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SPEECH TO POLICE FEDERATION, SWINDON

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Introduction

Good afternoon. The Police Federation of England and Wales is one of our key stakeholders. You, and the other police organisations have a vital role to play in taking forward the HSC Strategy and so help to reduce ill health, injury and days lost in the workplace.

Some of you may recall that I have spoken before at Federation events – I am pleased to have the opportunity to meet you again and hear your views and concerns on current issues.

I am planning to cover the following issues in my presentation :

- Applicability of HSWA to the police
- Sensible risk
- HSC Enforcement Policy
- Maintaining performance on managing sickness absence
- The benefits to health and safety of a well-managed organisation
- Sharing good practice and work with other regulators
- RIDDOR Review
- Work related deaths protocol and Corporate Manslaughter and Corporate Homicide Bill
- Consultative proposals on HSC/E Governance

That's a lot to cover in half an hour but I hope the Q&A session will allow you to pick up on points I've made and those I couldn't cover.

Applicability of HSWA to the police

You will have no doubt closely followed the recent debate about the applicability of HSWA to police officers. The change in the law in 1997 that brought warranted police officers within the scope of HSWA was right and proper and indeed one that you and other police staff associations supported.

For the record all police forces must comply with health and safety legislation – a position supported unambiguously by HSC/E. Health and safety law requires all employers to safeguard so far as is reasonably practicable (sfaip) the health and safety of employees and people who may be affected by their work activities. This allows Chief constables to take full account of the inherent risks in some police work when deciding what safeguards are needed.

Now, we clearly recognise that your members have to face risks in their every day work that most other workers cannot begin to comprehend. Our task is to work with you and your employing authorities to better manage those risks and not lose sight under any circumstances of the policing imperative. We are

not about preventing or obstructing emergency services going about their lawful activities.

Sensible risk

HSC is proud of its record in promoting sensible risk and a proportionate approach to health and safety regulation and enforcement. I'd like to say a few words about a subject dear to my heart – “elfandsafety”. When people I meet socially find out what I do for a living, the reaction is all too often “oh you're the people who ban conkers, stepladders, Christmas decorations” or whatever is the subject of the latest popular story.

“Elfandsafety” is a frustrating business. In part it's frustrating because so many of the stories are untrue, or based upon the misguided actions of a few individuals - in reality the law is flexible and these outright bans just don't exist.

That is why last August I launched our sensible risk campaign. The campaign is based around a simple set of principles that set out what good risk management is – and is not about. In a nutshell: saving lives, not stopping them.

Much of our campaigning has focussed on public safety issues, where most of the concerns lie. I'm glad to say that at present there is widespread acceptance of the need for health and safety regulation to protect workers. But we need to be careful if that is to remain true. We must all be acutely aware that paperwork is a means to an end, not an end in itself. And we must recognise that it is neither possible, nor desirable to eliminate risk altogether. Rather that risk needs to be sensibly and responsibly managed. By its very nature risk will always be an inherent part of policing, but managing it can make an enormous difference to police services and those who work for them.

If we are to turn the tide, we must – all of us - make sure we are above reproach. We must concentrate on practical steps to control the risks that cause real harm and suffering, not bureaucratic back-covering.

HSC enforcement policy

The Commission's enforcement policy statement (EPS), first published in 1995 and revised in 2002, is a public statement setting out the general principles and approach the Commission expects from all health and safety enforcing authorities.

The principles in the EPS are well established :

- Proportionality in applying the law
- Consistency of approach
- Targeting of enforcement action
- Transparency as to how the regulator operates
- Accountability for the regulators' actions

Clearly enforcement needs to be perceived to be fair in order to have a positive influence on duty holders whilst also maintaining trust.

A recently completed evaluation of the EPS concluded :

- Enforcement could prompt health and safety improvement
- Many factors influenced the impact of enforcement
- It was unclear how the amount of enforcement impacted on health and safety
- There was a strong appetite for a wide range of penalties such as restorative justice currently being explored by Macrory review of penalties

The Commission accepted that evaluation had shown a need for continued effort to improve communication about enforcement including, for example, communicating the reasons for formal enforcement action, especially prosecution, in order to better demonstrate proportionality and effectiveness to both duty holders and workers/victims. Publicising individual cases to sustain our efforts to motivate duty holders was also flagged up.

We are pausing for breath recognising that the outcomes of a number of inter-related regulatory work streams, including Hampton, the Macrory review and the proposed new Compliance Code for Regulators, all need to be taken account of when determining next steps.

The challenge ahead – maintaining performance on sickness absence

I want to congratulate you for the contribution you have made in reducing sickness absence in the police service from 12.2 days per officer in 2000/2001 to 8.5 days in 2005/06.

