

# SECURING COMPLIANCE

## Introduction

1.30 Inspection and other regulatory activity to secure compliance with the law are at the core of HSE's work. HSE has responsibility for securing compliance in over 740 000 establishments and local authorities enforce the HSW Act in around 1 194 000 establishments. During 2001/02, HSE undertook programmes of preventive inspections, investigations of incidents and complaints and formal enforcement work and lead specific campaigns focused on improving compliance.

1.31 HSE secures compliance through a mix of inspections and other regulatory contacts, investigations and formal enforcement work. The table on output and performance at Annex 2 shows the numbers planned and the subsequent outcome for 2001/02. HSE's approach to investigations is based on its published incident investigation criteria. We investigate incidents to learn lessons and influence the law and guidance, to prevent them happening again, and to put gross breaches of legal duty before the courts. Generally we investigate:

- all fatalities arising out of work activities (excluding those relating to road traffic accidents);
- 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.

1.32 The numbers of contacts and inspections include those made under the priority programmes. These include specific, directed contacts and inspections focused on control of the relevant hazards in specific workplaces.

1.33 Much of HSE's work involves inspections and other initiatives to address significant risks within sectors. Some of this work, particularly the development of industry specific guidance and standards and initiatives to reduce incidents and ill health, is done in consultation and partnership with our stakeholders and intermediary organisations. This work will also contribute to achieving the RHS targets.

## Table 16 Inspecting high risk premises

### Plans for 2001/02

### Progress during 2001/02

HSE regards it as critically important to maintain a substantial programme of preventive work. In particular, we will continue to carry out annual preventive inspections of all high-risk premises or category A premises (in 2001/02 there were some 2450 such premises in HSE's Field Operations Directorate's (FOD) rating system). HSE will inspect every category A establishment with the aim of:

- removing them from category A within 2 years by the implementation of improved control measures; or
- where long term action is needed to achieve this compliance (for example, the installation of complex and expensive ventilation systems) taking formal enforcement action to secure this longer term goal within two years.

98% (2400 out of 2450) of category A establishments were inspected in line with the planned outcome. The 100% target was just missed because:

- a number of premises were already subject to separate enforcement action. Although these were not visited as part of the category A programme, they were appropriately dealt with; and
- others were not visited due to F&M disease restrictions. The plan is to visit these in 2002/03.

## Table 17 Enforcement policy

### Plans for 2001/02

### Progress during 2001/02

#### Consistency in enforcement

Inspectors enforce the law in accordance with HSC's published Enforcement Policy Statement (EPS) and applying the Enforcement Management Model which are available on the HSE website. HSC will:

- publish a revised EPS;
- develop an approach to reviewing and evaluating the revised policy to ensure its continued effectiveness; and
- develop an agreed approach with the HSE/Local Authorities Enforcement Liaison Committee (HELA) to monitor it.

Revised statement published January 2002.

Work is underway to develop an approach to evaluate the statement. Proposals for initial research were sought from the public through the Competition for Ideas (research proposals). Results on evaluation expected in time for the next review of the EPS scheduled for 2006/07.

HELA will be involved in the overall evaluation project.

## Table 18 Penalties and prosecutions

### Plans for 2001/02

HSE will:

- support legislative efforts, through advice to ministers on the feasibility of innovative penalties to ensure that the courts have the range of powers they need to reflect the seriousness of health and safety offences;
- approach those bodies concerned with training judges and magistrates, and with advising magistrates, to discuss how the messages of *R v F Howe & Son (Engineers) Ltd* can best be conveyed to the courts; and
- identify all the manuals used by judges, magistrates, and magistrates' clerks and make sure their references to health and safety law, offences, penalties and sentencing are up to date and accurate.

### Progress during 2001/02

Support has been given to those in Government who lead on sentencing. There have been meetings with the Home Office and others to explore various possibilities, such as corporate sentencing. Evaluation of the EPS will also provide an indication of the effectiveness of the current powers.

In May 2001 the Magistrates Association issued guidance on factors to consider when sentencing companies for health and safety offences, assisted by information from HSE. Further discussions have since taken place with organisations with a role in advising magistrates, in order to establish what more can be done to provide information to assist in decisions in health and safety cases.

This work will be taken forward during the next two years.

## Table 19 Investigation of incidents

### Plans for 2001/02

HSC is developing proposals to introduce a specific duty on employers to investigate reportable incidents, dangerous occurrences and diseases. Subject to the outcome of formal consultation we will submit new regulations to ministers, to come into force in late 2001/02.

HSC will also start work on the fundamental review of RIDDOR with a view to simplifying reporting procedures and to making the whole system more efficient and effective. We will carry out research and issue a discussion document in 2001/02.

### Progress during 2001/02

Consultation on the proposals ended in September 2001. HSE is still analysing the substantial response to consultation.

Other high priority work has delayed the start of this project. However, preparations are in hand for the research.

