

**Institute of Occupational Safety and Health
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Health and safety: Fit for Business
Monday 13 March 2006
Keynote speech by Geoffrey Podger
Chief Executive HSE – ‘Steering a steady
course’**

Introduction – Background slide

Good Morning! It is a great pleasure to be here at my first formal engagement with IOSH since becoming CE of HSE. Health and safety is relatively new territory for me although I am learning fast – especially given an event like the Buncefield explosion two weeks after I started the job. I am very familiar though with the role of a regulator as I have been CE of both the UK Food Safety Agency and its European equivalent. It is with some ‘reassurance’, although I am not sure that is really the right word, that I have found the same challenge facing me in this new job – how to steer a steady course between the twin hazards of doing too much and doing too little. A Regulatory Scylla and Charybdis in fact.

Scylla and Charybdis slide

I’d like to offer you a few thoughts on this theme based on my early experiences at HSE.

First – the role of the regulator within society. I believe it is essentially about enabling business to get on with things; people to live life to the full; and society to make progress; without individuals or organisations contravening laws or harming others. As I have suggested this is fundamentally the same for H&S as for food. However, although the challenge is the same, it doesn’t get easier switching from one issue to another. It is also a particularly demanding role in a society experiencing rapid change. It is

interesting to reflect on the history of the location where we are today and how in a relatively short time we have seen transformations from docks to financial and service centres with associated shifts in activity and risks. That change reflects movements in the UK as a whole with which we are all familiar.

Last year, the Prime Minister, in a speech to the Institute for Public Policy Research and the Association of British Insurers, pointed out that no public servant ever gets brownie points for not regulating or not taking action. In one sense he was absolutely right – there is perhaps an organisational presumption that action is inevitably good that we all need to be wary of. However I would argue that the effective regulator knows when to act and when to stay silent and is also constantly alert and flexible in its interpretation of the appropriate approach.

Indeed the Regulator has a responsibility to challenge past and current practice - we cannot simply accept the status quo and live with it. It is very difficult to standardise exactly approaches to risk in all areas. If we went down that route it would not be the most helpful thing to do in terms of helping our fellow man. We can achieve more with a pragmatic approach, addressing things as we find them and seeking to improve them in practical ways but also bearing in mind the risk and not overdoing it.

There is much talk now of ‘new risks’ and here I mean the health risks that are a key challenge for the modern society. You heard earlier today about how Govt plans to progress work on Health Work and Well-being – this is exciting and absolutely right – particularly the focus on joining up agendas across Govt and identifying the links to productivity and health – helping to develop healthy individuals and healthy workplaces surely leads to a healthy and more wealthy nation. I must observe though, given my own experiences to date, that what you might term ‘more conventional’ safety risks are still a huge challenge that we have to manage well if we are to fulfil our role in promoting safe lives alongside social development. And that we still need to learn from experience. I’d like to spend some more time on this theme.

The issue was very much brought home to me when I woke on a Sunday morning after two weeks in a new job to discover that I was heading up the organisation that would lead the investigation into the Buncefield fire.

Buncefield slide 1

For oil storage sites like Buncefield, HSE bases its advice on failure of a single tank resulting in a local fire. The policy assumes that the fire will not spread to other tanks in the locality within 30 minutes, by which time those who were not injured as a consequence of the initial failure will have had time to evacuate or reach a place of safety, and leaving the fire to either burn out or to be tackled by local or Fire Service fire fighting capabilities.

Based on analysis collected over many years, together with the knowledge from lessons learnt from similar accidents and near misses, the Buncefield vapour cloud explosion scenario was considered an extremely low probability event (especially in the open air).

But it is one which happened. The Health and Safety Commission's decision to establish an Investigation Board acknowledges the severity of the incident and the degree of concern for people living close to the Buncefield site and to the local business community. This Board comprises an independent non-executive Chairman, Lord Newton, and two independent experts.

Very importantly, the terms of reference of the Investigation Board include a specific requirement to carry out a Policy and Procedures Review to examine the HSE's and the Environment Agency's role in regulating the activities at Buncefield, considering relevant policy guidance and intervention activity. This part of the investigation will include scrutiny, by experts who have not been involved in the regulation of this site, of whether HSE and EA could have done more to prevent the incident and whether any changes to the law are required.

