

# SECURING COMPLIANCE

## Introduction

145. Inspection and other regulatory activities to secure compliance with the law are at the core of HSE's and local authorities' (LAs) work. HSE and LAs share responsibility for enforcement of health and safety law and work together to secure consistency of standards. HSE has responsibility for securing compliance in over 740 000 establishments and local authorities secure compliance in around 1 194 000 establishments. During 2003/04 HSE and local authorities have continued to undertake programmes of preventive inspections, investigations of incidents and complaints and formal enforcement work and have taken forward specific campaigns in certain areas focused on improving compliance.

146. This mix of preventive inspection and reactive investigation is based on the principle that prevention of harm is the primary aim. HSE also carry out investigations in line with HSC criteria and procedures for selecting RIDDOR (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) incidents and complaints. We investigate incidents to learn lessons and influence the law and guidance, to prevent them happening again, and to put serious breaches of legal duty before the courts. Generally we investigate:

- all fatalities arising out of work activities (excluding those relating to road traffic accidents and railway suicides for example);
- certain RIDDOR-defined major injuries, diseases and dangerous occurrences related to the severity of the outcome;
- all RIDDOR incidents likely to give rise to serious public concern, whether major or minor injuries or dangerous occurrences; and
- all RIDDOR incidents where there is likely to have been a serious breach of health and safety law, whether major or minor injuries or dangerous occurrences.

## Enforcement policy

147. Inspectors enforce the law in accordance with HSC's revised Enforcement Policy Statement (<http://www.hse.gov.uk/pubns/hsc15.pdf>) and apply HSE's Enforcement Management Model (<http://www.hse.gov.uk/enforce/emm.pdf>), a framework which helps inspectors make enforcement decisions. HSE continues to report on enforcement action in HSE's report *Health and safety offences and penalties 2002/03*; the report for 2003/04 will be published in autumn 2004. A copy of the Report for 2002/03 can be found on <http://www.hse.gov.uk/enforce/index.htm>.

## Field Operations Directorate

148. HSE's Field Operations Directorate (FOD) has had a successful year with the following targets exceeded:

- numbers of regulatory and inspection contacts planned;
- the annual target for complaint investigations;
- time spent by operational Band 3 inspectors on the HSC priority sectors/topics.

149. Further successes included:

- the North West Pilot\* - the findings from the six-month evaluation show that all the evaluation criteria on business efficiency, business quality and organisational health have been met;
- the on-going London Pilot has continued to demonstrate its effectiveness;
- successfully piloting the new arrangements for programme/project working in Construction Division, in preparation for a wider roll-out.

*\*Revised incident selection criteria were introduced at the beginning of the North West pilot. In the first two months of the Pilot, the reduction in the number of incidents being put out to investigation dropped considerably when compared to the previous year. This impact was greater than anticipated and therefore, following desk-top peer reviews, it was agreed that the Pilot criteria should be revised and these were introduced from 1 December 2003. During the Pilot there have been no complaints from the public about non-investigation of incidents.*

150. FOD carried out innovative and far-reaching work directed towards achievement of the PSA targets and other outcomes. These include:

- successful introduction of a manual handling 'passport' scheme for client handling across the 15 NHS Trusts in Wales. A modified version of the scheme has now been adopted by all 22 Welsh LAs and is about to be launched in the private health and social care sectors. The schemes set agreed standards for training and competence in service user handling and represent a major step forward in ensuring consistency of approach and in enabling transferable skills;
- a cross-Directorate project on safe use and maintenance of ladders, led by HSE's Safety Unit, including joint work with a major employer, building on new HSE-sponsored research and culminating in a comprehensive position paper from which guidance material can be mined;
- joint Operations and Sector work with Royal Mail Group plc (the third largest employer in the UK), has enabled us to design the most effective approach for a series of divisional inspection programmes in 2004. This will build on achievements this year, which include stopping the steady increase in peripatetic accidents and a significant decline in RIDDORs;
- stress audits with selected LAs, employing some 40 000 employees, led by Specialist Groups. The audits concentrated on education and social care departments and complemented initiatives such as the Audit Office 'Comprehensive Performance Survey' and the LAs' own work to achieve Investors in People (IiP) status. Each LA was asked to produce an action plan to address matters of concern;
- wide-ranging investigations into the design safety and use of semi-permanent tattooing/makeup equipment to counter the possible cross contamination of pathogens, including HIV and Hepatitis. This work involved close co-operation between FOD field staff in most Divisions, Safety Unit, LAU, Policy Group, HSL scientists and LA environmental health departments. The work resulted in several pieces of equipment being withdrawn from the market and the issue of a comprehensive guidance document on the safe cleaning and use;
- work with the Government Office of the East Midlands on reducing injuries through a Regional Avoidable Injury working group and on reducing ill health through an Investment in Health working group. Both now have action plans involving key intermediaries in the East Midlands;