An Incident Contact Centre for receiving incident reports is to be launched in April 2001. The contact centre will receive reports both for HSE enforced sectors and also the LA sector.

The Incident Contact Centre was launched on 1 April 2001. Work-related accidents, diseases and dangerous occurrences can now be reported in a variety of ways, by telephone, fax, via an interactive form on the RIDDOR website (<http://www.riddor.gov.uk/>), by email (as an attachment), or by post. The new procedure has made reporting easier and there has been a shift towards using electronic reporting.

## Table 20 Key actions in industry sectors

### Plans for 2001/02

### Progress during 2001/02

#### Railways

We will secure compliance through a substantial programme of targeted inspections, investigations and enforcement activity, and increased monitoring of and compliance with railway safety cases by:

- carrying out 2550 targeted and prioritised inspections, including follow up visits;
- carrying out 1380 contacts in connection with the investigation of 450 RIDDOR events and 335 complaints;
- carrying out 230 contacts in connection with enforcement, leading to an estimated 48 notices and ten prosecutions; and

HSE carried out 2747 targeted and prioritised inspections in 2001/02.

HSE carried out 1673 RIDDOR investigations and investigated 335 complaints out of 366 complaints received.

During 2001/02, HSE carried out 347 enforcement contacts (over 150% above planned profile), issued 130 enforcement notices, including 25 prohibition notices (271% of profile) and carried out 25 prosecutions (208% of profile). HSE also carried out 2717 planned inspections (91% of profile), 1670 investigation visits (120% of profile) and 347 enforcement visits (161% of profile). There were a total of 15 prosecution cases heard in 2001/02. Eight of the enforcement notices issued related to SPADs and signalling issues. This heightened activity reflects HSE's response to views expressed by HSE's Director General at Lord Cullen's Inquiry that more action is necessary to ensure that commitments by dutyholders are implemented. The number of SPADs is continuing to decrease, the total number in 2001/02 was 437, an 8% decrease

- introducing and assimilating new inspectors for safety case work.

over the previous year and the lowest 12 month total for several years.

There was a substantial decrease in the number of broken rails during 2001/02: 534 reported by Railtrack via RIDDOR to HSE, a 24% decrease on 2000/01 and a 42% decrease on 1999/00. The reduction is due to a combination of a number of factors, two which are particularly significant are:

- the increased re-railing programme which took place post Hatfield in October 2000 that substantially addressed gauge corner cracking; and
- the installation (as part of a series of rail management measures by Railtrack) of wheel impact load detectors (WILDs) at additional strategic locations across the network to identify and eliminate high wheel impact loads from rail vehicles.

London Underground Limited's (LUL's) rail breaks for 2001/02 were 25, seven more than in 2000/01. HSE is continuing to monitor the situation.

HSE made a net increase of ten new inspectors during 2001/02, six of whom it recruited for safety case work. 27 new inspectors were recruited during the year, four as a result of an external recruitment drive and 23 from other sources. 17 inspectors left during the year, 10 to jobs elsewhere in HSE or other organisations, 7 retired.

### Offshore

We will carry out a three year programme to raise the profile of occupational health and reduce the incidence of ill health in the offshore industry, through raising awareness, helping industry to establish baselines, securing compliance with regulations, and targeting occupational health issues during inspections. HSE will achieve this by:

- taking forward the outcomes of a major offshore conference in March 2001 and the OIAC workshop in January 2001; and

The outcomes of the major offshore conference in 2001 have been taken forward on a number of fronts including:

- issuing guidance to inspectors to help target occupational health issues during inspection;
- continuing a three year programme on lifting operations, a major cause of incidents in the offshore industry, which was started in November 2000. This includes: investigation of reportable lifting/mechanical handling incidents; inspection of lifting equipment and lifting operations offshore; raising awareness; and development of a database of lifting equipment (particularly cranes) in use on offshore installations;
- carrying out inspections against inshore and inland Approved Codes of Practice (ACOPs)(inland/inshore ACOP, recreational diving ACOP, media diving ACOP, scientific and archeological ACOP, police diving (joint police/HSE) ACOP).

- benchmarking of noise levels to allow inspectors to make judgments on ‘*as low as reasonably practicable*’ (ALARP);
- approaches to HAVs and low specific activity scale (mildly radioactive scale left in pipes and tanks leaving certain wells) have been promoted to industry;
- working with industry *Step Change* initiative to set up a system to collect ill health data. (*Step Change* is the offshore industries’ initiative to promote improvements in safety, including the championing of the HSC RHS targets.)

Technical guidance has been published.

Programme of visits to all major offshore drilling contractors completed.

Contributed to industry-led guidance.

All lifting DOs and reportable accidents continue to be analysed for root causes. Initial findings identify human factors as the dominant root cause. A report will be prepared at the end of the project.

First year programme of inspections completed.

