



# A final progress report on implementation of health and safety reforms

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March 2015

## Foreword by Minister for Welfare Reform

[Not yet approved by the Minister]

I am delighted to set out in this report the details of what this Government has delivered in reinstating common sense and trust in the health and safety system in Britain.

This Government has from its outset been concerned about the standing of health and safety in the eyes of the public. The Prime Minister commissioned Lord Young to report on this issue, in *Common Sense, Common Safety* (2010) and in March 2011 the Government's *Good Health and Safety, Good for Everyone* set out our far reaching proposals to reform the health and safety system in Britain. These reforms addressed the concern that businesses were consumed by red tape and confusion and that they often felt the need to go beyond the requirements of the law either through over the top advice from unqualified consultants or for fear of being sued for accidents, even when they were not at fault.

Professor Löfstedt's *Reclaiming Health and Safety for All: An independent review of health and safety legislation* (2011), which also drew on the public's views submitted via the Red Tape Challenge, found that the framework for health and safety law was broadly right, but recommended simplifying its structure and HSE's guidance to help business comply more easily. The Health and Safety Executive (HSE) has reduced the overall stock of legislation by 50%, so that there is now a simpler, modern set of legislation. HSE has also undertaken an extensive guidance review and redesigned its website to help businesses find straightforward help on what they need to do. Business response to these reforms has been strongly positive and they have been achieved without reducing health and safety protection for workers.

Most recently, the passage of the Deregulation Act 2015 has put in place the final piece of the jigsaw. It provides the next Government with the means to exempt some 1.8 million self-employed jobs in occupations that present no potential risk to others from health and safety law.

In order to ensure that low risk businesses which take a responsible attitude to health and safety are not subject to unnecessary health and safety inspections, this Government has shifted the focus of our health and safety regulators to concentrate their efforts on higher risk industries. As a result, the HSE has developed sector strategies that define the targeting of their proactive inspections. Through the Focus on Enforcement review of their and the Environment Agency's regulation of the chemical industry, they have improved the experience of regulation for major hazard sites. HSE carried out around 22,000 proactive inspections each year, focussing on higher-risk industry sectors and in any sector where there is information that standards are not being met. It continues to take robust action where there has been a breach of health and safety legislation.

## **A progress report on implementation of health and safety reforms – March 2015**

Local Authority inspectors also now follow HSE's National Local Authority Enforcement Code, which sets out the risk based approach to targeting their occupational health and safety interventions. This provides business with some confidence that there will be greater consistency across the country and that lower risk businesses taking a sensible approach to health and safety can get on with their business, without the disruption of unnecessary tick-box inspections.

Our reforms have also tackled the compensation culture. The changes that have been introduced across Government have sought to curtail the promotional activities of claims management companies which have helped to perpetuate the idea that personal injury compensation payments can be claimed even where the business is not at fault.

The Social Action, Responsibility and Heroism Act 2015 has sent a clear message to reassure people acting heroically, for the benefit of others, or in a predominantly responsible way (both in a voluntary capacity and in the course of employment or some other activity) that they can do so with confidence that, in the unlikely event that something goes wrong and they are sued, the court will take account of the context of their actions.

This is not about curtailing all claims – for example, where people have suffered a genuine injury at work or in a public place due to the negligence, the process for obtaining low value claims are now simpler. Overall, these measures have introduced significant benefits for claimants, business and local authorities.

By ensuring that health and safety regulation is sensible and proportionate and robustly tackling the damaging compensation culture, the Government aims to support economic growth - helping business to flourish whilst maintaining a healthy, productive workforce.

**Lord Freud**

**Minister for Welfare Reform**

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## Background

In June 2010, the Prime Minister asked Lord Young of Graffham to “investigate and report back on the rise of the compensation culture over the last decade coupled with the current low standing that health and safety legislation now enjoys and to suggest solutions”<sup>1</sup>. In his report *Common Sense, Common Safety* (October 2010) Lord Young made recommendations on legislation, enforcement, the role of insurers and compensation claims procedures. The Government accepted Lord Young’s recommendations. In February 2011, the Prime Minister passed responsibility for overseeing progress of the overall health and safety reform agenda to the Department for Work and Pensions.

*Good Health and Safety, Good for Everyone*<sup>2</sup> introduced significant further reforms (March 2011):

- the independent Occupational Safety and Health Consultants Register (OSCHR), providing access to good quality, sensible and proportionate health and safety advice for employers (see p 7).
- HSE’s ‘Health and Safety Made Simple’, easy to use guidance for small and medium sized employers in low risk businesses, making it easier for employers to do the right thing (see p 11).
- major changes to the enforcement regime for health and safety, refocusing both HSE and local authority inspection activity on higher risk areas and away from lower risk businesses who manage their responsibilities effectively (see p 8 and 10).

Professor Ragnar Löfstedt, Director of the King’s Centre for Risk Management at King’s College London was also asked to review health and safety regulation. Comments received through the Government’s Red Tape Challenge on health and safety regulation were fed in to his review. His recommendations *‘Reclaiming health and safety for all: An independent Review of health and safety legislation’*<sup>3</sup> were accepted by the Government and as a result, 50% of health and safety legislation will have been reviewed, scrapped or improved. The Government used the Red Tape Challenge to go further, and committed in the 2012 Budget to scrap, review or improve 84% of health and safety legislation. One year on from his review<sup>4</sup>, Professor Löfstedt concluded that good progress had been made and that there is evidence that the perception of health and safety was changing.