- increased joint working with local authorities. For example, HSE prepared information for use by Environmental Health Officers (EHOs) in saturation inspections within a local area;
- co-operation with LAs, who are fairground lessees in the South West, has helped ensure travelling funfair operators produce plans against which they can be monitored. This involved trial buddying schemes between HSE inspectors and EHOs have proved successful and may be extended next year. The schemes allow inspectors to give mutual support; improve awareness of each other's roles and techniques, eg by joint visiting; and increase knowledge;
- comparative assessment of inspections by HSE and LA staff helped ensure consistency of approach in workplace transport blitz inspections;
- beneficial partnerships in agriculture forged with Northumberland and Durham Machinery Ring leading to the delivery of 'mini-Safety and Health Awareness Days'. The arrangements to hold the events on a host farm, and invite other farmers, were made by the intermediary. HSE inspectors do a mock inspection, highlighting main problem areas, and deliver an education and awareness seminar.

## Key messages

151. A number of Divisions have reported positively on working with LAs during 2003/04, eg on joint inspections and blitzes. These initiatives have also utilised Workplace Contact Officers (WCOs) and administrative staff, leading to a better targeting of initiatives and more effective use of combined frontline staff. On the downside, some LAs appear unwilling or unable to participate in joint HSE/LA projects due to lack of resources.

152. Divisions have also worked with a range of intermediaries, eg other Government Departments, industry sectors, local business partnerships, trade associations, and have reported favourably on these activities. There are some more complex partnership arrangements, which have encountered difficulties, eg work to develop the protocol with the Scottish Care Commission. We may need to do more to attract the interest of small businesses, eg a seminar planned in partnership with Liverpool Chamber of Commerce, Groundwork and the Muslim Development Service was cancelled due to lack of delegates.

153. Instilling ownership, eg by training and empowering staff, can have immediate benefits. In one case, an NHS Trust sent all senior and middle managers on the Institution of Occupational Safety and Health managing safety course. Shortly after attending the course, one manager intervened - instead of ignoring the situation - when he saw a contract window cleaner working dangerously at height.

## Evidence of change

154. There is increased awareness of the RHS topics across all industry sectors, particularly with large and medium-sized employers, who were generally aware of HSC's priorities.

155. Work with the thermoforming sector within the plastics processing industry resulted in an industry-funded conference, an agreement for improvement (with a deadline for compliance), and a series of breakfast seminars, supported by HSE staff to promote the agreement and draft good practice procedures.

156. An improvement notice served on a beer delivery company has profoundly affected the whole industry. A liaison committee being formed by similar companies should spread the word on new ways of working to help prevent manual handling injuries, eg by changing ways of working so that staff can manage their loads more easily. Increased productivity has been achieved, because the workforce finds the task easier, although each trailer load is slightly reduced.

157. Close working with dutyholders can ensure sustained improvements in health and safety management. In one case, following enforcement action, an Ambulance Trust appointed a communications manager and initiated a media campaign on issues including violence and aggression. Results included an increase in the reporting of incidents, a 19% reduction in back injuries and a 40% reduction in physical assault (although there was an increase in verbal abuse).

## Inspecting 'high risk' premises, poor performers and multi-site organisations

### Plans for 2003/04

- Prepare and carry out a nationally co-ordinated inspection plan for selected multi-site organisations, working closely with senior management and employees of companies selected.
- Identify employers with a persistently poor health and safety record and the underlying causes for that poor performance, ensure the organisation has a plan for dealing with these causes, monitor progress on the plan and take enforcement action if necessary to secure improvement.
- Inspect during the year all employers falling into category A.