Project team to review progress at the end of the first year (February 2002).

Inspection programme is on track. Royal Navy had two fatal diving accidents during the year with a further five recreational ‘at work’ fatalities. All cases of decompression illness (DCI) have been investigated. Over 100 inspection contacts were recorded against individual recreational diving instructors and training centres.

## Explosives

We will carry out a three-year programme to reduce the levels of occupational asthma in the explosives industry (this links to a HSE-wide initiative). We will do this by:

- carrying out a survey to identify sites which handle problem substances;
- quantifying baselines using questionnaires to all licensed explosives sites;
- establishing benchmarks for good practice and developing a quantitative method for rating performance;
- reviewing current protective strategies, inspection systems, testing and maintenance, and health surveillance;
- assessing findings against benchmarks and identify remedial action;
- developing and agreeing action plans with occupiers; and
- monitoring implementation of action plans.

A postal survey of all licenced factory sites identified priorities for inspection.

After discussions with HSE's Employment Medical Advisory Service (EMAS), the difficulties of obtaining good quality baseline ill health data from questionnaires was brought to light. HSE will therefore not pursue this activity.

An information pack was provided for inspectors with details of the Control of Substances Hazardous to Health Regulations 1999 (COSHH) requirements, products likely to be encountered, suitable control measures and a scoring system which permitted a quantitative rating of performance and will allow year on year comparison.

Inspection visits were made to 12 sites identified from the survey and the protective strategies for asthmagens were assessed.

The benchmark information packs and the scoring system were used only to identify areas of deficiency. The most common problem found was the relatively poor quality of COSHH assessments.

Action plans were agreed with employers to deal with the areas of deficiency.

To be carried out in 2002/03.

## Gas supply industry

Following an audit of a major gas distributor, a number of occupational health problems were identified including HAV. Around 440 cases of HAV were identified over a 15 month period from the beginning of 1999. Over next three years HSE will:

- develop baselines and use this to monitor effectiveness of HAV management and reduction measures;

HSE's HAV initiative with the distributor is complete apart from monitoring planned in the next work year. The distributor's response, and its own

- continue to monitor these initiatives and review progress, including sample verification visits; and
- subject to the effectiveness of these initiatives, we will consider extending HSE intervention to other public gas transporters and utilities.

initiative, has been excellent.

HSE has not imposed any further targets on the distributor. Their own management and implementation of data gathering, analysis, improved the situation for existing employees.

The full report of the inspection initiative was issued in January 2002. It concluded that the plan should be moved forward and monitoring continued in 2002/03 and 2003/04.

## Quarries

Quarrying is a dangerous industry with a fatal injury rate even greater than that of construction.

HSE, working with the industry's key stakeholders including trade associations, trades unions, the national training organisation and major companies, has developed a 'balanced strategy' to attack the causes of on-site incidents and so contribute to the national target. Interventions are planned in three areas of quarrying operations:

- key groups of people and processes;
- education and training; and
- advice and enforcement.

The quarry industry agreed a 'hard target' initiative to reduce incidents by 50% by 2005. In the first two years of the initiative total incidents have fallen by 26%. Work to achieve the target concentrates on competence, involves all who work in quarries, and addresses the priority topics of transport and falls from height, as well as geotechnical aspects. It has included:

- signing a partnership between unions, professional bodies, directors and HSC;
- worker participation training for all those working at quarries;
- free industry guidance and a best practice CD ROM;
- health and safety curriculum for universities; and
- contractor passport scheme.

Other work included a special initiative on tips and excavations to check compliance with the excavation and tip requirements of the Quarry Regulations 1999. Management deficiencies in this area resulted in two of the three fatals this year;

another tip/excavation failure blocked the A5 road, although no one was injured. Early indications are that:

- this issue is not being satisfactorily addressed by the industry;
- appraisals/rules for tips and excavations were inadequate in 50% of the cases examined;
- managing tips and excavations still requires improvement.

### Mines

New Regulations on the control of inhalable dust are being drafted. The need for this work was underlined by the finding of a small number of fresh cases of category 2 pneumoconiosis and two cases of progressive massive fibrosis (PMF the most serious form of pneumoconiosis) during periodic medical examinations of working miners. This follows almost 25 years' decline in the disease following the introduction of the Coal Mines (Respirable Dust) Regulations 1975. It had generally been believed that the most serious forms of the disease had been eradicated. An extensive investigation by the Mines Inspectorate concluded that a number of factors were involved in the re-emergence of the disease. Three key factors were:

- the growth in the number of contractors employed in the industry, especially in the areas of work where there is the greatest exposure to inhalable coalmine dust;
- changes in working patterns which mean that the number of hours spent at coalface (or development work) have substantially increased;
- falling rates of attendance at medical examinations – which may, ironically, reflect the dramatic fall in the prevalence of the disease achieved over the previous decades.