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<sup>1</sup> Common Sense Common Safety. [www.gov.uk/government/publications/common-sense-common-safety-a-report-by-lord-young-of-graffham](http://www.gov.uk/government/publications/common-sense-common-safety-a-report-by-lord-young-of-graffham)

<sup>2</sup> Good health and safety, good for everyone: [www.gov.uk/government/publications/good-health-and-safety-good-for-everyone](http://www.gov.uk/government/publications/good-health-and-safety-good-for-everyone)

<sup>3</sup> Reclaiming Health and Safety <https://www.gov.uk/government/publications/reclaiming-health-and-safety-for-all-lofstedt-report>

<sup>4</sup> Reclaiming Health and Safety: a review of progress one year on <https://www.gov.uk/government/publications/reclaiming-health-and-safety-for-all-lofstedt-report-a-review-of-progress-one-year-on>

## Implementation of Good Health and Safety, Good for Everyone

In March 2011 in *Good Health and Safety, Good for Everyone* the Government set out plans to re-focus occupational health and safety regulation for Britain's businesses. The aim was to ensure the health and safety regime concentrated efforts on higher risk industries and on tackling serious breaches of the rules. This was intended to leave those organisations which did not present significant risks and which do the right thing for their employees free of unwarranted scrutiny.

Since then the Government has delivered:

### 1 The Occupational Safety and Health Consultants Register

The Occupational Safety and Health Consultants Register (OSHCR) was launched in January 2011 and includes those health and safety consultants who are properly accredited to a health and safety professional body and have demonstrated a set standard of competence to that professional body. Businesses regularly use the register and in a recent consultation exercise stated that the website enables easy searching and is fast and simple to use. The register also remains popular with consultants as a way to demonstrate their achievement of an industry set standard. It offers businesses a free, easily accessible way of finding sensible and proportionate competent health and safety advice for their business. The number of consultants on the register has remained consistently at around 2000. The OSHCR website attracts nearly 400,000 visitors each year.

### 2 The New Health and Safety Framework

#### 2A Major Hazard Industries

Hazardous industries such as those in the chemical and offshore oil sectors are essential to our economy but have the potential to cause large numbers of deaths or injuries from a single event as well as potentially catastrophic long term impacts on society, the environment or the economy. In *Good Health and Safety, Good for Everyone*, the Government stated that the regulation of these industries was soundly based and in accordance with best international practice. The Government therefore did not plan to reduce the level of oversight in these sectors.

In March 2012, the Business Secretary launched the 'Focus on Enforcement' (FoE) campaign which as well as reviewing the case for each regulation within each focus area, also looked at how regulations were enforced. The subsequent **FoE Review of the Chemicals (COMAH) Sector**<sup>5</sup> reflected very positively on the improvements HSE and environmental regulators had already made in this area, acknowledging the good relationships with industry and the high quality and expertise of HSE inspectors.

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<sup>5</sup> As part of the FoE programme, the Government's Better Regulation Executive (BRE), part of the Department for Business Innovation and Skills (BIS), reviewed the Control of Major Accident Hazards Regulations in the chemical manufacturing and warehousing sector in England and Wales and produced its report in February 2014

Ministers and the Better Regulation Executive have welcomed HSE's and environmental regulators joint response to the review report findings, describing it as a "challenging and innovative improvement programme". They have highlighted it as an exemplar for the other FoE reviews. Industry too has welcomed the opportunity to become actively engaged in the programme.

The overriding objective of the joint response programme is to improve the transparency of the COMAH regime across GB and the inter-agency coordination between regulators while preserving the robust protections afforded by the regulatory regime.

## **2B Non-major Hazard Industries**

### **a) Working in partnership: Estates Excellence**

HSE's Estates Excellence Programme has delivered support, health and safety advice and free training to SMEs. The programme has developed into a successful partnership approach; helping UK SMEs make better health and safety choices - demonstrating that a range of larger private sector businesses and public sector organisations are prepared to be "part of the health and safety solution".

Since the initial pilot project in 2009, Estates Excellence has offered support to over 5000 businesses and provided free training for over 4000 people. This programme is helping to raise health and safety standards, change behaviours and reducing the risk of accidents, occupational ill health and is supporting business growth. HSE's evaluation has shown that 7 out of 10 of the SMEs that participate in the programme have reported that they have gone on to take risk reduction action.

HSE has learnt more about what support SMEs want and need, what strategies work, understand better how small businesses access information and what influences their behaviour. They are adapting their approach and developing new ways to engage, influence and support them.

### **b) Targeting and reducing inspections**

No industrial areas are exempted from maintaining good standards of health and safety or from regulation. However, in respect of HSE's proactive inspection strategy, in *Good Health and Safety, Good for Everyone*, the Government identified three categories of non-major hazard industries:

1. those sectors which present comparatively higher risk and where proactive inspection remains necessary as part of the overall regulatory approach;
2. those sectors where there remains comparatively higher risk but proactive inspection is not considered a useful component of future interventions; and,
3. those areas where proactive inspection is not justified.