### Progress during 2003/04

Good progress was made with 2 multi-site companies; some progress with the remaining 20 companies, which will continue.

Poorly performing companies were identified and a number targeted. Some existing work was wound-up, as a result of improved performance, but the long-term work with others continues.

479 of the 503 identified 'high risk' premises were visited in the year. The slight shortfall (of 24 workplaces) is due in almost all cases to continuing enforcement action, other interventions already under way, transfer to LAs or a very recent previous visit.

## Action in industry sectors and on cross-cutting hazards

158. The following tables report on key actions in industry sectors and for cross-sector hazards that were taken forward in 2003/04.

### Action in industry sectors

#### Quarries

As part of the quarries hard target initiative to reduce accidents and ill health the majority of the quarry industry are committed to introduce in the next four years total assured competence using the NVQ or equivalent system.

In Scotland quarry industry accidents fell to 38% of 2000 level and pedestrian segregation in quarries and insistence by inspectors on the use of wide angle mirrors for large earth-moving equipment has resulted in zero fatal and serious accidents.

Workforce involvement is an integral part of the hard target initiative of reducing accidents by 50% in five years. During the European Week for Health and Safety at Work, a quarry health and safety representative arranged a week of health and safety seminars for quarry workers in South Wales. The Chair of HSC introduced the event.

## **Docks**

Key developments included:

Safer Ports Initiative: Continued support through regional launches. Mixed effect on incident rates, but some early promise shown.

Ports Industry National Committee on Health, Safety, Skills and Standards: Committee restructured. HSE representation through Sector. PINCHSSS continues to set strategy for ports health and safety, and now looks at skills issues.

Safer Ships Design Group: Set up at HSE's suggestion. Includes HSE, Maritime and Coastguard Agency (MCA), Unions and Ports Skills and Safety. Considerable success in raising issues of poor ship design and maintenance and the effects on docker and crew health and safety during cargo operations.

Good publicity achieved for joint visit with MCA to ship where there was high risk of falls (alerted by German labour inspectorate).

Research into design of quayside ladders following fall resulting in fisherman drowning. Intervention by HSE at Grangemouth Docks has meant that the traffic management system for the container terminal is being redesigned to promote transport safety and pedestrian segregation.

A near-fatal injury and resulting prosecution led to changes at an East Anglian Port in the way containers are loaded and unloaded: dock staff no longer work aboard ship when containers are being unloaded. The key advantage is that staff are no longer exposed to the risk of falling into the gaps between the container stows. On the type of ship involved in this accident, these gaps can be some 8 m deep by 750 mm wide.

Docks industry targets:

- to reduce reportable fatal and major injuries by 10%;
- to reduce over-three-day injuries by 20%, both by 2005. The baseline is the industry's own accident statistics in 2001 (as collected by Port Skills and Safety Ltd).

The industry statistics for 2002 showed an increase in reportable fatal and major accidents by 1, from 53 to 54 (although there were no fatal accidents in 2002). Once the number of employees covered by the statistics is taken into account, this equals an increase in the incident rate from 0.32 to 0.36 (per 100 workers), equivalent to a 12.5% increase.

The number of reportable over-three-day incidents decreased by 111 from 626 to 515, a reduction in the incidence rate from 3.8 to 3.4, equivalent to a 10.5% fall.

## **Woodworking**

The second year of this three-year initiative found encouraging levels of awareness of safe working practices and methods of using guards among managers (around 80%), but companies were let down by poor operator training and supervision. In a third of the incidents investigated during an earlier part of the initiative, inspectors indicated that adequate training would have prevented the incident;

Three Safety Awareness Days for the woodworking industry were held and excellent feedback from attendees continues to be received.

## Fairgrounds

There are signs that the post-2000 approach taken in working with the industry is leading to reduced accident levels. Provisional RIDDOR stats for 2002/3 are 1 Fatal, 205 Major Injuries (MI) and 60 over-three-day (OTD) incidents, which compare with 2 FataIs, 345 MIs and 81 OTD for 2001/2 and 5 FataIs, 516 MIs and 86 OTD for 2000/2001 (see Figure 2).

