

Health and Safety Executive Board		HSE/ 14 /39	
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Regulation of health and safety at work

Replacement publication for 'Sensible health and safety at work. The regulatory methods used in Great Britain'

Purpose of the paper

1. The Board is asked to consider this paper and the attached document 'Regulation of health and safety at work' (**Annex 1**) as a replacement publication for 'Sensible health and safety at work. The regulatory methods used in Great Britain.'

Background

'Sensible health and safety at work. The regulatory methods used in Great Britain'

2. In September 2004, the Health and Safety Commission published a consultative document (CD) 'Regulation and recognition - towards good performance in health and safety.' This CD explored the main regulatory intervention methods used by HSE and Local Authorities (LAs) to influence employers and others who have legal duties under health and safety law. It arose from a commitment in the 'Strategy for Workplace Health and Safety in Great Britain to 2010 and beyond' to focus on the right interventions to reduce workplace injury and ill health and sought views on the best mix of methods to use.
3. Following consideration of this consultation, HSE developed a web-based publication to explain how HSE and LAs act to bring about good health and safety standards. This was titled 'Sensible health and safety at work. The Regulatory methods used in Great Britain' and is attached at **Annex 2** of this paper.
4. This publication set out the following:
 - (i) Twenty-seven 'guiding points' to outline the main features of our regulatory approach (**pages 2 – 4 of Annex 2** and described in further detail at **pages 9-14**).

- (ii) A summary of the principal intervention methods we use as regulators (**pages 7-8 of Annex 2**).

Internal and external use of 'Sensible health and safety at work'

5. Internally, the publication is a supporting tool for identifying and selecting the most effective intervention approaches to deliver the strategic aims and objectives of the Sector Strategies.
6. Externally, the document sits within a suite of documents, including the Strategy and the Enforcement Policy Statement (EPS), that explain collectively what we do and how we work. Specifically, it remains on the HSE website, in support of the 'Strategy for workplace health and safety in Great Britain to 2010 and beyond' and our EPS, as a key high-level policy that, *inter alia*, enabled us to meet the obligations of the Regulators' Compliance Code (published by the Government in 2008). This Code was based on the principles of inspection and enforcement identified in the Philip Hampton report 'Reducing administrative burdens: effective inspection and enforcement' and was a statutory code of practice that regulators must have regard for when developing policies and operational procedures that guide their regulatory activities.

Argument

Replacement of 'Sensible health and safety at work'

7. Since its publication, HSE has developed a new strategy and has undergone several high-level reviews, resulting in significant change to its regulatory approach. This has rendered some of the document's content, in particular the context in which the document was written and the 'guiding points,' significantly out of date.
8. In addition, in April 2014, the Government laid a new Regulators' Code before Parliament as part of its package of measures to improve the way regulation is delivered in support of economic growth. Like the previous Regulators' Compliance Code, HSE and LAs must have regard for it when developing policies and operational procedures that guide their regulatory activities. The Government will monitor published policies and standards of regulators and will challenge regulators where there is evidence that their policies and standards are not in line with the Code or are not followed.
9. There is, therefore, a business need to replace this publication to provide:
 - (i) a current and more meaningful link to HSE's Sector Strategies, which are published on HSE's website and are now the main way we identify the regulatory intervention approaches to use; and

- (ii) material to support HSE's explanation (alongside a revised EPS and Enforcement Management Model) of how we meet the Regulators' Code.

10. It is proposed to do this through the attached document 'Regulation of health and safety at work' (**Annex 1**).

'Regulation of health and safety at work'

- 11. The document has been drafted as a replacement for 'Sensible health and safety at work,' but remains an account of the main features of HSE's and LAs' regulatory approaches and includes the main regulatory interventions that we use to influence, encourage and advise business and, where necessary, hold to account those who fail to meet their legal duties.
- 12. A lot of the original document has been retained, although it has been re-ordered to improve the logical flow and take account of changes in Government policies and our strategic approaches since it was published in 2005.
- 13. The main differences from 'Sensible health and safety at work' are as follows:
 - (i) It is a factual account of our current regulatory approach. It does not include future proposals for regulatory work.
 - (ii) It references Sector Strategies and their role in our regulatory approach.
 - (iii) It is consistent with 'Good health and safety, good for everyone' and, where applicable, the new Regulators' Code.
 - (iv) It includes real examples to illustrate our regulatory approach.
 - (v) It is in a shorter and more user-friendly format.
- 14. Unlike when 'Sensible health and safety at work,' was first produced, external consultation is not considered necessary. This is because the document does not propose any change in policy or practice, nor does it create an increase or decrease in the burden of regulatory activity on business. Rather, it is a factual account of our current regulatory approach and the intervention methods we use. Any changes we have made to our strategic approach to intervention since publication of the original document have been reflected elsewhere, such as through the current Strategy and more specifically Sector Strategies, both of which involved consultation. However, subject to Board approval of the document, we will make our key stakeholders aware of its publication.
- 15. We have taken the view that a more fundamental review of the document is not appropriate at this time given that a new strategy will be developed for the Spending Review 2015 period. If a fundamental review is undertaken, external consultation would be appropriate, but we would need sufficient time to carry this out and in the interim it would leave a gap in our published documentation, particularly in relation to how we meet the Regulators' Code.

Devolved Administrations

16. The document applies across Great Britain and, as health and safety policy is a reserved issue, there are no implications for the devolved administrations. However, subject to Board approval of the document we will ensure PHASS and other key Scottish stakeholders are made aware of its re-publication.

Action

17. The Board is asked to approve 'Regulation of health and safety at work' for publication on the HSE website.
18. Consideration will be given to a more fundamental review in due course.

Paper clearance

19. This paper was cleared by the Senior Management Team at its meeting on 1 May 2014.

Annex 1 – Regulation of health and safety at work.

Annex 2 – Sensible health and safety at work. The regulatory methods used in Great Britain.