HSE has developed sector strategies to guide its proactive work. The choice of intervention strategy for any particular sector reflects both the actual level of risk and the effectiveness and efficiency of different types of intervention (further detail available on HSE's website [www.hse.gov.uk/aboutus/strategiesandplans/sector-](http://www.hse.gov.uk/aboutus/strategiesandplans/sector-)

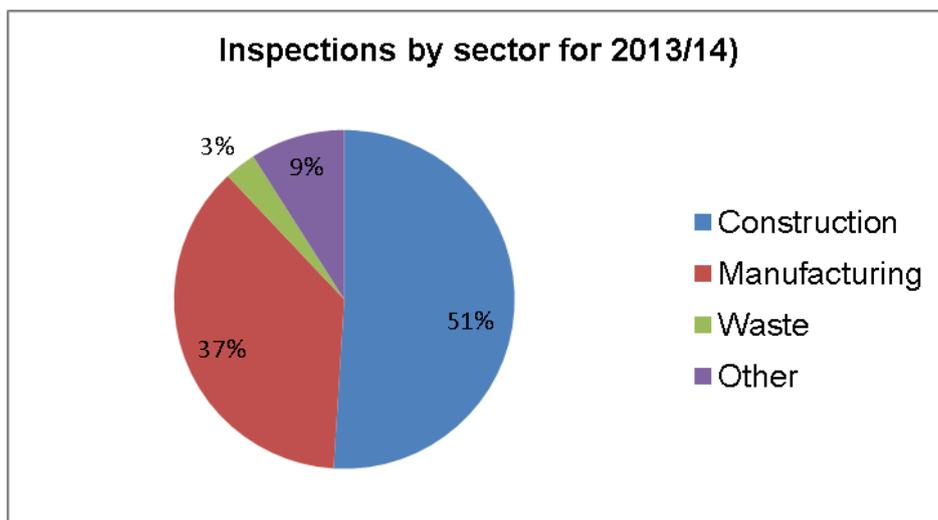
[strategies/index.htm](#)). The relative priorities for proactive inspections across these industry sectors are reviewed on a regular basis by HSE and are subject to change in response to evidence of poor performance or changes in sector-related risks.

HSE aims to undertake 22,000 proactive inspections each year in the higher-risk industry sectors, and in any sector where:

- there is information that inadequate standards of health and safety management and significant risks may exist; and,
- where an investigation of an incident or concern (complaint) suggests that a broader intervention is required.

Total number of proactive inspections delivered by HSE	
2010/11 baseline	33000
2011/12 outturn	21603
2012/13 outturn	22240
2013/14 outturn	23472
2014/15 planned	22000

The main industry sectors targeted for inspections include construction, manufacturing, waste and recycling. Within the construction sector, inspections have been focussed on health risks such as asbestos, refurbishment activities and other higher risk activities (e.g. roofwork). In manufacturing, higher risks include health risks in foundries, dust in woodworking and welding fume in fabricated metals.



There have also been national inspection initiatives focussed on specific risks:

- Inspection of premises with liquefied petroleum gas installations were undertaken to secure arrangements for reducing the risk of pipework corrosion and failure.
- A large number of cooling towers have been inspected to secure control of the risks from legionella.

### **c) Cost recovery for breaches of the law: Fee For Intervention**

In *Good Health and Safety, Good for Everyone* the Government stated its belief that it is reasonable that businesses found to be in serious breach of health and safety law – rather than the taxpayer - should bear the related costs incurred by the regulator in helping them put things right. The cost recovery principle also provides a deterrent to those who would otherwise fail to meet their obligations and a level playing field for those who do.

HSE's Fee For Intervention (FFI) scheme began operating on 1 October 2012. HSE recovers the costs of its regulatory work when, in the opinion of an inspector, there is or has been a material contravention of health and safety law. HSE does not recover costs for any work with businesses that are found to be managing their risks effectively or where a breach is not significant.

Inspectors make decisions about breaches in accordance with HSE's Enforcement Policy Statement and Enforcement Management Model. The fee is based on the amount of time that the inspector has had to spend identifying the breach, helping the business to put it right, investigating and taking any enforcement action. Detailed information on how FFI operates is available on HSE's website ([www.hse.gov.uk/fee-for-intervention/](http://www.hse.gov.uk/fee-for-intervention/)).

Between the start of FFI and September 2014, HSE has issued invoices totalling £15,616,823. The average amount for each invoice is £520 and the average amount invoiced to particular businesses is £953. The cost recovery from FFI in 2013/14 was £8.7m.

For businesses disagreeing with an invoice, a query can be raised with HSE and there is no cost for this to the business. If not resolved at the query stage, a Disputes Panel can consider the disagreed invoice further. The Disputes Panel includes an independent business representative. HSE will only recover the costs for any dispute that is not upheld. Since the start of FFI, 3% of invoices issued have been queried and 0.1% have been disputed.

In June 2014, an independent review panel examined FFI and its application. The panel concluded that FFI '*had proven effective in achieving the overarching policy aim of shifting the cost of health and safety regulation from the public purse to those businesses that break health and safety laws*'. The panel also noted that HSE inspectors have implemented FFI consistently. The full independent review panel report can be found at [www.hse.gov.uk/fee-for-intervention/independent-ffi-review-panel-final-report-2014.pdf](http://www.hse.gov.uk/fee-for-intervention/independent-ffi-review-panel-final-report-2014.pdf).

### **d) Local authorities**

HSE published a National Local Authority Enforcement Code (May 2013) that sets out the risk based approach to targeting occupational health and safety interventions that Local Authority(LA) regulators should follow.

HSE has also published:

- a list of higher risk activities in specific LA-enforced sectors suitable for proactive inspection (May 2013).

- supplementary guidance to assist LAs to meet the Code in a range of circumstances (June 2013).

