

# SECURING COMPLIANCE

## Introduction

1.33 Inspection and other regulatory activities to secure compliance with the law are at the core of HSE's and local authorities' work. HSE and local authorities 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 2002/03 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.

1.34 This mix of preventive inspection and reactive investigation is based on the principle that prevention of harm is the primary aim. HSE carry out investigations in line with its 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);
- 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*

1.35 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 the Annual Offences and Penalties Report; the Report for 2002/03 will be published in autumn 2003. A copy can be found on <http://www.hse.gov.uk/enforce/index.htm>.

### *Securing Compliance*

1.36 FOD inspections in 2002/03 focused on effective control of the hazards identified under the Priority Programmes as the prime means of judging duty holders' control of risks. Other risks evidently of concern or which were raised by employers or employees were dealt with as they arose. HSE has developed performance indicators for each of the hazard-based Priority Programmes against which were recorded the standards found when visiting workplaces and against which further improvement can be measured. 2002/03 was the first year of using this new tool for evaluation and assessment and thus provides a baseline for measuring improvement. Over 30 000 inspection visits made by FOD inspectors have been recorded using this tool. An analysis of these inspections is currently being carried out.

Table 16 Inspecting high risk premises

Plans for 2002/03	Progress during 2001/02	Progress during 2002/03
<p>HSE will carry out annual preventive inspections of all 'high-risk' or category A premises with the aim of:</p> <ul style="list-style-type: none"> <li>● removing them from category A within two years through improved control measures; or</li> <li>● where long term action (for example, the installation of complex and expensive ventilation systems) is needed to achieve compliance, taking formal enforcement action where necessary to secure this longer term goal within two years.</li> </ul>	<ul style="list-style-type: none"> <li>● 98% (2400 out of 2450) of category A establishments were inspected in line with the planned outcome. The 100% target was just missed because</li> <li>● 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</li> <li>● others were not visited due to foot and mouth disease restrictions. The plan is to visit these in 2002/03.</li> </ul>	<ul style="list-style-type: none"> <li>● In 2002/03, there were 1523 'high risk' premises in FOD's inspection rating system. 1482 (97%) of these were visited in the year. There was a range of reasons for non-visiting, including pending prosecution action, companies no longer existing or complex and continuing investigations making an inspection inappropriate.</li> </ul>

Table 17 Action in industry sectors and on cross cutting hazards

The following tables report on key actions in industry sectors and for cross-sector hazards that were taken forward in 2002/03.

Key programmes of work during 2002/03	Progress during 2002/03
<p><b>Offshore and Diving</b></p> <ul style="list-style-type: none"> <li>● HSE will inspect and investigate incidents related to lifting activities and diving activities.</li> </ul> <p><b>Explosives</b></p> <p>This is the second year of three-year programme to reduce levels of occupational asthma.</p> <ul style="list-style-type: none"> <li>● HSE will continue its programme of work to assess systems that provide protection from substances likely to cause occupational asthma in the explosives industry.</li> </ul>	<p>The lifting operations programme completed at the end of 2003 with objectives having been met, the programme is now being incorporated into a new Risk Management in the Workplace programme. The inshore diving activities programme was overtaken by the need to redirect resource into the high number of fatal diving accidents. This programme is effectively closed with issues being taken forward within the inshore diving plan of work.</p> <p>Follow up contacts have been made with companies that were visited during the first year of this programme to assess whether the actions that had been identified on the original visits had been completed. Progress has been made in dealing with respiratory sensitisers in the areas of assessment; substitution of less hazardous materials; management of protective equipment and improved ventilation.</p>

### **Gas supply industry**

This is the Second year of a three-year programme to reduce incidence of hand arm vibration (HAV). The programme, which has required active Trade Union involvement, raises the profile of the condition and focuses on the effective reporting and investigation of incidents, risk assessments, information and training and tool replacement.

### **Quarries**

HSE inspections are a key part of a industry wide campaign to attack root causes of on-site incidents:

- inspectors will continue to take robust enforcement action at visits to quarries and will focus attention on potential hazards including: manual handling, falls from height, noise and tip/slope stability.

### **Mines**

- There has been an increase in the incidents of Hand Arm Vibration (HAV) in the mining industry from 90 cases in 1999/00 to over 250 in 2001/02. In addition to the activity described in block 2 (major hazards), HSE's Mines Inspectorate will target the prevention of HAVs as part of its health inspection programme.