I not only want to see this improvement in absence performance maintained but further reductions achieved. And together I know we can do it.

I'm delighted to see some of the examples of reduced sickness absence achieved by different forces. 'Fast track' intervention for stress and musculoskeletal problems is one of many innovative approaches that have been introduced.

I understand that one force alone estimated over 9000 working days were saved in 2003/4 through this initiative– a saving of resources of around £1m.

But the true value is in the benefits that resulted for the individuals concerned as well as their colleagues who would otherwise have shared their workload.

The police service has, in many respects, been at the forefront of improved sickness absence management within the public sector. But now that the Home Office funding has finished, the challenge will be to maintain the improvements already made.

The focus now needs to extend to address the main *causes* of absence, as well as sustaining improved management of return to work.

The Well Managed Organisation

Two years ago Government set up the Ministerial Task Force on Health, Safety and Productivity. The Task Force set out an agenda to make the link between sickness absence and productivity across the public sector and to encourage the public sector to lead by example.

As part of its work to take this important agenda forward the Ministerial Task Force commissioned the Work Foundation to develop a profile of the well managed organisation.

We recently published the results of this work including guidelines for Boards, senior directors and HR departments and diagnostic tools for handling sickness absence. These publications have been sent to every Chief Constable and Chairs of Police Authorities.

Achieving effective sickness management can't be done without staff involvement – your involvement. I urge you to press for the adoption of action plans within your own force utilising the excellent advice contained in these guidelines.

The main attributes of a well managed organisation are not new to the police service and indeed were recognised in the Home Office's strategy of 2002 and have been taken forward in the draft ACPO Strategy for 2006-2010.

But why then do HSE inspectors still find that these areas need improvement? HSE inspectors are finding that sickness absence data are being collected and used to identify trends – but not to identify cause or remedial action.

Again I urge you to take action. Make full use of your safety committees to analyse ill health and injury data and challenge your force to work with you to take forward the resulting plans.

We are actively supporting your and the forces efforts through the joint HSE/Home Office review. The review is currently examining how absence resulting from musculoskeletal and psychological problems have been effectively managed. In this we need to learn from each other and share that knowledge.

Earlier I mentioned that we have already seen some excellent examples of good practice. Not only in the management of sickness absence but also in the management of specific health & safety risks.

But all too often these are commendable examples are not shared with other forces. ACPO, APA, the professional advisors and staff associations such as your own, need to continue to play a part in spreading good practice. Ask what you can do to help spread good practice and help colleagues understand that the obstacles are surmountable.

Work with other regulators

As well as its involvement with ACPO, HSE is forging much closer links with HMIC and the new National Police Improvement Agency. Not only will this help to share lessons learned, but also to provide the police service with a much more joined up approach.

A good example of recent joint work with HMIC is on officer safety training. While HMIC looked at the use of ACPO guidance, HSE inspectors looked into the overall arrangements for managing the risk of assault. The work showed that forces are not effectively managing this risk - accounting for 20% of all injuries reported to HSE by the police. And we know there are many more that are unreported.

Assaults tend to be seen as inevitable individual crimes – part of the job. This is a perception we must change. Experience in other parts of the public sector has shown the number of incidents can be managed down with the right preventive measures.

Success here would have a dramatic impact on sickness absence rates too – violence frequently leads to stress related absence.

RIDDOR Review

I know that many of you are concerned that the current RIDDOR regulations do not provide an accurate picture of injuries and incidents for the police service - particularly 'near miss' incidents.

The Commission and Executive recognise these concerns and took them into account in the review exercise last year.

The primary purpose of RIDDOR is to provide the regulatory authorities with early notification to allow investigation and enforcement. The data we collect also enable us to target our resources effectively and efficiently.

However, as I mentioned earlier, in a well managed organisation, more data than the high-level requirements of RIDDOR will be collected as part of the organisation's own monitoring systems and analysis of performance. We expect employers to act on this - HSE does not need to collect all of that information.

A balance has to be struck between the information that HSE needs to fulfill its functions – not losing sight of the resulting benefits for the regulator, duty holder and workers - and the burden we place on organisations to provide it.

In its consideration of the review findings the Commission looked very carefully at the needs of health and safety regulators and the arguments for and against change. In light of this, we concluded that the case for changing RIDDOR in the near future had not been made. We could not justify imposing additional reporting requirements on duty holders to report additional data particularly as this would not assist in the task of more effective targeting of enforcement.

Work related deaths protocol and Corporate Manslaughter and Corporate Homicide Bill

I would now like to turn to the Corporate Manslaughter and Corporate Homicide Bill and specifically how it will relate to the Work-Related Deaths Protocol of which both ACPO and HSE are signatories.