HSE has consulted on the implementation of the Code (ended October 2014) and has reviewed the 2013/14 LA annual returns. The conclusion was that LAs have been implementing the Code and are now more risk based in their targeting. The findings of this work are being used as part of a process to further refine the supplementary guidance to the Code, and drive even better targeting.

HSE undertakes an annual data collection exercise from LAs, with returns provided against a number of pre-agreed categories. The number of LA proactive visits in 2013/14 decreased to 6,300, a 95% decrease since 2009/10 – the majority of this decrease is in lower risk premises, indicating an approach based on better risk based targeting.

Nearly half of the visits LAs make to businesses are for reasons other than inspection/investigation or enforcement, many of these are advisory visits where they provide advice and information to support businesses.

#### **d) Primary Authority**

The Primary Authority scheme allows businesses to form a statutory partnership with one local authority or fire and rescue authority, which then provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing non-compliance. The agreements can cover broad or specific areas of environmental health, fire safety, licensing and trading standards legislation. The aim is to ensure that local regulation is consistent at a national level and sufficiently flexible to address local circumstances. More detail can be found at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/396388/pa-overview.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/396388/pa-overview.pdf)

The Better Regulation Delivery Office (within the Department for Business, Innovation and Skills) has strengthened Primary Authority through changes introduced by the Enterprise and Regulatory Reform Act 2013, and other legislation, from 1 October 2013. The scope of the scheme has been extended to cover new areas of regulation, including fire safety, the Housing Health & Safety Rating system and age restrictions in relation to gambling and alcohol. These changes are part of the Government's drive to make the UK the best place to start and grow a business:

- Primary Authority is now accessible to businesses that share an approach to compliance with at least one other business trading in a different local authority, usually through a trade association or franchise.
- A legal obligation has been introduced for primary authority inspection plans to be followed and for feedback to be provided to primary authorities when inspection activity is carried out.

Revised Statutory Guidance has also been published which reflects the extension and strengthening of the scheme:

<https://www.gov.uk/government/publications/primary-authority-statutory-guidance>

### **3 Making Health and Safety simpler**

HSE has introduced straightforward, web-based guidance to help businesses identify, assess and control common risks in the workplace. 'Health and Safety Made Simple' (March 2011) provides the basics and the 'Health and Safety Toolbox' (November 2012) provides the next level of advice.

From 1 November 2012 to 11 December 2014 there were over 1,365,000 separate visitors to the Toolbox.

HSE has consulted widely with small businesses to ensure this guidance remains effective. 'H&S ABC: Easy guide to health and safety' brand has been created to help small businesses easily identify the suite of tools and guidance intended for their use. Survey results indicate a strong awareness of this brand and good usage of the tools and guidance.

## **Implementation of Lord Young’s Review: *Common Sense, Common Safety*:**

With the recommendations set out in Lord Young’s *Common Sense, Common Safety* report of March 2010, the Government aimed to free businesses from unnecessary red tape and to ensure that common sense was applied ‘*not just to compensation but to everyday decisions once again*’. This section of the report sets out what has been achieved across government since Lord Young’s report, with a focus on the matters that were ‘*in progress*’ at the time of the last update report in November 2013.

### **1 The Adventure Activity Licensing Authority (AALA)**

Ministers have decided that there remains a place for AALA because it is important that parents and other carers of children can have confidence that activity providers are following good safety practices. Therefore AALA will be retained, albeit that in the longer term its scope and future delivery mechanism may change. Any proposals for significant change will be announced with sufficient lead-in time to allow the licence holders to plan for change and, if required, will include transitional arrangements.

### **2 Compensation Culture**

In *Common Sense, Common Safety* (2010), the Prime Minister set out his concerns about the compensation culture which had arisen. In addition to the earlier changes set out in the previous update report (November 2013), further legislation has recently been introduced to tackle this culture.

Section 57 of the Criminal Justice and Courts Act 2015 requires courts to dismiss in its entirety any personal injury claim where the claimant has been fundamentally dishonest, unless it would cause substantial injustice to the claimant to do so. This applies in cases where the claimant has grossly exaggerated his or her own claim, and where the claimant has colluded in a fraudulent claim brought by another person in connection with the same incident or series of incidents – for example, a claim by a “phantom passenger” in a road traffic accident.

Previously the court’s discretion to dismiss a claim entirely in such circumstances was limited by case law to “exceptional circumstances”, with the result that the claimant was generally still awarded compensation in relation to the “genuine” element of the claim. This new measure strengthens the law so that dismissal of the claim in its entirety should become the norm in such cases.

The Act also introduces a statutory ban on the offer of inducements by legal services providers in personal injury claims. This measure complements other Government initiatives which have been introduced to help discourage fraudulent, exaggerated and trivial personal injury claims and to provide significant benefits for consumers, businesses and local authorities.

In addition to this, the Social Action, Responsibility and Heroism Act 2015 requires the courts, when considering what steps a defendant should have taken to meet a standard of care in any claim for negligence or breach of statutory duty, to have regard to:

- a) whether the alleged negligence/breach of duty occurred when the defendant was acting for the benefit of society or any of its members
- b) whether the defendant had demonstrated a predominantly responsible approach towards protecting the safety or other interests of others
- c) whether the alleged negligence/breach of duty occurred when the defendant was acting heroically by intervening in an emergency to assist an individual in danger

The Act will be relevant in a wide range of situations where people are acting heroically, for the benefit of others, or in a responsible way. It will give reassurance to people that they can participate in good causes or intervene in an emergency with confidence that, in the unlikely event that something goes wrong and they are sued, the court will take full account of the context of their actions. It will also encourage small business owners and others who have taken a responsible approach to safety to resist speculative and opportunistic claims.