HSE will:

- carry out a programme aimed at securing improvements in advance of the implementation of the new Regulations;

HSE is working with the industry, to revise the law on controlling inhalable dust to take account of the issues raised by this investigation. Control of respirable dust discussed with all stakeholders at MI's employer/employee health and safety meetings and with individual unions. Trials have begun at some large coalmines with a novel form of micro-droplet spray in an attempt to reduce intake contamination. Work on the Regulations continues and HSE expects to publish a CD in summer 2003/04.

- investigate all notifications under the current Regulations and work with stakeholders to resolve deficiencies and share good working practices.

All adverse dust notifications were investigated. Inspectors have investigated instances where dust levels have been at less than the notifiable level but were, nevertheless, elevated. This will continue and has raised awareness of dust control issues at mines. The number of notices increased from five to six which, on these low numbers, is not statistically significant. Encouragingly, there were no notifications in the final quarter of the year.

## Docks

Despite improvements over recent years, the dock industry remains one of the most dangerous in the UK. We will continue our programme of targeting the control and management of cargo handling contractors and their subcontractors whenever we visit ports. Industry specific targets to achieve the RHS targets were set in agreement with stakeholders in May 2001. Work on baselines and gathering data on incidence of ill health and working days lost commenced in April 2001. The docks industry has agreed targets to reduce the incidence rates of fatal and major incidents by 10% and over-3-day reportable incidents by 20% by 2005. The baseline will be year 2000. The delay in setting the target was caused by the establishment of the new organisation Port Skills and Safety (PSS), which took over the responsibilities for safety and training in the docks industry from the former Port Safety Organisation and British Ports Industry Training. The establishment of PSS, which involves much greater input from directors and senior management in the industry, will enable the industry to meet its long term 2010 targets more effectively. Over the next three years areas of work will include:

- work on board ships – PSS estimates that over a third of dock accidents occur on ships, HSE will work to address this (in co-operation with the Maritime and Coastguard Agency (MCA));
- provision of clearer guidance to assist those with responsibility for dock safety;
- management of dock operations –
  - control of contractors, users and their labour providers;
  - the training of (non permanent) cargo handling workers;

Joint visits with inspectors from the MCA made to see work on ships in port.

Good progress was made on revising the ACOP *Safety in Docks and the Docks Regulations 1988*, as well as on developing the new Dangerous Goods in Harbours Regulations. Guidance has been prepared on health and safety management in docks and is being discussed with the industry. It will be published in autumn 2002.

General control and organisation of workplace transport safety at docks were examined at visits.

Muscular strain injuries were analysed in order to provide inspectors with detailed, task related information on injury causation.

At further visits, inspectors targeted a variety of

<ul style="list-style-type: none"> <li>- implementation of the docks industry passport scheme;</li> <li>● cargo handling - this is the main source of incidents in ports, we will concentrate on major lifts of cargoes eg timber and steel.</li> </ul>	<p>issues including:</p> <ul style="list-style-type: none"> <li>● arrangements for planning and executing dock operations;</li> <li>● the provision of information, instruction and training for employees;</li> <li>● falls from height risk from container top working, and occupational asthma;</li> <li>● the control and management of cargo handling contractors and their sub-contractors.</li> </ul> <p>A 'passport scheme' enabling both non-permanently employed dockworkers and dock employers to confirm competence levels, has been introduced into several major ports, with HSE's assistance and encouragement. We are working with PSS to promote the extension of the scheme throughout the industry.</p>
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Table 21 Activities on cross-sector hazards

**Activities for 2001/02**

**Progress during 2001/02**

**Noise**

An estimated 1.3 million workers are exposed to noise levels that could damage their hearing. 170 000 people suffer from noise-induced deafness or other hearing faults. HSE will:

<ul style="list-style-type: none"> <li>● ensure compliance with the Noise at Work Regulations; and with the Construction (Design and Management) Regulations for high risk activities;</li> <li>● make 150 contacts at woodworking premises, 212 at construction, 500 at engineering and utilities, and 134 at polymers and fibres premises.</li> </ul>	<p>See sector contacts, activities and enforcement below.</p> <p>HSE's planned programme of visits for this hazard was achieved. The visits concentrated on ensuring that:</p> <ul style="list-style-type: none"> <li>● employers had adequate noise assessments;</li> <li>● where no controls were available, that</li> </ul>
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employees were not put at risk while controls were put in place;

- obvious defects in controls were remedied; and
- employers had an action plan to reduce exposure other than by relying on personal ear protectors.

The visits resulted in high levels of enforcement - a notice under the Noise at Work Regulations 1989 being served at one in every four visits. Almost 75% of notices required an assessment to be made.

## **Asbestos**

Asbestos related diseases continue to give rise to the most deaths from work-related disease. There were over 1500 deaths from mesothelioma in 1998.