The Bill had its 3rd reading in the House of Lords on 28 February and has returned to the House of Commons for discussion of the amendments made by their Lordships.

The Commission welcomes and supports the Bill as the proposed new offence will be an important addition to the range of enforcement options that are available when a workplace fatality results from particularly serious management failures. It will also, deliver greater justice.

Companies and other organisations, including public bodies, must be held properly to account for gross failings that have had fatal consequences. The proposed new offence will help restore public confidence in this aspect of the criminal justice system.

However, I want to make it clear that organisations that already take their obligations under health and safety law seriously and that seek to comply with the law have nothing to fear from the proposed new offence.

So how will the enforcement of this new law relate to the Protocol which began in 1998 with HSE, ACPO and CPS and was revised in 2003 when the number of signatories was extended from three to five with the LGA and BTP joining this important partnership. There are now six following the Office of Rail Regulation signing in April 2006.

The principles laid down in the protocol for effective liaison between the signatory bodies for the investigation of a work-related death are set out so that all parties are committed to ensuring that any investigation is thorough

and appropriate and that they will work closely together in order to achieve this.

All concerned with the operation of the protocol consider that it is now well bedded in and is paying real dividends with regard to joined-up working and in assuring employees and the public that we are both doing all we can to co-ordinate our efforts and to co-operate in the best interests of public safety and those affected by work-related deaths.

I would like to take this opportunity to thank the members of your Federation for their positive approach to joint working and their contribution to ensuring that this partnership work is enabling all the signatory bodies to deliver the high standard of professionalism that the public requires and deserves.

The National Liaison Committee (NLC) for the protocol that is responsible for its operation are agreed that it is fit for purpose and will apply to any investigation of a case under the new law and that it is important that the primacy test in the protocol is maintained for Corporate Manslaughter cases.

Additionally, the NLC's nine Regional Groups, on which those directly involved with the actual investigations are represented, will have a vital roll to play in keeping a watching brief on the practical issues as and when corporate manslaughter cases appear. The police, HSE and Local Authorities will have to ensure that every effort is being made to meet the public's expectations of the new law and the use of the protocol will go a long way to achieve this.

So, before moving on let me the reiterate how important the current high level of partnership working on work-related deaths based on the principles set out in the protocol will be for the successful investigation of fatalities that may lead to prosecution under the corporate manslaughter legislation.

Consultative proposals on HSC/E Governance

Consultation on the merger of the Health and Safety Commission and the Health and Safety Executive closed last week. The comments submitted by the Police Federation and other organisations and individuals are currently being analysed by colleagues in preparation for consideration by the Commission, Executive and Ministers in due course.

This is not the occasion to offer detailed critique or analysis of the issues raised and representations made by the Police Federation – I would, however, like to place on record the importance HSC/E attaches to your input, and that of other organisations who have submitted comments on the proposals.

We will look carefully at your comments regarding emergency service representation on the new governing body and a dedicated advisory committee for the emergency services due consideration. Though I am sure you will understand that it would be wrong of me anticipate our final conclusions.

Why do I believe that the current HSC/E governance arrangements need to be reformed ? Just under a year has elapsed since I made clear that I had reservations concerning the appropriateness of the HSC/E model for the 21st century. I shared my concerns,

“The de jure split between the Commission and the Executive is confusing to the outside world – and not properly understood internally in HSE It is unlikely that new body would have the same formal tripartite structure, but there is no doubt that any such body would have to find ways of consulting workers and employees, and other interest groups.”

HSC/E is clear that the merger of the Commission and Executive into a single body will give us a more robust governance framework, improve our working practices and create stronger voice for health and safety in Great Britain.

Further HSC/E believe that the merger will provide :

- A more accountable structure in line with current best practice and one that has the respect and confidence of stakeholders
- Better decision making and a clearer public and regulatory presence
- For the continued independence of the health and safety regulator – a key strength of the current arrangements
- A balanced structure, building on strengths of current arrangements, at arms length from Ministers – and one that protects inspectors from interference in enforcement decisions
- A merged unified authority with a membership that reflects the diverse society it serves drawn from a wide range of backgrounds ensuring broader public interest considerations are take into account.

I am confident that your our stakeholders will derive a real and lasting benefit from these governance changes.

What will this mean for you in your day-to-day contact with HSE? Not very much. It is not proposed that the Board of the governing body will get involved in individual enforcement. But I do think that governance and regulation go hand-in-hand.

Conclusion

In conclusion, my message to you is a simple one. First, do what you can to engage with colleagues to help identify workplace risks and the solutions necessary to manage them; and second, play your part in exemplifying good practice by sharing the lessons you have learnt and the good practice you have developed – do share this with your colleagues in your own force but with other forces too.