Both these Acts received Royal Assent on 12 February 2015 and the intention is to commence these provisions at the earliest opportunity.

### **3 Challenging Official Decisions**

Mark Spencer MP's Private Members' Bill, the Local Government (Review of Decisions) Bill seeks to place certain obligations on local authorities in relation to decisions about health and safety at events and to put it beyond doubt that the Local Government Ombudsman may 'fast track' investigations into complaints about such decisions. The Bill continues to progress through the Houses of Parliament.

Progress of the Bill can be tracked at: <http://services.parliament.uk/bills/>

**[If completed by publication date text will be amended]**

### **4 Education**

Revised Department for Education health and safety guidance for schools and the generic consent form were launched along with an HSE High Level Statement on the application of health and safety law to school trips (July 11).

HSE and the Play Safety Forum published a joint statement on striking a balanced approach when managing risk in play (July 2012). HSE continues to engage with the Play Safety Forum and their work to advocate effective policies and good practice for play provision.

These changes in the education sector deliver a key objective in the Government's health and safety reform agenda, stressing the benefit of extracurricular activities to pupils' development, debunking myths about perceived barriers to such activities, and giving assurances to teachers over unfounded fears of prosecution in clear and simple language.

### **5 Food Safety**

The Food Standards Agency's (FSA) Food Hygiene Rating Scheme (FHRS) is a key element in improving food safety. The transparency the Scheme provides empowers consumers to make more informed choices and is driving improved hygiene

standards in food businesses. The FHRS is now effectively operating nationally in England with 325 of the 326 local authorities with responsibility for food hygiene controls participating (there is full coverage in Wales and Northern Ireland).

The FSA has run a number of national campaigns to promote the FHRS to consumers. The 2014/15 campaign, 'Look before you book', was based around Christmas and Valentine's Day, times when many people are eating out. The aim was to encourage people to factor in the food hygiene rating in their decisions about where to choose. A number of channels were used but the focus was on PR and social media. Infographics and short videos were created which were easily shared using these routes.

For both phases of activity, there was significant regional broadcast and print coverage and it is estimated that the messages reached 25 million people via social media.

The FSA's strategy for 2015 to 2020 highlights that pressing the case for compulsory display of ratings at food outlets in England is a priority. This will provide added benefits for consumers and for those businesses that achieve good standards, and will be an added incentive to those with poorer standards to improve. Evidence to support the case is being gathered and it is anticipated this will be available in the autumn for the Government to consider.

The FSA Board are also considering the next steps for the FHRS. This includes its long-term sustainability. The Board will discuss options that should be developed and tested for ensuring the scheme's future in England including inspections by accredited third parties.

## Implementation of Professor Löfstedt’s Recommendations: *Reclaiming Health and Safety for all*

This section of the report sets actions taken on the recommendations in Professor Löfstedt’s report<sup>6</sup>. The section is arranged into six subsections that reflect Professor Löfstedt’s Chapters that deal with the changes required to reform health and safety legislation in Great Britain. For ease of reading some of the recommendations have been abridged.

### The scope of health and safety legislation

Recommendation	What has been done
<p>1 Exempting from health and safety law those <b>self-employed</b> whose work activities pose no potential risk of harm to others</p>	<p>Professor Löfstedt identified that the UK had, compared to some other European countries, potentially applied health and safety law inappropriately to include self-employed persons whose work activities do not create risks for other people. Following consultation in 2012, the HSE Board recommended "Exempting from health and safety law, the self-employed who pose no potential risk of harm to others or who do not work in a high risk sector as prescribed by the Secretary of State".</p> <p>The necessary legislative change was included in the Deregulation Act 2015. Following further HSE consultation on the proposed Regulations to implement the change, the Act amends Section 3(2) of the Health and Safety at Work etc Act 1974 such that only those self-employed persons conducting work activities prescribed by the Secretary of State in Regulations will continue to have duties, all others being exempt. The prescription of self-employed undertakings may be either:</p> <ul style="list-style-type: none"> <li>a) a description based on the type of activities carried out by the undertaking or on other features of the undertaking, such as its involvement with a specific hazard, or</li> <li>b) a general description covering any undertaking the conduct of which may expose others to risks to their health or safety.</li> </ul> <p>It is intended that Regulations to introduce the prescribed list will be made at the earliest opportunity. Under draft Regulations up to 1.8million self-employed persons will no longer be subject to duties under the Act to protect their own health and safety. HSE will publish</p>

<sup>6</sup> The report can be found at [www.gov.uk/government/publications/reclaiming-health-and-safety-for-all-lofstedt-report](http://www.gov.uk/government/publications/reclaiming-health-and-safety-for-all-lofstedt-report).

	clear guidance for businesses on how the exemption will apply.
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## The application of health and safety legislation