### **Asbestos management in buildings:**

HSC will consult on the introduction of a new regulation, in the Control of Asbestos at Work Regulations 1987 (CAW Regulations), to require the proper management of asbestos in buildings (a 'duty to manage'). A three to five year strategy will commence in May 2001. LAs will play an integral part in this campaign.

In year one HSE will raise awareness of the duty through conferences, workshops etc, including an official launch.

HSE will carry out comprehensive research in spring 2001 to establish baseline figures; and an independent evaluation will be conducted at the end of three years to measure impact on attitudes and practices.

Consultation on second CD completed February 2002. Revised CAW Regulations and Approved Code of Practice (ACOP) are being drafted.

In October 2001, HSE began a programme of seminars and roadshows with intermediaries to highlight the new Regulations. Several hundred intermediaries signed up during the year to deliver workshop material prepared by HSE.

A baseline research programme was completed in 2001 to assess the level of awareness and compliance with good management polices. Our findings revealed that there are poor knowledge levels of compliance. Further investigation and action will be undertaken in 2002/03.

### **Other significant activities**

Input to development of supporting accreditation and personal certification schemes for asbestos

surveyors with a view to schemes being well developed by March 2002.

Pilot accreditation scheme was launched on 3 December 2001. 35 organisations are now accredited.

Individual certification of surveyors: potential certification bodies are currently working with HSE to prepare a certification standard prior to seeking UKAS approval.

**Inspection of asbestos stripping:** Many deaths have arisen from exposure sustained during work many years ago. But there remains concern about the activities of repair and removal contractors exposing other people not involved in the work. HSE will carry out a programme of work to secure a national minimum commitment to the inspection of licensed work with asbestos insulation, asbestos coating and asbestos insulation board (AIB). In 2001/02 the national target is 1052 visits. This figure will be reviewed in subsequent years in the light of developments. We will:

- continue to give inspection priority to work where uncontrolled dry stripping is planned, work in hot environments, and where the use of power tools is planned;
- give priority to new licence holders, licensees whose licence expires within next four-six months and have not been inspected in previous 12 months, and licensees who have been sent a warning letter by Asbestos Licensing Unit (ALU) or whose performance has been unsatisfactory; and
- target 20% of visits to sites where notifications of work with AIB have been received.

92% of the planned visits were made;

Where uncontrolled dry stripping, work in hot environments, or the use of power tools was planned, firm action was taken to prevent the work taking place or continuing. One incident of uncontrolled dry stripping is subject to prosecution action; a potential further incident was dealt with at the planning stage.

132 visits were made to new licence holders, licensees whose licence expires within next four-six months and who have not been inspected in the previous 12 months, and unsatisfactorily performing licensees.

The target for visits to sites working with AIB was exceeded by 250%.

Enforcement action included 150 notices on asbestos-related work (40 notices served against licence holders) and 44 convictions on asbestos-related offences.

HSE's ALU has adopted new processes to continue to ensure that licence assessment is carried out thoroughly and consistently.

During the year:

- 51 licence applicants were conditionally refused a licence (30 of these have not been deemed competent since);
- seven licensees had their licence conditions amended;
- 11 'three year' licences were reduced to 'one year'; and
- 37 licensees were sent warning letters and put in the 'priority visit contractor' category.

### **Hazardous substances**

HSE will roll forward a programme to address health and safety standards at cleaning stations where road tankers and tank containers are cleaned to remove residues of hazardous cargoes. Visits have been made to member companies of the National Road Tanker Cleaners Association (NRTCA) to set standards of compliance, and a resource pack has been developed for inspectors. In 2001/02 HSE will:

- inspect remaining members and non-members of the NRTCA, some of which are SMEs, and make central approaches to multi-site concerns (total 41 visits);

Phase 1 (2000/01) of programme completed - 11 site visits to NRTCA members out of 11 planned.

Rethink of project revised the number of visits planned for 2001/02 from 41 to 24. Seven visits completed to date, remainder to be completed by the end of 2002. Visits seek to ensure:

- COSHH assessments in place;
- appropriate equipment and procedures for control;
- safe systems of work for confined spaces;
- training for tanker bay operators provided; and
- four further visits completed, 20 planned for

- liaise with the NRTCA and discuss any deficiencies found; and
- revise and reissue joint HSE/NRTCA guidance.

completion in 2002/03.

Presentation made to NRTCA on finding of Phase 1.

Revised HSE circular issued in January.

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

Research data in 1997/98 showed nearly five million people are exposed to hand-transmitted vibrations in a one-week period, of which over 1 200 000 were exposed in excess of recommended action levels; nearly 800 000 people showed symptoms of vibration white finger.

