

Health and Safety Executive Board		HSE/13/46	
Meeting Date:	22 May 2013	FOI Status:	Open
Type of Paper:	Above the Line	Exemptions:	
TRIM Reference:	2013/179730		

## OUTCOME OF THE CONSULTATION ON THE PROPOSED GUIDANCE ON THE HEALTH AND SAFETY (FIRST-AID) REGULATIONS 1981

### Issue

#### 1. This paper :

- Informs the Board of the outcome of the second period of public consultation relating to proposed changes to the regulation of first aid at work.
- Considers the incorporation of the Approved Code of Practice (ACoP) to the Health and Safety (First-Aid) Regulations 1981 (First-Aid Regulations, or FAR) into the proposed guidance.
- Recommends the Board agree to the withdrawal of the ACoP and publication of the new guidance.

### Timing

2. Urgent. Proposed guidance will need to be submitted along with the amending statutory instrument and remainder of legislative package which has to be with HSE Secretariat by 31 May 2013, and submitted to DWP Legislation Unit by 12 June, to allow for laying of the Regulations on 27 June and the desired amendments to come into force at the next Common Commencement Date in October 2013. Subject to Board approval, HSE will need to seek the necessary consent of the Minister to remove the ACoP and then issue a notice to those affected by 1 July 2013.

### Background

3. In his review of health and safety legislation Professor Ragnar Löfstedt recommended that the FAR be amended to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel. Since 1982 this requirement had been implemented by the direct HSE approval of first-aid training providers.

4. Löfstedt also recommended that revised guidance should be introduced to help businesses adopt proportionate first-aid arrangements suitable to their workplace.

5. In conjunction with producing revised guidance to support the changes to FAR, HSE has also reviewed the first-aid ACoP text in accordance with another key recommendation within Professor Löfstedt's review.

6. Following an initial period of public consultation ("the first public consultation") the HSE Board agreed on 27 February 2013 to the proposed amendment to the FAR to remove HSE approval of first aid training and qualifications

7. The HSE Board also agreed that a further period of consultation (“the second public consultation”) should be undertaken, specifically relating to the removal of the ACoP text in the light of the proposed guidance. This was agreed because the Board noted there had been potential confusion in the first public consultation regarding the future of the ACoP.

8. The second consultation sought views on whether the draft new guidance met the needs of stakeholders. The outcome demonstrated general support for the effectiveness of the new guidance and how it dealt with the content covered within the existing ACoP.

### **Argument.**

9. This second period of consultation ended on 6 May 2013 and all responses have been considered. 170 responses were received in the six week consultation period from all stakeholder groups including employers and employees.

10. The guidance proposed is a suite of three documents that have been developed following stakeholder consultation and which reflect the findings of the first period of public consultation. These documents are:

- Guidance on compliance with FAR;
- Guidance on selecting a first aid training provider; and
- A collection of first aid at work case studies or scenarios.

11. The outcome of the consultation was support for the effectiveness of the new guidance. A significant majority of respondents were supportive of the fact that the proposed new guidance aided compliance with FAR (77%) and that it would help employers with the selection of a first aid training provider (71%) after removal of HSE Approval.

12. The proposed guidance to the Regulations was seen as ‘clear’ and ‘helpful’ and described by respondents as ‘guidance on exactly the practical actions needed’. Of the small number of respondents who commented negatively some described the new guidance as ‘too technical’, while others viewed it as ‘not having enough detail’. A number of comments also related to removing HSE approval of first aid training and qualifications – which was not a subject of this second consultation.

13. The guidance on selection of a training provider was generally seen as ‘good’, ‘helpful’ and ‘clear’. A small number of responses stated however that there was ‘too much information’, that the guidance was ‘too detailed’ and that it was ‘involved’ or a ‘difficult process’.

14. There was overwhelming support (85%) for the introduction of the collection of case studies that demonstrate for various sectors and businesses what may be required in terms of first aid provision and what should be considered in deciding this provision.

15. Comments on the case studies were very positive – ‘very good’, ‘ideal for small businesses’ and ‘they cover a wide range of common workplaces’. One comment said ‘HSE should have done this years ago!’

16. The small number of negative responses received, stated either that the selection of case studies was not extensive enough, or noted additional specific industries

which they believed should have been included. A number also suggested issues with the proposed examples. They were however generally supportive.

17. There was also significant support for the incorporation of the ACoP text into the proposed new guidance (77%).

18. Of those who responded that they were not content, only ten respondents stated directly that the loss of legal context or quasi-legal status of the ACoP may be an issue. (Six such responses were received from Trades Union respondents.) Others made comments about loss of clarity and blurring of key messages.