Buncefield slide 2

We will review the basis of our advice to local planning authorities as findings emerge from the investigation. I have put together a small team to receive information from the investigation as soon as it emerges, so that a review of land use planning implications can quickly start. However, to provide sensible, balanced advice we

need to understand a great deal more about how the explosion occurred and why, and we simply are not in that position yet. So at this stage of the investigation, therefore, it would be premature to change the existing advice, so people living near these sites should not get unduly alarmed.

Buncefield is a vivid reminder of the need to be alert at all times. We await Lord Newton's report with interest, not only in relation to what happened at Buncefield, but also in relation to any lessons that need to be learnt about the regulation of highly hazardous areas, of which we have many in this crowded country. It is important that we learn the lessons of Buncefield.

The same need to keep our approaches relevant, up to date and proportionate can be seen in the current Govt. Energy Review and HSE's own Gas Safety Review.

Energy Review Slide

The Department of Trade and Industry launched in January a consultation exercise in support of the Government's energy review, announced last year- (Our Energy Challenge - Securing Clean, Affordable Energy for the Long Term.)

As part of its role in monitoring health and safety in many areas of the energy sector, the Government has called on HSE to provide an expert report during the course of the Review. This is necessary for the Government to make informed decisions in bringing forward future proposals.

HSE will report on some specific potential health and safety risks arising from recent and potential energy developments and how to ensure that risks arising from these are sensibly managed by industry, including

- An increasing need for gas storage in the UK;
- New demonstration projects for carbon capture and storage, and its potential in the UK;
- Consideration of a new generation of nuclear power stations and in the event of nuclear build, the potential role of pre-licensing assessments of designs.

HSE is preparing an expert report that will set out its analysis of the risks involved in these energy developments, from a safety perspective. This will be an expert rather than a consensus report. We envisage that our report will commence with a general statement of HSE's approach to regulation of health and safety at work and then deal individually with the recent and potential energy developments that the Government has asked us to review, examining the risks and the specific regulatory controls required. HSE is pleased to have been asked for this report, to be delivered by the end of June, which recognises the continuing importance of health and safety to decision making in a key area of public policy.

Gas Review Slide

At the other end of the scale HSE is undertaking a major review of the domestic gas safety regime. Whilst the number of reported deaths associated with gas has reduced over recent years, tragic incidents still occur with between 20-30 people a year killed through carbon monoxide poisoning.

We want to ensure the gas safety regime is based on the most sensible approach to managing the risks and commands credibility amongst those involved and affected. The review is also aimed at reducing bureaucracy, simplifying the law, strengthening business participation and ensuring the best use of resources.

We are going to take views on what people think is necessary but we want to do this in a different way from the conventional written consultation document. So we have started with a stakeholder forum on 20 February.

This was an initial opportunity for those interested in gas safety to help shape the review at its beginning rather than been given an almost complete model solution. We have invited further contributions to determine whether current arrangements still provide the best means for securing safety.

There will be a second stakeholder forum in September and a report on the review's findings is expected in late autumn 2006.

I've talked about energy sources – supply, storage and use. However clearly change is not all about technology – social change can be equally challenging.

‘Cross Border’ Slide

The world is seeing an unprecedented level of cross border movement and opening up of employment markets. The European Union and the fast-developing single marketplace is increasing the need for common, high standards of protection in the workplace as workers take the opportunity to take their skills across borders. With this come new demands for the H&S professional. Today the issue of migrant workers in the UK – requires us to consider issues around language, illegal employment and different cultural traditions about what it is safe and acceptable to do.

In recent years, there’s been a significant increase in the numbers of migrant workers in the UK. A migrant worker is defined as someone who has come to the UK in the last 5 years to find or take up work, whether intending to stay permanently or not, and whether documented or not.

There is concern that some (though by no means all) migrant workers are at greater risk of workplace injury or ill-health because:

- They are working in jobs that are inherently more hazardous;
- They have not received adequate instruction or information about the risks they face and the precautions needed;
- Their migrant status (whether they’re in the UK legally or not) makes them vulnerable to exploitative work practices, which may include poor health and safety provision.

