading to adaption of interventions, is HSE's strategic approach to the risk from legionella. The topic itself is not sector specific, it spans manufacturing, leisure, health and social care, etc. but following evidence which was collected over the last few years (pre-dating the recent outbreaks) HSE's and LAs' intervention plans are being adapted to give this issue greater priority and will encompass a broad, multi-strand, approach involving regulators and industry, engaging stakeholders to take greater responsibility for managing the risks, as well as undertaking an inspection initiative to review compliance and awareness following the publication of the recent safety notice.

Monitoring priorities and effectiveness:

12. Sector strategies provide assurance that the focus of regulatory attention is on the key problems within sectors whose occupational safety and health performance or risk level identifies them as a priority for regulatory intervention. Stakeholder engagement and contributions remain a key part of the HSE Strategy and are essential to successful delivery. The strategies will therefore be kept updated using normal stakeholder links and will be monitored under the oversight of a senior internal steering group chaired by the Deputy Chief Executive. The conclusions of this will then feed into the annual planning process.
13. Detailed sector intervention plans (SIPs) for each sector strategy are refreshed annually and a senior manager (at SCS level) is responsible for each and required to provide assurance that best fit interventions have been selected. Cross sector learning and synergies are actively identified and the steering group advises on relative prioritisation and suitability of proposed interventions given wider corporate experience and constraints. Thus intervention approaches and priorities evolve through active learning. For example, the introduction of limited and targeted proactive inspection is now being taken forward in the fresh produce sector following intelligence and agreed synergies from working with other enforcement agencies.
14. HSE will continue to make use of a wide variety and sources of data and intelligence and will commission research to fill gaps and look ahead to immediate and future challenges in both the priority sectors and broader health and safety system.
15. Monitoring of progress against delivery for each sector strategy is being taken forward at both operational and strategic levels. The strategic monitoring is longer term and judges whether the aims of each sector strategy have been met

as well the overall progress of a sector's health and safety system. The monitoring will enable the identification of successes and will demonstrate effectiveness in directing regulatory activity where it was needed but will also ensure that less successful interventions are adapted or ceased and that regulatory activities do not extend beyond their shelf life. In doing this, a sector may in future move up or down in terms of relative priority.

16. The Board will continue to receive updates on higher priority sector interventions and will be able to contribute to the overall framework of priorities through the business planning process.

Communications

17. Building upon the communications and engagement that took place as part of the consultation processes, tailored, targeted communications are being planned to further raise awareness on the approach taken by HSE with sector-specific employers and employees. Sector leads will work with Communications Directorate to utilise those existing channels which reach specific relevant audiences, such as the sector-focused e-bulletins, and 'business as usual' communications between HSE and industry representatives, as well as those which reach broader employer and employee audiences with an interest. All communications activity will be low and no cost activity.

Conclusions

18. This paper has discussed the rationale underpinning the development of the sector strategies and their use in planning strategic interventions. These facilitate delivery of the high level HSE Strategy by targeting effort at priority issues, or those where intervention may be most effective.
19. They provide an evidence base for the development of efficient and effective sector level interventions and provide improved transparency for where and why HSE directs its resource.
20. Monitoring over the short and longer term will ensure that HSE deploys its available resources in a way that is proportionate to the various sectors' performance, noting that the strategic approach to a sector can and will change as problems are tackled and resolved.
21. HSE has historically focussed its resources on higher risk sectors – the development and delivery of sector strategies therefore are not a fundamental shift in strategy delivery but a mechanism to more clearly demonstrate that regulator resource is focused on key OSH problems where it is best placed to intervene.—

Action

22. No action is requested as this paper is provided primarily for information. Feedback and questions from the Board are invited on any aspect of interest in relation to this work.

Paper clearance

23. This paper was approved by the SMT meeting of 5 September 2012.

Intervention Techniques³

Interventions before and at the point of creation of risk:

Partnership - Strategic relationships between organisations or groups who are convinced that improving health and safety will help them achieve their own objectives. This may involve duty holders or trade unions, regulators, other Government departments, trade bodies, investors, insurers or educational or media organisations.

Motivating senior managers - Encouraging the most senior managers to enlist their commitment to achieving continuous improvement in health and safety performance as part of good corporate governance, and to ensure that lessons learnt in one part of the organisation are applied throughout it (and beyond).