Recommendation	What has been done
<p>2 To <b>revoke</b> unnecessary or redundant regulations to produce a simpler regulatory framework.</p>	<p>Details of revocations and planned revocations are set out in the later section of this report entitled ‘Simplifying the regulatory framework’.</p>
<p>3 HSE amends the Health and Safety (<b>First Aid</b>) Regulations 1981 to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel</p>	<p>The Health and Safety (First Aid) Regulations 1981 have been amended to remove the requirement for HSE approval of first aid training, from the 1 October 2013. The associated HSE Approved Code of Practice text has been revoked and relevant elements incorporated into new HSE guidance.</p> <p>Employers are still required to have adequate provision for first aid in the workplace. HSE’s new guidance incorporates feedback from its consultations, and provides straightforward advice on how to select an appropriate first aid training provider and case studies to help smaller businesses.</p> <p>We have set up the “First-Aid at Work Quality Partnership” to engage industry stakeholders in maintaining standards in the training and practice of First-Aid. The Partnership consists of key Awarding Organisations including the Voluntary Sector and small and medium sized organisations, and, front line emergency medicine practitioners eg representatives from the military, mountain rescue and the College of Emergency Medicine.</p>
<p>4 HSE complete the evaluation of the <b>Construction (Design &amp; Management) Regulations 2007</b> &amp; the associated Approved Code of Practice (ACOP) by April 2012.</p>	<p>HSE published its evaluation of the Construction (Design and Management) Regulations 2007 in May 2012. This subsequently led to a public consultation in 2014 on proposals to amend the Regulations.</p> <p>Revised Regulations will come into force in April 2015, supported by a suite of joint HSE/industry guidance and later in 2015, a new ACOP. Together these ensure clearer expression of duties, reduction of bureaucracy &amp; appropriate guidance for small projects.</p>

Recommendation	What has been done
<p><b>5 Reporting of Injuries, Diseases &amp; Dangerous Occurrences Regulations 1995 (RIDDOR) &amp; its associated guidance should be amended by the end of 2013 to provide clarity for businesses on how to comply with requirements</b></p>	<p>Replacement of the Reporting of Injuries, Diseases &amp; Dangerous Occurrences Regulations 1995 came into effect on 1 October 2013, accompanied by simplified, web-based HSE guidance.</p> <p>HSE consulted on the proposals for change in 2012. The new regulations take into account the feedback and were approved by the HSE Board. They retain key requirements to report work-related fatalities, major injuries and certain diseases. The changes clarify and simplify reporting requirements for businesses, whilst ensuring that sufficient data is collected on workplace incidents for effective regulation and statistical purposes.</p>
<p><b>6 HSE to clarify the requirement for portable appliance testing (including through changes to the wording of the <b>Electricity at Work Regulations</b> 1989 if necessary) by April 2012 to stop over-compliance and ensure messages on over compliance reach all appropriate stakeholder groups</b></p>	<p>HSE’s discussions with stakeholders indicated that a change to the Electricity at Work Regulations 1989 was not necessary to clarify the requirements for portable appliance testing.</p> <p>HSE published new guidance on Portable Appliance Testing (April 2012) replacing two sets of guidance. The new guidance clarifies that it is a myth that all portable electrical appliances in a low-risk environment, such as an office, need to have a portable appliance test (PAT) every year. HSE estimated that UK offices were potentially wasting up to £30million a year on portable appliance testing. The new guidance has been welcomed by business and other stakeholders. Since publication HSE has worked with others to promote the guidance. The guidance continues to be popular with an average of more than 6,000 downloads per month and the associated FAQs webpage receives more than 10,000 visits per month.</p> <p>HSE has carried out a short evaluation of the impact of the revised guidance and associated publicity. The results indicated that 42% of businesses interviewed were aware of the updated guidance. However many of those had chosen to continue with their current procedures as this was seen as the easiest option that provided the businesses with assurance that their appliances were safe.</p>

Recommendation	What has been done
<p><b>7 Work at Height</b> Regulations 2005 and the associated guidance should be reviewed by April 2013 to ensure that they do not lead to people going beyond what is either proportionate or beyond what the legislation was originally intended to cover.</p>	<p>HSE sought views from a wide and diverse range of businesses and other stakeholders including trade associations and worker representatives. Their review identified examples of misinterpretation of the requirements of the Work at Height Regulations that led some businesses to go beyond what is required.</p> <p>Following the review, HSE produced simpler and clearer guidance to help people understand what the law requires and dispel some of the above myths about working at height (“Working at Height – A Brief Guide”). Analysis of traffic on the ‘work at height’ web pages shows a steady stream of visitors (60,000 visits in six months to October 2014); and the ‘Brief guide’ page has seen an increase of more than 45% in visits in the year to October 2014, compared to the previous year (186,552 in 2014; 127,079 in 2013).</p>
<p><b>8</b> HSE should continue to help businesses understand what is <b>reasonably practicable</b> for specific activities where the evidence demonstrates that they need further advice to comply with the law in a proportionate way.</p>	<p>See Good Health and Safety Good for Everyone pages – Making Health and Safety Simpler.</p>
<p><b>9</b> HSE should review all* its Approved Codes of Practice (<b>ACOPs</b>). The initial phase of the review should be completed by June 2012 so businesses have certainty about what is planned and when changes can be anticipated.</p>	<p>i) HSE completed the first phase of its review of ACOPs in summer 2012, including a consultation on the initial proposals. Feedback from the consultation was that it is more important that the ACOPs are right, than that they are changed quickly.</p> <p>ii) Thirty six ACOPs have been completed by end-2014: nineteen have been revised and re-published, eight withdrawn completely and nine consolidated into three revised ACOPs.</p>

\*NB – Some remaining HSE ACOPs are associated with changes to legislation and will be reviewed in accordance with the timescale for the legislative change (see section on Simplifying the Regulatory Framework).