### **Docks**

- HSE will work with the docks industry to monitor progress on the delivery of their commitment to their industry targets.

The total of diagnosed cases over each of the last three years show we are on target to achieve the reduction. The total has decreased – but the number of new cases diagnosed per month will show the real reduction – these figures are currently being compiled and progress will be reported later in the year in HSC's publication *Health and Safety Targets: How are we doing?*

Inspectors continue to concentrate on the major hazards within the industry (manual handling, falls from height, noise and tip/ slope stability) by pursuing management competence and equipment design issues. An active enforcement policy has been adopted.

Work with intermediaries continues to be productive; eg the Quarry Products Association has recommended that its members attach CCTV to all road vehicles. One company has already fitted 1350 vehicles with such devices.

Mines Inspectorate action led the major employer to completely revise its management arrangements for HAV. Lower risk ways of working and more effective health surveillance are among the improvements made. Smaller employers were advised of the lessons learned and control measures were checked through audit or targeted inspections.

National Safer Ports Initiative launched in September 2002. The British Ports Association, the UK Major Ports Group, Ports Skills and Safety Ltd, the UK Association of Private Terminal Operators, and the Docks National Health and Safety Committee (which includes regulators, employers and Trades Unions) have signed up to the initiative. The launch was addressed by the Chair of HSC, the Shipping Minister, the Chief Executive of the Maritime and Coastguard Agency and the Chair of Port Skills and Safety Ltd.

The initiative includes tougher targets than the national, all industry, RHS targets (see below).

### **Hazardous biological agents**

Inspection programme of facilities working with dangerous pathogens, microbiological agents, genetically modified organisms in contained use conditions and biotechnology:

- number of Regulatory Contacts: 2170;
- number of high hazard/high Risk sites contacted 4; and
- number of preventative inspections 228

### **Chemicals**

- HSE will carry out a programme of compliance inspection within the Chemicals industry and working with the Environment Agency and the Scottish Environment Agency will target chemical waste handling sites.

### **Noise**

Significant noise risks will be considered at all proactive inspections and are being tackled as part of the Construction and Agriculture Priority Programmes.

Inspectors will:

- address the key elements for noise management, control of noise at work, and ear protection programmes where appropriate;
- make follow-up visits to evaluate the impact of inspections carried out in 2000/01; and
- in addition local authorities will be invited to use new guidance on noise in Pubs and Clubs.

2505 regulatory contacts were achieved three high hazard sites were contacted. (4th not commissioned.) 292 preventative inspections were undertaken.

A joint inspection initiative was conducted by HSE and the Environment Agency in 2002 to determine the level of compliance with health and safety and environmental legislation and promote best practice in accordance with published guidance. 25 sites were visited, at which conditions were assessed, advice provided, and enforcement action taken where appropriate. A joint HSE/EA report on the initiative is in preparation.

FOD inspectors carried out over 8500 inspections dealing with noise in whole or part. The total time spent on noise was approximately 100% over the 2002/3 target. 238 enforcement notices were issued (an increase of 20% on the previous year). Most notices were for provision of a noise assessment. In addition, a successful seminar for wood working machine manufacturers was organised, to deal with noise emissions as an initial integrity issue.

Approximately 500 of the 600 planned visits for the Single Issue Inspection Programme were carried out. A more detailed analysis of the returns from those visits is being carried out by Amey Vectra and the results will be available when the analysis is completed.

HSE produced a Local Authority Circular (LAC), 47/18 'Advice on the enforcement of the Noise at Work Regulations 1989 in leisure premises', (where recorded or amplified music is played). This is posted on the HELA website.

## Asbestos

Together with local authorities, HSE will take action to reduce fatalities associated with working with asbestos through:

- Stage 1 of a five-year campaign to support the introduction of a new duty to manage asbestos in buildings. This will involve awareness raising amongst potential duty holders and their respective organisations;
- head office inspections of significant duty holders and a mail shot exercise at SMEs; and
- assessments of asbestos licence holders and inspections of their activities on site - approximately 1000 site visits are planned to ensure that risks from asbestos removal are adequately controlled. 20% of the visits will be targeted to the removal of asbestos insulating board in response to concerns over exposure to workers in building and allied trades eg plumbers, joiners, telecommunication workers etc.