Very positive feedback received from a fairground safety conference attended by approximately 200 delegates, all senior members of trade associations within the industry. Emphasis was placed on the integrated nature of fairground safety, and the respective roles that dutyholders play within the system.

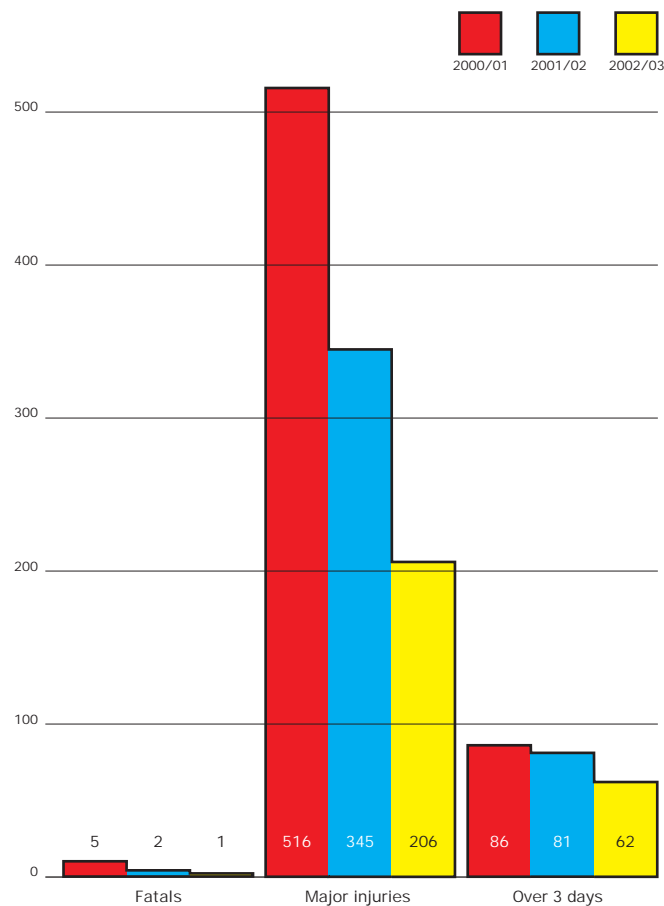
2003/4 saw the successful resolution of enforcement (Prohibition Notices) taken against all ten Superstar fairground rides operating in the UK and against the manufacturer. Significant modifications were made to all existing rides following an extremely complex investigation. The manufacturer has made fundamental modifications to the design of all future rides of this type.

Significant progress has been made, with HSE involvement, in the continued developments of the Amusement Devices Inspection Procedure (ADIPS) as a separate body regulating the activities of inspection bodies within the industry in furtherance of effective self-regulation.

Projects have been commissioned on major hazard analysis of white-knuckle rides, passenger behaviour, quality assurance within the manufacturing part of the industry and proposals have been put forward for work to assess work at height risks within the industry.

An HSE video on thorough examination has been produced as part of the communication strategy for the industry - meeting a further recommendation in the Review of Fairground Safety.

**Figure 2 Fairgrounds RIDDOR reported incidents (HSE & LA) 2000/01-2002/03**



## **Site and industrial radiography**

The new system of site radiography notification has proved to be a success internally and with the site radiography companies;

Inspection activity has improved over previous years, as has consistency of advice and enforcement. Unfortunately the Specialist Inspectors are still finding significant non-compliance with the Ionising Radiation Regulations 1999 during site visits. However, with the increased inspection activity and visits to company Head Offices improvements are beginning to be realised;

Similar inspection effort will continue in 2004/05 and a planned meeting with major site radiography clients will hopefully result in improvements in the quality of notifications received.

## **Key actions on cross-cutting hazards**

### **Noise**

Noise was dealt with at nearly 8500 inspections carried out by FOD inspectors and reported using the Inspection Report Form. The total time spent on noise was approximately 76% over the 2002/03 outturn;

At these inspections, more than 80 enforcement notices were issued.