Supply chain - Encouraging those at the top of the supply chain (who are usually large organisations, often with relatively high standards) to use their influence to raise standards further down the chain, e.g. by inclusion of suitable conditions in purchasing contracts.

Design and supply - Working with those who can improve health and safety by improving the design of processes or products.

Sector and industry-wide initiatives - “Gearing” achieved by stimulating a whole sector or an industry to sign up to an initiative to combat key risks, preferably taking ownership of improvement targets.

Working with those at risk – Working with safety representatives, trade unions and other organisations that represent people put at risk by work activities to support them in their roles.

Education and awareness - Seeking further ways of getting messages and advice across early to key target groups, particularly those who are difficult to reach, using channels such as small business groups, chambers of commerce etc. Promoting risk education as a curriculum item at all levels of the education system.

Interventions at and during exposure to risk:

Inspection and enforcement - Inspection and enforcement will remain vital intervention strategies, and will often be the means by which other strategies are brought to bear. They are important means to achieve the objective of improved standards, and they represent what many stakeholders expect to happen.

³ HSC/05/65 “HSC’s Intervention Strategy” by David Ashton and Neil Craig (HSC Meeting 6 September 2005), pp7 - 8

Intermediaries - Enhancing the work done with people and organisations that can influence duty holders. These may be trade bodies, their insurance companies, their investors or other parts of government who perhaps are providing money or training to duty holders.

Best practice - Encouraging the development of best practice examples with those organisations that are committed to “leading edge” performance and then using these examples to show others the practicality and value of improving their own standards.

Recognising good performance - Discouraging HSE and LAs from putting resources into issues where the risks are of low significance, are well understood and properly managed.

Interventions when the consequences of exposure to risk arise:

Incident and ill-health investigation - Ensuring that the immediate and underlying causes are identified, taking any necessary enforcement action, as well as learning and applying the lessons that arise.

Dealing with issues of concern that are raised, and complaints - Encouraging duty holders to be very active and making sure that concerns and complaints from stakeholders are dealt with appropriately.

Construction sector strategy 2012–15

Sector description

The construction industry encompasses a very broad range of work; from large projects like Crossrail carried out by major contractors for large, commercial or public sector clients to the maintenance of small business premises or domestic roof repairs undertaken by the self-employed.

Decisions made along the supply chain by clients, designers, contractors or suppliers affect the hazards faced by those on site.

Some key points:

- One of the largest GB industries, contributing around 8% to GDP
- Peak employment over 2.8 million people (including some 600,000 in the informal economy)
- Diverse range of work:
 - Major new build projects through to domestic maintenance
 - Complex specialist work through to unskilled labour
- About 120 large contractors generate about a quarter of output, but most of the industry consists of smaller contractors with high levels of self employment
- Peripatetic workforce
- Reputation as a major user of foreign / migrant workers
- Employment often short-term and sometimes part of the informal economy
- Recession has led to a sharp drop in construction output

Key stakeholders

There are many representative stakeholder bodies that have, delivered significant change within the industry. However, there is a real risk that their priorities and direction can be uncoordinated and the status quo is accepted. Strong cross-industry and organisational leadership, supported by HSE, is required to provide direction and impetus to ensure continuous improvement. Many of the stakeholder bodies are represented on the HSE Construction Industry Advisory Committee (CONIAC). However, much of the industry at the smaller end is not engaged, nor influenced by, stakeholder bodies.

Clients can significantly influence standards on a project / site from its inception. Experience shows that where clients show leadership and promote collaborative working then health, safety and other benefits ensue, but this is not recognised or achieved universally. Encouraging and helping clients to understand these benefits remains a challenge.

Safety and health issues

The industry is one of the most hazardous in GB – around one third of all workplace fatalities occur in construction and more than 750 people (workers and members of

the public) have died from injuries they received because of construction work over the last 10 years.

There is also potential for catastrophic incidents with multiple fatalities on large and small sites whether related to cranes, scaffold or structural collapses, fire or explosion, etc.

The management of health risks has not kept pace with safety even on large sites.