## Hazardous substances

- HSE will carry out inspection programmes in the paintings and coatings industry.

Awareness raising of the new duty to manage continued. Thirty-five presentations were given by FOD staff at workshops and seminars held across the country to a variety of audiences (property companies, commercial landlords, local authorities, business federations, etc). FOD staff were also involved in national and regional press conferences to launch the new duty and used appropriate opportunities during site visits to raise awareness and distribute HSE literature.

Head office inspections: due to the CAWR 2002 delays, the second, consolidation, stage of the overall campaign was postponed until the start of 2003/04. Head office visits to significant duty holders (300 plus LAs and hospital trusts) will be carried out in 2003/04. Similarly the mail shot was deferred and it is likely that this will now take the form of targeted guidance for SMEs, produced jointly by HSE and others, including the Federation for Small Businesses and the Royal Institution of Chartered Surveyors.

Assessment of asbestos licence holders: 356 assessments were conducted and 98 new and 258 renewal licences issued - a 20% increase from 2001/02. Fifty three applicants were conditionally refused a licence; of these 27 have not been deemed competent since. FOD undertook 881 site visits to 308 separate licensed contractors, representing 41% of all licence holders. 58% of visits involved AIB work. The resource required for the increased number of assessments this year has led to a reduction in overall site visits (9% down) from last year. Eight incidents of work in, or in close proximity to, hot environments and nine incidents of uncontrolled dry stripping were encountered. Of the latter all incidents except one generated enforcement action. Fifty six notices (excluding appeals) were served against licence holders (an increase of 40% from last year) and six licence holders were successfully prosecuted.

During 2002/2003, the information gathered during the inspection initiative carried out in 2000/2001 was analysed and a report produced. The findings were presented to the main industry trade associations - the British Coatings Federation and the British Adhesives and Sealants Association - and the report will form the basis for further discussions with them, particularly on the guarding of small mixers and rotostators, compliance with the Control of Substances Hazardous to Health Regulations (COSHH), and entry into

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

- Second year of a three-year programme to eliminate the use of high-vibration risk hand-held power tools in construction and engineering and metals and minerals premises and to ensure provision of adequate vibration emission data for such tools and the use of this in their selection.

### **Occupational Asthma**

- This is the second year of a four- year programme to reduce the incidence of occupational asthma.
- In 2002/03 inspections will be carried out across a range of industries and services where substances present significant risk of occupational asthma.
- These will address engineering controls, personal protective equipment and health surveillance.

confined spaces. To follow-up one of the report's recommendations, an enforcement initiative will be undertaken in 2003/2004 with UK machinery manufacturers and suppliers on the appropriate guarding of mixing machines.

Over 3800 inspection contacts where HAVS was discussed – more than one third in the Engineering and Utilities sector and a similar number in the construction sector. A total of 37 notices were issued – around the same number as in 2001/02. An initial programme of visits to suppliers was run to encourage them to provide improved emission data for vibrating tools at the supply stage.

The wood sector has commissioned research to examine the extent of HAVS in the woodworking industry. Initial pilot and workshop studies have been completed and the project is now carrying out industry site visits to collect relevant data in a working environment. Completion anticipated in summer 2003.

Over 7000 inspection contacts have been recorded where occupational asthma was discussed. These covered a range of sectors and asthmagens with the top three asthmagens encountered being grain dust, wood dust and isocyanates.

Almost 200 notices have been issued - a large proportion concerning isocyanates and wood dust. One prosecution involves a major shellfish processor where five employees became sensitised to prawn proteins.

## Table 18 Local authorities

1.37 The work of more than 400 LAs in England, Scotland and Wales is influenced and co-ordinated by the Health and Safety Executive and local authorities Enforcement Liaison Committee (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.

1.38 A full report of the contribution of LAs to the Commission'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 2002. The reports for 2003 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/>

1.39 LAs 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.

### Plans for 2002 /03

- The number of workers in the local authority enforced sectors is increasing and the role of local authorities in enforcement will continue to grow in importance. Local authorities will be expected to carry out about 300 000 enforcement visits according to a prioritised inspection programme. They have a major role to play in reducing incidents and ill health and the key to achieving this is for local authorities to work together better to improve compliance, encourage consistency and promote best practice.