### **Asbestos**

The Asbestos Training Providers (TPs) WG produced a comprehensive new training chapter that will feature as part of the forthcoming consolidated guidance for licensed contractors. TPs will be asked to sign a declaration to carry out training in line with the new guidance before HSE includes them in list of TPs available to the public;

A notable new development is the work being undertaken to develop standards for key equipment used in asbestos removal work. Joint HSE/trade association funding is paying for BSI to develop a Publicly Available Specification for wet injection, negative pressure and vacuum equipment;

Six licensed contractors had been successfully prosecuted and 57 enforcement notices have been served on licensed contractors. FOD carried out 887 site inspections and 59 new and 283 renewal licences were issued during the year.

Since the formation of HSE's Asbestos Liaison Group (a group which includes industry representatives) we have identified areas where further improvements can be made where work with asbestos is undertaken. We are working with the industry (employers and employee representatives) to develop a strategic approach to improving performance.

### **Hand-arm vibration (HAV)**

Action has been taken in stone quarries to ensure that vibratory cutting tools are properly selected from the correct information supplied by manufacturers. In Scotland, some companies reported a lack of information from equipment suppliers.

### **Occupational asthma**

Occupational asthma was discussed at nearly 7500 inspection contacts, with over 280 notices issued;

Work on a compliance project for flour dust in craft bakeries has entered the enforcement state. A large number of Improvement Notices have been served on companies found to be exceeding the current Maximum Exposure Limit. Initial signs are that adequate precautions are readily available;

Enforcement on controlling isocyanates in vehicle repair shops (specifically the duty to maintain and have thorough examination of spray booths) has revealed a lack of adequate knowledge among some industry members, which is being addressed.

## Local authorities

159. The health and safety at work of more than twelve million people - almost half of those employed in Great Britain - is protected through local authority enforcement officers. Essentially they are responsible for regulating health and safety in the services sector, ie retail, distribution, finance, leisure and hospitality industries.

160. LAs have a major role to play in reducing injuries and ill health from activities related to the workplace and with our changing economy and a consequent greater emphasis on services, the 410 councils around Great Britain with this responsibility become increasingly more important. During the year, in recognition of the significant contribution of local authorities and as part of the Commission's new strategy, a series of consultations took place with local government and others to establish how best to maximise the effectiveness of the two enforcing authorities - HSE and LAs. The overriding response was that HSE and local authorities should work together in genuine partnership.

161. One of the five Strategic Programmes established by the Executive to deliver the Commission's strategy is centred upon developing a new partnership between HSE and local government. A Programme Board, jointly chaired and with representation from HSE and local authorities will direct the work of the programme. The programme will be seeking to review the front line work of inspection and enforcement, communications, mutual support and aid, and management arrangements to co-ordinate service delivery. A steering Group of Commissioners and elected members from local government will guide the work of the Board. Extensive consultation and planning has been the focus during this year with the intention that the new partnership be established over the coming two years.

162. Much of the work identified in the Business Plan for 2003/04 has been subsumed by the strategic programme and will contribute to the programme outcome. The Synergy Programme paved the way for a partnership approach, for example gaining valuable experience from joint working within the dry cleaning industry in Scotland and also with the Royal Mail. This will now be fed into the review of the Enforcing Authority Regulations as part of the new Strategic Programme, as will the review of HELA (Health and Safety and Local Authority Enforcement Liaison Committee) to establish a new infrastructure to support joint working across industry. The programme will be seeking to remove barriers to effective enforcement and research appropriate and new interventions with the aim of achieving the Commission's priorities.

163. The annual HELA conference (entitled 'A Time for Change') held in December 2003 was the most successful to date, with the proposal to develop a new partnership as its central theme, enjoying strong support from the Minister of Work and being endorsed by local government politicians.

164. During the year, a further 15 local authorities were audited and helped to make improvements in their performance. Training material has also been made available for LAs to introduce and use the HSE's Enforcement Management Model from April 2004.

165. Meanwhile, other operational issues include guidance issued by HELA to promote joint-working with HSE, and HELA's endorsement that LAs should universally adopt the topic-based approach to inspection from April 2004. In addition, a key health-related issue arose requiring close liaison between HSE and LAs around the country, concerning the supply and use of micro-pigmentation/semi-permanent tattooing machines. The potential risks include systemic infections such as Hepatitis and HIV. After consulting HSE and non-HSE experts in the field and colleagues from DoH, the Health Protection Agency and the Medicines and Healthcare products Regulatory Agency, comprehensive guidance was produced for enforcing authorities and employers.