So what is HSE doing? –

Migrant and illegal working slide

We have prepared guidance for employers (in the forthcoming revision of ‘Essentials of health and safety at work’) on how to ensure good provision of comprehensible training and instruction for those who have difficulty with English or who struggle with literacy in their first language where this is not English.

We also need to get a clearer picture of where migrant workers are working and the sorts of jobs they do, as the next stage in finding out whether they are at greater risk of injury or ill-health than other workers. Research is underway on this, and will report this year.

We are also developing a stakeholder plan, to help us develop better links with those organisations, including migrant workers' community associations, that can help us address the issues faced by migrant workers. Once again, as a regulator, we are having to learn and develop new skills in order to make these links effective.

This is of course another area where we have to try and make a reality of the phrase 'Joined Up Government'. Other government departments have a significant interest, particularly in countering the illegal exploitation of migrant workers. HSE is involved in:

- A joint pilot project with other departments to see whether information can be shared and joint operations delivered to detect and deter illegal working.
- Discussions, led by the Department for Work and Pensions and the Department for Education and Skills on a draft International Labour Organisation (ILO) Convention on regulating the forced labour dimensions of migrant working;

Ensuring wherever possible that HSE contact details go into other departments' leaflets for migrant workers;

Ensuring the framework for Gangmaster licensing is sound

I've talked about the regulator steering a steady course but clearly the challenge is also there for those running a business and for safety professionals as well. This is without doubt difficult and some people struggle with it. In some cases this leads to risk aversion - generally powered by poor decision-making. In turn, that poor decision-making causes costs and delays, damages operational performance and inhibits innovation. Worst of all, it creates derision. Sadly, "health and safety" is a phrase of derision in far too many places in our society, which can lead people to turn their backs on problems and so potentially actually reduce safety and cause accidents.

One way round that problem is to have excellent safety leadership, something which many of you will be familiar with. A business with excellent safety leadership is a very special business—at every level, from chairman, chief executive, directors and everywhere in the management chain through to the trade union partnership, safety is part of all decision-making. If you can achieve that, you can continue to achieve the balance. Sadly, many firms are too

small or they take the view, "It won't happen to us", or they try to solve the problem by bad, risk-averse decisions. That leads to a sub-optimal position, with a lack of safety leadership and the potential for unnecessary costs or unnecessary risks.

HSE is concerned about the quality of risk management. In particular, that too much attention is spent by some on trivial risks and unnecessary paperwork and not enough on serious risks that cause real harm and suffering. We are determined to play a leading role in getting this balance corrected.

Actions on risk aversion slide

We already have significant actions planned for tackling excessive risk aversion including:

- a. Research into the scale and root causes of excessive risk aversion to help us focus our actions (reports April 06);
- b. Publication of a set of principles of sensible risk management, together with commitments by us and our stakeholders to put these into action (expected launch June 06);
- c. Review and revision of our key guidance on risk management and assessment (expected launch June 06);
- d. Engagement of HSE's own staff to ensure that we are exemplars for sensible risk based decision-making (Spring – Summer 06); and
- e. Continued work with health and safety practitioners to ensure they are supported in giving balanced advice. We have already worked with professional organisations a great deal and supported seminars; this work will increase with the publication of the principles.

So to conclude :

Final Slide

I am still learning about H&S but I am 'comforted' by finding the familiar challenge for the regulator. How to steer a steady course between doing too much and doing too little; how to involve your stakeholders in problem solving and draw strength from your supporters; how to take proportionate action which allows society to develop and business to flourish - remembering always the sanctity of human life. Health and safety at work in the UK has a good system. But we must recall that true justice means continuing to make every agent with power over life and death at work appropriately responsible, initially for preventing tragedies, but if that has failed, responsible for being called to account in a court of law.

I am looking to your help with these challenges and look forward to a fruitful dialogue about how we continue to uphold the UK's proud tradition of excellence in health and safety.

Thank you – Enjoy the rest of the conference

Optional

I think I just have time for one or two questions.