### Progress during 2002/03

Enforcement visit figures for this period will not become available until 2004. Finalised figures for 2001/02 will be published in July 2003.

80 LAs (20%) piloted the Topic Inspection method in support of the Priority Programme approach and have input 1770 reports to the HELA Training Coordination website.

### The Synergy Programme

This is a programme of work agreed by HSE and local authorities to maximise their collective influence on the health and safety system through an improved partnership and new ways of working. The programme will result in a policy framework for determining allocation arrangements between HSE and local authorities and improved operational arrangements in the field; improved strategic arrangements between local authorities, business and Trade Unions; improved targeting of 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 local authorities.

**Progress:** An evaluation of the Dry-cleaning Synergy Project was completed and its findings will contribute to the forthcoming Strategic Review of HSE/LA joint working.

As part of this programme HSE will:

- undertake a review of the Health and Safety (Enforcing Authority) Regulations 1998 and produce a Consultative Document by summer 2002;
- develop an effective regime of risk rating to prioritise inspection planning by local authorities;
- develop common criteria for the effective management of local authority incident investigation processes, and their enforcement decision-making processes; and
- carry out audits of local authorities in line with new Section 18 Guidance and the auditing framework, and assist local authorities with inter-authority auditing.

This project has been held in abeyance and will now form part of the Fundamental Review of health and safety enforcement allocation by LAs being carried out by HSE/SID in 2003/04.

The current regime remains in place with HELA endorsement pending investigation of the impact of the changes to FOD's risk rating system.

HSE's Enforcement Management Model (EMM) is being issued to LAs to promote consistency of enforcement with HSE. HELA Guidance (LAC) has been issued on incident investigation criteria.

HSE carried out 14 Audits of LA management of enforcement of H&S, targeting the poorer performers. Guidance has also been issued to LAs to promote consistency of inter-authority audits. HSE contributed to a number of inter authority audits to help develop consistent standards. Examples of good practice and a model audit are being developed for inclusion on the HELA website.

#### **Other significant activities**

A review of the Lead Authority Partnership Scheme (LAPS) has been undertaken and recommendations for updating and improving the scheme are being implemented.

The HELA Training Coordination website (supported by Priority Programme Funding) contains information to LAs on Priority Programmes. This includes Topic Inspection packs and a post Inspection report form that is completed by LAs on the outcomes of each Topic Inspection. The information collected is being analysed and used by Priority Programme Boards. The website is also used to promote training materials for LA enforcement staff. It contains training material on manual handling; accident investigation; risk assessment; Legionella and asbestos amongst other topics.

Table 19 Selected outputs

	2001/02 outturn	2002/03 plan	2002/03 outturn
<b>Total regulatory contacts:</b>	195 695	198 674	218 574
Of which FOD contacts	169 001	172 985	186 203
<b>Total inspections:</b>	75 237	80 502	84 234
Of which FOD inspections	65 000	71 858	74 112
Number of RIDDOR incidents investigated	13 421	18 044	11 251
% of reported incidents investigated	8.6%	8.2%	7.9%
Number of complaints followed up	24 434	23 845	23 473
% of complaints followed-up	87.2	87	85.1%
<b>Total enforcement notices issued</b>	11 082 (final)	11 200	13 263 (provisional)
<b>Total prosecutions (informations laid)</b>	1 986 (final)	2 000	1 688 (provisional)

**Notes**

1. *Figures include outputs from compliance activities associated with Priority Programmes.*

2. *Regulatory contacts cover a variety of contacts with duty holders, ranging from inspections (which themselves can range from in depth audits to short, sharp visits) to visits associated with investigations and enforcement action, seminars, workshops and other advisory activities, and visits to suppliers of equipment. From 2003/4 this measure will no longer be reported externally, rather we will report on how efficiently we allocate front line operational resource to our priorities against our plans. However numbers of regulatory contacts will continue to be used as an internal management information stream.*

3. *HSE carry out investigations in line with its 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. The final outturn for % of incidents investigated was below the end year target; this is partly explained by a change in the picture of incidents reported. We are confident that those incidents that meet our incident selection criteria have been investigated. From 2003/4 This OPM will be replaced with a target to investigate 95% of incidents that meet our published investigation criteria.*

4. *Numbers of prosecutions and enforcement notices are not targets but assume that current trends in issuing of notices and taking of prosecutions continue.*