Over the next three years, initiatives will be undertaken focusing on portable powered hand tools, targeted at foundries, motor vehicle repair (MVR) body shops, metal fabrication workshops, manufacturers of transport equipment, construction, road and poleworks for telecommunications and stonemasons. Other work will include:

- guidance on required vibration emission data from suppliers of portable powered hand tools;
- visits to manufacturers/suppliers of tools;
- a programme of visits to users of tools over next three years - 588 visits in year one (with the majority of these visits being paid to engineering premises where noise will also be examined);
- visits to ten telecommunications companies' headquarters to discuss proposals to reduce risks from roadbreaking tools;

Suppliers' duties publicised through guidance; national, European and international standards work and presentations to the most relevant trade associations.

Inspections of suppliers of hand held power tools confirmed that vibration information was lacking for some of the product range at all companies. Most of those contacted readily accepted advice for improvement.

The provision of supporting information with selected powered hand tools examined where vibration continues to present risk despite manufacturers' design and secondary control efforts. More than 23 major manufacturers, importers, and hire companies have been informed of HSE's expectations through standards work and presentations to trade associations. Hire companies have responded well both as purchasers (with commercial pressure on manufacturers and importers) and as suppliers in their own right.

The programme of visits has begun and will continue in years two and three. HAV is now an HSE priority.

Agreed with the telecommunications company making the most extensive use of roadbreaking tools that the tools presenting greatest risks should

- guidance on required action by the telecommunications industry regarding introduction of reduced vibration roadbreaking tools;
- at least 84 targeted inspections to designers, specifiers and portable powered hand tool users in construction;
- guidance for the foundries on methods of reducing vibration; and
- targeted work to reduce risks from HAVs in the gas supply industry.

be removed from use.

Work to be taken forward in next two years.

Visits in the construction industry exceeded plan and revealed that HAV risk in specific construction processes was eliminated by design in around 60% of cases overall, increasing to 70% for pile head removal.

Guidance on HAV in foundries has been published through the Foundries IAC.

A HAVs initiative with a major distributor is complete apart from planned monitoring in the next work year. The distributor's response, and its own initiative, has been excellent. Its management and implementation of data gathering and analysis improved the situation for existing employees.

### **Asthma**

1500-3000 people develop occupational asthma each year and an estimated 150 000 people suffer from asthma symptoms caused by work. Over the three-year period we will develop and carry out a detailed programme of work, which is likely to include enforcement activity; inspection programmes; increased health surveillance; investigation of all cases of ill health and complaints; publicity campaign; and seminars for managers, safety representatives, occupational health professionals and medical practitioners. We will achieve this by:

- 290 visits in year one to engineering premises to ensure adequate control of risks for specific substances and processes;
- 140 visits in year one to woodworking premises to ensure adequate standards of dust control and appropriate health surveillance;

Enforcement activity and inspection programmes included a substantial number of visits (112% of planned figure) in the motor vehicle repair trade to ensure that respiratory sensitisation risks from exposure to isocyanates in two-pack spray paints were properly controlled. Enforcement action was taken where appropriate, and included notices requiring health surveillance and effective local exhaust ventilation.

In the wood industry, several hundred site contacts were made and enforcement action taken on asthma-related issues at over 100 contacts.

- measures to help meet the RHS targets, including reduction of exposure to respiratory sensitisers, improving the level and quality of health surveillance, and securing compliance with specific requirements of the Control of Substances Hazardous to Health Regulations 1999 (COSHH) and ACOP;
- evaluation of achievements by sectors, and previous investigations and cases studies;
- development of proposals to target priorities in the local authority sector and small and medium sized enterprises (SMEs); and
- develop a publicity campaign in conjunction with DOH.

Asthma was discussed with over 600 wood industry dutyholders at safety awareness days.

In year one, HSE has worked to secure greater compliance with the current COSHH Regulations. The substantial number of visits and enforcement activities to engineering premises (described above) has concentrated on respiratory sensitisation risks.

New COSHH Regulations and ACOP are expected to come into force in autumn 2002 and HSE will be working to secure compliance as part of its normal inspection programme.

Evaluation of the need for further work resulted in occupational asthma continuing as an operational priority into 2002/03.

Work in the year concentrated on developing a programme of work for following years within FOD's priority for occupational asthma. This work will be taken forward during the next two years.

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### **Hazardous biological agents**

In relation to hazardous biological agents and biotechnology, including genetically modified organisms under the COSHH Regulations and the Genetically Modified Organisms (Controlled Use) Regulations, we will:

- undertake formal enforcement (dangerous pathogens (DPs) and genetically modified organisms (GMOs)) including court activity associated with primary inspection;
- investigate accident/incident (DPs and GMOs) to support primary inspection programmes and gather intelligence, etc;

We successfully completed the prosecution of Imperial College. The college was found guilty in the High Court of failing to protect the health and safety of workers. Two improvement notices were served for failing to adequately control exposure to GMOs (Class 3). The college was fined £40 000 plus costs.

We successfully completed the prosecution of St Georges Hospital Medical School, London for carrying out research with Hazard Group 3 biological agents in an unsealed laboratory.