Issues include:

- Fatal injury rate is over four times the GB all-industry average
- Falls from height are the single biggest cause of death, particularly on small sites
- Estimated 4000 deaths annually from asbestos-related diseases and 500 from silica exposure, with concerns that the latter presents even greater future health risks
- More than half of new occupational cancer registrations relate to construction
- Potential for catastrophic incidents
- Confusion over occupational health expectations affecting approaches to workplace risk control
- Poor welfare provision, particularly on small sites
- Widespread use of hazardous substances and other potential exposures

Overall the management of health and safety issues in the construction industry can largely be distinguished by size of organisations involved. Generally, the large well-organised section of the industry has sophisticated management arrangements, competent health and safety professionals and a commitment to good health and safety performance. On the other hand the smaller end of the industry often has little management structure, limited health and safety competence, and is not particularly motivated beyond pricing to win work.

The issues can be summarised as follows:

- Larger sites tend to be better organised, some having sophisticated health and safety management arrangements right through the supply chain
- On smaller sites health and safety management and awareness is often lacking and standards are poor
- Performance of small firms on large sites reflects the prevailing regime hence site size is the determining factor, a polarisation recognised by industry
- Other variations between subsectors are insignificant compared to the polarisation in standards between large and small sites

Asbestos work warrants separate consideration given the regulatory framework, licensing and wider dutyholder responsibilities affecting construction activity.

The strategy therefore characterises construction into three areas:

- Smaller sites / projects (<= 15 people on site)
- Larger sites / projects (>15 people on site)
- Asbestos

The strategy recognises that there is a large range of issues. The highest risks are targeted, and priorities include refurbishment, work at height, asbestos, respiratory risks and good order to prevent slips and trips.

Smaller sites / projects

Smaller sites / projects account for the largest proportion of work-related deaths in construction, with high levels of ill health and injuries each year.

Small sites are usually of short duration, sometimes operating on a cash-in-hand informal basis, often with very small profit margins and have no real health and safety organisational structure / framework / system.

In general, those running and working on small sites:

- significantly underestimate the risks to themselves
- fail to recognise when their standards are poor (even in high-risk areas like work at height) and that improvement could prevent accidents and ill health
- do not belong to a trade association
- do not seek health and safety information or attend training courses
- avoid contact with officialdom
- are unaware of, or disregard, required standards and even basic obligations
- lack competence and awareness of the actions required to effectively manage health and safety
- are often overwhelmed and confused by the health and safety goal-based system – they simply want consistent information telling them what to do
- may cut corners to reduce costs, often at the expense of health and safety
- often take on complex projects (including structural alterations and excavations) without being aware of the risks or potential for a catastrophic event

Larger sites / projects

Larger projects / businesses are often better organised and operate within a stakeholder framework that is amenable to influence. Larger organisations have mature and sophisticated management arrangements and in-house competence. However, their health and safety performance can still fail with serious consequences given the hazardous construction environment.

Issues relating to larger sites/organisations:

- Potential for catastrophic event that could create multiple fatalities affecting both workers and the public off site, eg scaffold collapse
- Extensive reliance on subcontracting due to the nature of construction projects and specialist nature of many firms:
 - Complex subcontract relationships may lead to the breakdown of communications and a lack of co-operation between workers and / or teams
- Poor on-site supervision – high competence at managerial level is not always mirrored at supervisory level on site
- Progress on safety risk management on large sites has not been matched by equivalent progress on health risk management:

- Health risk management not integral
- Although the need to prevent disease and ill health is increasingly recognised, those running and working on larger sites / projects often lack knowledge and ability to implement the required standards
- The peripatetic / transient nature of the workforce makes consistent exposure control and monitoring difficult
- Corporate leadership and supply chain / project integration:
 - Although many larger companies provide internal leadership, it often fails to link to health and safety management through their supply chains
 - Little vertical integration and influence over key decisions such as design, procurement and cost – with knock-on effects for health and safety
 - Missed opportunities for early risk reduction – it is not necessarily on site where the most effective risk control measures (such as design, planning, procurement) can be introduced. Once on site, contractors' options may be limited to reducing or mitigating risk
- Impact of recession including restructuring, acquisition and rapid growth in activity on emergence from recession

Asbestos

Asbestos was extensively used in the construction of buildings until as late as 2000 and is present in more than 500,000 commercial premises and an unknown number of domestic premises.

It is the biggest occupational cause of death in GB, accounting for approximately 4000 deaths per year due to mesothelioma and lung cancer. Although these deaths are associated with historical exposure there is a need to ensure that current practices are preventing exposure.

Many aspects of working directly with asbestos in buildings (eg removal and encapsulation work) are subject to a permissioning licensing regime.