## Engaging with the EU

Recommendation	What has been done
<p>10 That the Government works more closely with the Commission and others, particularly during the planned review of health and safety Directives in 2013, to ensure that both new and existing <b>EU</b> health and safety legislation is risk-based and evidence-based.</p>	<p>HSE, DWP, BIS and Foreign and Commonwealth Office officials have worked with other member states for a risk-based approach to proposals for new EU legislation on occupational safety and health (OSH). Examples of where this has been successful are:</p> <p>i) on the request for a directive to implement the sectoral social dialogue agreement on the protection of OSH in the personal services (hairdressing) sector which was deemed to be disproportionate. The Commission agreed not to propose legislation to implement the agreement but to continue its evaluation of it.</p> <p>ii) on a draft proposal for a new directive on ergonomics, working with the Small, Medium Enterprises Envoy network, officials drew the Commission's attention to a number of problems with the draft proposal, especially for small and micro-businesses. The Commission subsequently agreed not to propose legislation.</p> <p>iii) a Directive on the risks from electromagnetic fields has been adopted, with a more proportionate approach than the initial Directive, including a derogation for magnetic resonance imaging activities and a temporary derogation for other activities, where justified.</p> <p>HSE prepared a report on the UK's practical implementation of EU OSH directives during 2007-2012. The report has fed into the Commission's comprehensive review of EU OSH legislation. Officials have met the contractors undertaking the evaluation of the legislation for the Commission and emphasised the importance of proportionality.</p> <p>HSE contributed to the Prime Minister's EU Business Task Force work. Its report, 'Cut EU red tape' includes a recommendation that member states be given flexibility to decide on recording risk assessment requirements for small, low-risk businesses.</p> <p>Senior HSE officials have met their counterparts in several member states to explore how we can work better together to ensure more proportionate and risk-based EU legislation.</p>

## Simplifying the regulatory framework

Recommendation	What has been done
<p>11 To <b>revoke</b> unnecessary or redundant regulations to produce a simpler regulatory framework.</p>	<p>HSE has undertaken a comprehensive review of its full stock of legislation and is on target to deliver a substantial package of reforms to remove or improve around 84% of health and safety regulations. This includes reducing the overall stock of legislation by 50%. These reforms have been achieved without compromising or diluting health and safety protections for workers.</p>
<p>12 That HSE undertakes a programme of <b>sector-specific consolidations</b>:</p> <p><b>i) Biocides</b></p> <p><b>ii) Explosives</b></p> <p><b>iii) Genetically Modified Organisms</b></p> <p><b>iv) Mining</b></p>	<p>The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 came into effect on 1 September 2013. This consolidated the provisions in seven Statutory Instruments for enforcement and appointment of national authorities for various European laws on biocides and hazardous chemicals.</p> <p>No new guidance is needed for these changes, further information is available on the HSE website at:  <a href="http://www.hse.gov.uk/biocides/">www.hse.gov.uk/biocides/</a>  <a href="http://www.hse.gov.uk/pic/">www.hse.gov.uk/pic/</a>  <a href="http://www.hse.gov.uk/chemical-classification/legal/chip-regulations.htm#changes-to-chip">www.hse.gov.uk/chemical-classification/legal/chip-regulations.htm#changes-to-chip</a></p> <p>The new Explosives and Acetylene Regulations came into force on the 1 October 2014. The regulations consolidate and modernise the explosives legislative framework in GB. The guidance to support the new regulations has also been updated. The Manufacture and Storage of Explosives Regulations ACOP (L139) has been withdrawn and replaced with up to date guidance  <a href="http://www.hse.gov.uk/explosives/guidance-structure.htm">www.hse.gov.uk/explosives/guidance-structure.htm</a>.</p> <p>The Genetically Modified Organisms (Contained Use) Regulations 2014 came into effect on 1 October 2014. This consolidated four sets of regulations into one.</p> <p>The Regulations retain the essential protections for human health and the environment, but are more risk based and proportionate, take account of current working practices and available technologies, and provide a more flexible approach. The new regulations support growth in the key bioscience sector and ensure UK business is not at a competitive disadvantage to their European counterparts. The regulations are supported by revised web pages and guidance prepared jointly with industry representatives  <a href="http://www.hse.gov.uk/biosafety/GMO/index.htm">www.hse.gov.uk/biosafety/GMO/index.htm</a>..</p> <p>All current health and safety mining legislation was reviewed and will be replaced from 6 April 2015 by a single set of regulations. The Mines Regulations 2014 will be supported by a single guidance document (L149); further sector</p>