- implement new amendments to the Genetically Modified Organisms Contained Use Regulations 2000.

Events of 11 September 2001 resulted in: the withdrawal of Public Registers; implementation of new Regulations; and reinstatement of a modified Public Register.

## Table 22 Local authorities

### Plans for 2001/02

### Progress during 2001/02

The work of more than 400 LAs in England, Scotland and Wales to enforce health and safety legislation is influenced and co-ordinated by HSE and HELA. Each year, HELA produces a Strategic Plan to guide LAs' enforcement activities and to ensure a consistent approach among LAs and between HSE and LAs. The HELA strategy reflects the HSC's strategic priorities and is supplemented by detailed operational guidance to promote the adoption of common objectives and work in partnership with HSE.

A full report of the contribution of LAs to HSC's and HELA's Strategic Plans is contained in the HELA Annual Report and the National Picture of Health and Safety in the Local Authority Enforced Sectors. Current publications relate to 2001. The reports for 2002 are expected to be published in early November. Full details of HELA's work can be found on the HELA pages of HSE's website at <http://www.hse.gov.uk/lau/>.

The number of workers in the LA enforced sectors is increasing and the role of LAs will continue to grow in importance. They have a major role to play in reducing incidents and ill health and the key to achieving these is for LAs to work together better to improve compliance, encourage consistency and promote best practice.

In 2001/02, a HSE/LA Forum was established to underpin the role of LAs in delivering RHS targets in their capacity as employers. To underpin the work planned, efforts are being made to influence key players at official level. The HSC Chair has recently written to all LA chief executives to reinforce the business case for health and safety management, and to gain commitment to the RHS targets.

### The synergy programme

This is a programme of work agreed by HSE and LAs to maximise their collective influence on the health and safety system through an improved partnership and new ways of working. It will result in a policy framework for determining allocation arrangements between HSE and LAs and improved operational arrangements in the field; improved strategic arrangements between LAs, business and trade unions; improved targeting of LA enforcement effort with fewer interventions in lower risk premises and more in higher risk premises; and improved health and safety in premises currently not registered by HSE or LAs. The programme comprises four main projects:

- mapping of existing enforcement allocation to develop a targeted and proportionate approach to enforcement across the risk continuum (completed 2000);

For selected sectors and businesses, where HSE and LAs have a joint enforcement role, the two enforcing authorities have worked closely together to fully engage employers, employees and their

- enforcement of health and safety in Royal Mail to promote greater policy and operational coherence; enforcement information will be put on a website by April 2001 and evaluation will be carried out by June 2002;
- enforcement of health and safety in dry cleaning premises in Scotland to develop practical, strategic and operational management structures, all premises will be inspected by July 2001 and evaluation completed by 2002; and
- involvement of LAs in the Motor Vehicle Repair (MVR) Forum and the identification of non-registered MVR premises to develop strategic approaches to LA enforcement; evaluation of MVR Forum and inspection of MVR premises in Greater Manchester by end 2001.

representatives.

Health and Safety Commissioner Joyce Edmond-Smith and David Eves (the then Deputy Director General of HSE) attended an event in October 2001 to launch the Royal Mail website designed to provide health and safety information and operational guidance to assist enforcement liaison officers (ELOs) in their work with Royal Mail.

The dry cleaning project in Scotland identified many new premises that had previously not received an inspection or advice/guidance from HSE. Inspection of all such premises was completed, in accordance with HSC's Enforcement Policy Statement (EPS) and informed by intelligence from the HSE sector.

The MVR forum has fully incorporated LA input.

### **Review of LAs' priority planning system, implementation of incident investigation criteria and the Enforcement Management Model**

HSE and LAs working through HELA will develop an effective regime of risk rating for LAs to prioritise inspection planning that is consistent with HSE's system; develop common criteria for the effective management of LAs' incident investigation processes and their enforcement decision-making processes. It is our longer term objective to implement the Enforcement Management Model in all LAs:

Priority planning: research to be completed February 2001, establish model June 2001, test model in LAs July 2001, draft guidance November 2001, and new system introduced April 2002.

New priority planning guidance has been developed. LAs are currently piloting a topic-based inspection approach, which focuses on the HSC priorities. Introduction of the revised priority planning system has been delayed to accommodate the findings of the topic-based inspection pilot. There will be a calibration year during 2002 before final implementation of the new priority planning guidance in April 2003. The new priority planning guidance will accommodate topic-based inspection

Incident investigation criteria: assemble criteria by January 2001; publish instructions for LAs April 2001, and calibration phase/revise Local Authority Circular April 2002.

Enforcement Management Model (EMM): scoping study March 2001, establish benchmarks and test model June 2001, calibration phase to April 2002, and HSE support for full implementation April 2002 onward.

and, with the accident investigation criteria and procedures, will help to deliver more targeted and proportionate enforcement.