The continuing issues can be broadly categorised to mirror the regulatory framework:

- Those undertaking licensed work and working within that framework:
 - Approximately 600 licence holders
 - Stringent licence assessment – HSE must fulfil statutory duties and deliver its stated policies
 - The high standards required of licensed work are not always maintained
- Those undertaking construction work who may be exposed to asbestos:
 - Refurbishment (trades) and demolition workers are most likely to be exposed
 - Risk that those using buildings may be exposed to asbestos if it is in poor condition or is disturbed
 - Inadequate awareness of asbestos risks and the necessary controls among those engaged in general construction – further education is required
- Those working incidentally in buildings that contain asbestos:

- All occupiers of non-domestic premises are required to manage the presence of asbestos in their building – normally achieved through a combination of asbestos surveys and management plans, which must be provided to any party undertaking construction (refurbishment) work

Legislation and regulation

The Construction (Design and Management) Regulations 2007 (CDM) make the general duties under the HSW Act more specific to construction. CDM integrates health and safety into the management of a construction project. It covers main duties applicable to all construction projects, with additional duties placed on those involved in notifiable (broadly larger) projects through the entire supply chain of client, designers, CDM co-ordinator, principal contractor, contractors and workers.

Asbestos licensing is a permissioning regime under the Control of Asbestos Regulations 2012. The Regulations also set out duties for managing asbestos in non-domestic premises, covering identification of the presence of asbestos, assessing work which exposes employees and others to asbestos, and licensing work with asbestos.

Almost all construction health and safety regulations are enforced by HSE. However, there are many interfaces with other regulators for other aspects of construction including local authorities (eg building control, environmental health, planning, trading standards) and the Environment Agency.

Licensed asbestos removal work and compliance with the duty to manage are regulated by both HSE and local authorities.

Strategic regulatory and sector approach

HSE's construction programme (ConP) is evidence based and outcome driven. Its priorities are derived from an understanding of causal factors underlying accidents and wider industry intelligence from a variety of sources, including stakeholders:

- Change is delivered using the most appropriate route through the health and safety system with techniques geared to the issue, subsector and level of maturity
- It supports the industry in achieving its own challenging targets, encouraging those who are striving for excellence and taking a robust enforcement line with those who do not respond to advice and education
- Regularly reviewed and refreshed to ensure it is attuned to future developments, and changing industry fortunes and practices across the industry

Future trends

The recession has led to a sharp drop in construction output and employment compared with other sectors and the timescale for recovery is uncertain. As businesses struggle, competition can result in low (or negative) profit margins and consequent corner cutting.

Subsectors are affected differently with a more positive outlook for transport and low carbon energy infrastructure. Work to make domestic properties more energy

efficient is also growing but this may involve businesses diversifying, requiring workers to apply and develop skills in non-traditional areas.

There could also be a sharp increase in the diversification of trades and novel processes, with greening and emerging energy technologies. This in turn places pressure on HSE to ensure its strategy and plans continue to respond to industry issues.

Historic evidence warns that where accident rates are suppressed in times of recession, they can increase rapidly with economic recovery.

Aims for 2012–15

Smaller sites / projects

Creating healthier, safer workplaces

- To increase the number of those running and working on smaller sites / projects who are aware of their health and safety obligations and take positive, proportionate steps towards achieving compliance

Building competence

- To increase the competence of those running and working on smaller sites / projects in identifying, understanding and proactively / proportionately managing health and safety risks

Securing justice

- To attain immediate and sustained compliance with the law by those running and working on smaller sites / projects

Larger sites / projects

Creating healthier, safer workplaces

- To create healthier and safer workplaces on larger sites / projects

Building competence

- To increase individual and organisational competence in identifying, understanding and proactively managing health and safety risks

The need for strong leadership

- Cross-industry and organisational leadership drives continuous improvement of health and safety within the construction industry

Securing justice

- To attain immediate and sustained compliance with the law by those running and working on larger sites / projects

Asbestos

Creating healthier, safer workplaces

- To ensure that asbestos risks, wherever they appear in the workplace, are properly managed

Building competence

- To ensure that the full range of dutyholders are competent to manage the risks posed by asbestos

The need for strong leadership

- To encourage key players from a range of dutyholders to demonstrate effective leadership in tackling asbestos risks

Securing justice

- To attain immediate and sustained compliance with the law by asbestos dutyholders