Recommendation	What has been done
<p><b>v) Petroleum</b></p>	<p>guidance on specific hazards and risk control will continue to be available. The ACOP covering first aid at mines (L43) will remain in force.</p> <p>The Petroleum (Consolidation) Regulations 2014 came into force on 1 October 2014. The regulations consolidate, update and replace eight pieces of legislation on petrol storage. HSE updated and redesigned the petrol information on its website and worked with stakeholders to produce guidance on portable petrol storage containers  <a href="http://www.hse.gov.uk/fireandexplosion/petroleum.htm">www.hse.gov.uk/fireandexplosion/petroleum.htm</a>.</p>
<p>13 That HSE should redesign the information on its <b>website</b> to distinguish between the regulations that impose specific duties on businesses and those that define administrative requirements or revoke/amend earlier regulations.</p>	<p>HSE has revised and updated web pages to assist businesses to find the health and safety legislation that applies to them and to watch out for changes to the law (December 2012). (<a href="http://www.hse.gov.uk/legislation/index.htm">www.hse.gov.uk/legislation/index.htm</a>)</p> <p>Redesigned web pages now make it clear where regulations impose specific duties and where they define administrative requirements.  <a href="http://www.hse.gov.uk/legislation/statinstruments.htm">www.hse.gov.uk/legislation/statinstruments.htm</a>)</p> <p>The web pages will be kept under review.</p>
<p>14 That HSE <b>commissions research</b> to help decide if the core set of health and safety regulations could be consolidated in such a way that would provide clarity and savings for businesses.</p>	<p>HSE commissioned this research in January 2012 and published it in December 2012  <a href="http://www.hse.gov.uk/legislation/consolidation-of-regulations.htm">www.hse.gov.uk/legislation/consolidation-of-regulations.htm</a>).</p> <p>In January 2013, the findings were discussed both at a stakeholder meeting and by the HSE Board. There was broad support at both meetings for the report’s conclusions. The clear consensus is that continuing to improve and revise HSE’s guidance brings far greater benefits to business than consolidating core health and safety law.</p>

## The enforcement of health and safety regulations

Recommendation	Progress
<p>15 That HSE :</p> <p>i) be given the authority to <b>direct all local authority (LA) health and safety inspection</b> and enforcement activity, in order to ensure that it is consistent and targeted towards the most risky workplaces.</p> <p>ii) should also be the <b>Primary Authority</b> for multi-site national organisations</p>	<p>See Good Health and Safety Good for Everyone pages – Local Authorities.</p> <p>See Good Health and Safety Good for Everyone pages – Primary Authority.</p>
<p>16 That all those involved should work together with the aim of commencing health and safety <b>prosecutions</b> within three years of an incident occurring.</p>	<p>This recommendation goes wider than just HSE and it involves multiple agencies such as the police, Crown Prosecution Service, local authorities and coroners.</p> <p>HSE has driven improvements in the time taken to complete investigations of fatal incidents through the National Liaison Committee for the Work-related Death Protocol and instigated changes to internal systems for managing all its investigations. Early analysis of outputs shows improvement, but HSE will continue to monitor these arrangements.</p>
<p>18 That regulatory provisions that impose <b>strict liability</b> should be reviewed and either qualified with ‘reasonably practicable’ where strict liability is not absolutely necessary or amended to prevent civil liability from attaching to a breach of those provisions.</p>	<p>The option chosen was to remove civil liability from attaching to a breach of health and safety Regulations. An amendment to section 47 of the Health and Safety at Work etc Act 1974 (HSWA) has been made by Section 69 of the Enterprise and Regulatory Reform Act 2013, which came into force on 1 October 2013.</p> <p>The change means that in future civil claims for breaches of health and safety duties will only be able to be brought under the common law, where negligence can be proved.</p> <p>The Health and Safety at Work etc. Act 1974 (Civil Liability) (Exceptions) Regulations 2013 also came into force on this date to make an exception to this change for pregnant workers, required due to the particular wording of the relevant EU Directive.</p>

Recommendation	Progress
19 That the House of Lords be invited to consider discussing how to <b>engage society on risk</b> .	The House of Lords Liaison Committee considered a proposal in March 2013 for an ad hoc Select Committee to examine the issue of risk and consider how to engage society in a discussion about risk. The Committee received a large number of proposals and the risk committee was not one of those selected.
20 That the Government asks the Chief Scientific Advisor to convene an expert group aimed at addressing the same challenge of engaging society in a <b>discussion about risk</b> .	On the 21 <sup>st</sup> November 2012 the Government Office for Science held a workshop on <i>Policy Makers, the Public and Perceptions of Risk</i> . This brought together experts from across government, regulatory bodies, business, and academia to discuss how risk, and our responses to it, fundamentally shapes policy thinking. The findings of the workshop have fed into Government Office of Science further work on the communication of risk.

## Additional measures -

The following additional measures were included in the report but were not formal recommendations.

Recommendation	Progress
21 <b>Challenge panels</b> - that the Government looks at introducing a challenge mechanism that allows for cases of incorrect, over-application of health and safety legislation to be addressed.	<p>HSE established two independent challenge panels:</p> <p>i) The Independent Regulatory Challenge Panel (January 2012) looks at complaints from businesses about decisions made by HSE or local authority inspectors. To date, only one case has been submitted to the panel. The summary of this case is available on the HSE website. <a href="http://www.hse.gov.uk/contact/challenge-panel-findings.htm">www.hse.gov.uk/contact/challenge-panel-findings.htm</a>. Cases are expected to go through the usual complaints procedures before they are referred to this panel.</p> <p>ii) The <b>Myth Busters Challenge Panel</b> (April 2012) looks at complaints regarding advice from non-regulators such as insurance companies, health and safety consultants, employers and general advice where the term ‘health and safety’ has been used. To date over 300 cases have been considered and their responses published on the HSE website at: <a href="http://www.hse.gov.uk/myth/myth-busting/index.htm">www.hse.gov.uk/myth/myth-busting/index.htm</a>.</p> <p>The panels are helping to tackle misreporting of health and safety matters. HSE monitoring of press reports</p>

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	has found evidence of a decline in the number of negative stories about health and safety.
22 Increased awareness of INDG420 'Getting specialist help with health and safety.	Revised guidance was published on the HSE web site in January 2012.