19. The first public consultation found that a commonly held view amongst respondents who were able to distinguish between the ACoP text and the guidance was that the first aid ACoP was easy to understand, short, clear and concise. Others noted, however, that the ACoP text was limited in its scope, simply restated the content of the Regulations without clarifying what the law required, and felt it was necessary to refer to the guidance to get practical advice on how to comply with FAR. A number of these respondents also felt the guidance was more relevant in achieving compliance with the legislation.

20. It is also worth noting that in the first public consultation, many of those who felt the ACoP text and particularly the protection of its legal status was useful, also went on to say that in practice, the non-ACoP guidance was more useful.

21. HSE is aware from the first public consultation that the Voluntary Aid Societies, (St. John Ambulance, St. Andrew's First Aid and the British Red Cross) consider that the information in the ACoP could be covered in the guidance equally well. This was also a commonly held opinion amongst the majority of the key stakeholder groups convened by HSE as an additional consultation mechanism for the whole process.

22. The findings from the second public consultation (considered along with the findings from the first public consultation) would appear on balance to support a recommendation to remove the 12 sentences of ACOP material and to incorporate their content into the guidance that will accompany the revised Regulations.

23. Based on the responses to both periods of public consultation HSE also believes that the risk to both employers (from an understanding perspective) and employees (from a welfare perspective), from the removal of the ACoP text is negligible - and the loss of the quasi-legal status of the ACoP will be outweighed by incorporation of the material into the guidance documents. This will provide employers and employees with clear practical advice on compliance with the legislation, and guidance that can be more easily updated by HSE as necessary in the future.

### **Financial implications**

24. There are no financial implications from the proposed removal of the ACoP text and publishing draft guidance.

### **Actions**

25. The Board is asked to:

- Agree to the removal of the Approved Code of Practice (ACoP) to the Health and Safety (First-Aid) Regulations 1981
- Agree to the publication of the revised guidance documents for employers.

## **Annex**

There were 170 responses received overall to the second public consultation from employees (11%), employers (13%), first-aid training providers (20%) and health and safety professionals (52%) There were responses from five Trades Unions (TUs), and three further responses from TU officials.

Responses focussed on four specific questions and were generally positive:

### **Q1 Does the content of the proposed guidance assist in meeting your needs in complying with your duties under the 1981 Regulations?**

1. A clear majority of respondents (77%) agreed that the proposed guidance did meet the needs of employers. This question was answered by 154 respondents.
2. Although there were very few free-text comments overall, a small number noted that due to the proposed removal of HSE approval of training and qualifications, draft guidance was more complex, or harder to understand than it had previously been.

### **Q2 The ACoP text has been incorporated into the proposed new guidance. Are you content with this proposal?**

3. 150 respondents answered this question. 77% (115) of these respondents were content for the ACoP text to be incorporated into the proposed guidance, including one of the eight TU responses.
4. Of those respondents who were not content with the removal of the ACoP, ten stated directly that the loss of its legal context or quasi-legal status may be an issue. (Six such responses were received from TU respondents). Other comments referred to the loss of clarity and blurring of key messages.
5. Approximately half of those who responded negatively to this question (i.e. were not content with incorporation of the ACoP text) were health and safety professionals. However, approximately half of those who supported the removal of the ACoP text were also health and safety professionals. (Most of the health and safety professionals responding negatively made free-text comments, but, of those, only three referred to the loss of the ACoPs quasi-legal status).
6. The mixed response from employers in relation to the first public consultation was countered by the response to the second public consultation with 83% of employers responding that they were happy to remove the ACoP text and incorporate the content into guidance.

**Q3 Do you think the information sheet provides employers with the information they need to select a suitable training provider?**

7. The majority of respondents (71%) agreed that the draft information sheet for employers provided the right information to assist employers with the selection of a suitable first aid training provider. (There were 147 respondents to this question.)
8. 22% of employers responded negatively, stating that the existing system of HSE approval was effective and easier to implement (even though this subject was not addressed in the second public consultation). Only 6% of health and safety professionals and 13% of employees who responded believed that the guidance sheet was too complex to understand.
9. 46%, 19 of 39 negative responses to whether the information sheet provided employers with the necessary information to select a suitable training provider were made by first-aid training providers. Of these, all but one made free-text responses.

**Q4 Do the case studies demonstrate the main considerations needed to carry out a needs assessment in your organisation?**

10. There were 147 responses to this question. 85% of respondents believed that the case studies demonstrated the main considerations required of a first aid needs assessment.
11. A quarter of the negative responses received, stated that either the selection of case studies was not extensive enough, or noted additional specific industries which they believed should have been included. A number of responses also highlighted issues with the proposed examples. As this document will be published in a PDF web-based format, its content can be easily updated. HSE will be prepared to consider requests and suggestions along these lines to ensure that the case studies are as helpful as possible.