The HSE's investigation criteria have informed the development of LA incident investigation criteria and procedures. An accident investigation procedure to supplement the investigation criteria guidance is being developed. The investigation procedures guidance will be issued to all LAs by November 2002.

The HSE's EMM is being adapted for use by LAs. The LA version will take account of HSC's revised EPS and will be piloted in a number of LAs. A training package has also been developed.

Planned calibration is on schedule for 2002 to deal with any anomalies before final implementation in April 2003.

The EMM will help to promote consistency of enforcement both in, and between, HSE and LAs.

### **Review of HSC's section 18 guidance and implementation of HELA's protocol for inter-authority auditing**

Under section 18 of the HSW Act, the HSC can issue mandatory guidance to LAs that directs the way in which they enforce the Act and related legislation. A review of this guidance is essential to assist HSC to set and monitor performance indicators in the LA enforced sector. In particular, to formalise the HELA protocol for inter-authority auditing against an agreed indicator to measure the performance of LA enforcement and promotional activity.

- HSE will work closely with DTLR and the Cabinet Office to develop an effective performance indicator for LA enforcement activity and promotional work. We will review the effectiveness of the audit protocol at the end of 2001. This will take account of revisions to HSC's section 18 guidance, the views of LAs who have used the protocol, other government policies, such as best value, food safety law and the proposed Safety Bill, and the views of stakeholders; and

The HSC issued revised section 18 HSW Act guidance in September 2001 to outline the broad principles that it wants LAs to adopt in enforcing health and safety legislation. In the light of the revised guidance, HELA revised its audit protocol for the management of LAs' health and safety enforcement. The guidance is available on the HSE/LAU website, which is providing speedier and more timely communications with LAs. The revised guidance contains two new requirements on LAs:

- LAs will undergo at least one inter-authority audit every five years. The performance monitoring regime will provide improved data for HSC on performance by LAs and an opportunity to better target guidance and support.

- LAs are required to produce a health and safety service plan that should make specific reference to their implementation of the HELA and HSC strategies plans;
- the revised audit protocol is supported by guidance to LAs in the form of a local authority circular (LAC) on auditing and the development of the audit action plans. The LAC outlines the role of the HSC in monitoring performance of LAs more closely and the implementation of a performance indicator for LA enforcement and promotional work as recommended in action point 27 of RHS. The indicator has been set as full compliance with HSC's section 18 guidance. Together with the HELA audit protocol and HSC's section 18 guidance, the performance indicator forms part of the LA performance management framework.

HELA is using the RHS performance indicator to measure the LAs' compliance with its section 18 guidance. Baseline evaluation data has been developed and this will provide a benchmark against which improvement in LAs' health and safety enforcement may be measured. Since the implementation of the LA performance management framework in January 2002, there have been improvements in the standard of health and safety enforcement by LAs. Ten audits of LAs have been carried out. All of the audited LAs have developed action plans to secure compliance with their statutory health and safety enforcement requirements. A number of LAs have secured additional resources to achieve compliance with the statutory duties.

Table 23 Selected outputs

	2001/02 Plan	2001/02 Outturn	2002/03 Plan	2003/04 Plan
<b>Total regulatory contacts</b>	200 000	195 695	206 000	213 000
Of which FOD contacts	179 000	169 001	188 000	193 000
<b>Total inspections</b>	81 000	75 237	86 000	90 000
Of which FOD inspections	70 000	65 000	75 000	78 000
Total of incidents and complaints investigated	41 000	37 855	41 500	42 000
Number of RIDDOR incidents investigated	17 000	13 421	17 500	18 000
% of reported incidents investigated	10	8.6	10.5	10.6
Number of complaints investigated	24 000	24 434	24 000	24 000
% of complaints investigated	83	87.2	87	92
Total enforcement notices issued (e)*	10 900	11 162	11 200	11 400
Total prosecutions (informations laid) (e)*	2 000	1 930	2 000	2 100

\*(e) estimate

#### Regulatory contacts:

The number of regulatory contacts is some 4300 below the target of 200 000. This is due to a shortfall in FOD because:

- foot and mouth disease meant that very few visits to farms were possible for most of the year and most agricultural shows, as well as safety awareness days (SADs) and blitzes, were cancelled; and
- more complex investigations were carried out, each taking longer (due, for example, to the higher profile of health and safety issues, the need to spend more time with relatives of the deceased and, in particular, the need to comply with new investigation procedures).

#### Investigations:

The number of investigations is below original estimates, because

- the number of reported incidents/events was almost 14 000 below estimates; and
- HSE's new incident selection criteria, which were 'bedding in' in 2001/02, selected fewer incidents for investigation than expected. It was estimated at the start of the year that the criteria might result in around 10% of the expected 155 000 reported incidents being selected for investigation by FOD, ie 15 500. In the event, only 143 211 incidents were reported; with 12 021 being investigated.