

## Improvement Plan - Penfold & Further Measures

### Delivering Sustainable Development

Government has established an ambitious range of regulatory reform initiatives to reduce impacts on business and support growth. The Autumn Statement and the National Infrastructure Plan of November 2011 required departments and agencies to produce an improvement plan by spring 2012. The Penfold Implementation Report announced a programme of measures to reduce delay, uncertainty and costs for developers when seeking consents.

The Health & Safety Executive's (HSE) contribution to sustainable development is in the often highly specialised industries that provide products or services that are essential to contemporary living, such as energy for homes and workplaces and fuel to power vehicles.

If these industries are not properly managed they have the potential to cause harm to their workers or the public at large, as well as significant economic damage. Major accidents are rare, but when they do happen the effects on people living nearby can be devastating. This became apparent most recently at Buncefield in 2005, and across Europe for example at Enschede in The Netherlands in 2000.

HSE supports the growth agenda. It gives assurance to society that major hazard installations making products it values are well regulated and can be undertaken safely. HSE also advises Local Planning Authorities (LPAs) about new or changes to major hazard installations and on the risks involved in developments around installations, such as new housing. It is for communities to balance their needs with the needs of industry and with the interests of public safety, and so LPAs act as decision makers on these planning issues.

Getting this balance right is difficult. We live in a small, densely populated island with a growing population which creates pressure for new housing, retail and other facilities. Furthermore, many of the major hazard installations have been in existence for many decades. Gas holders, for example, have been a part of the landscape for over a century. Some of them are even listed buildings. These, and other installations, were built long before planning controls were in place and, over time, houses and other developments have grown up around them.

HSE recognises that growth would be impossible if its policy was to advise against any developments around such installations. To do so would leave LPAs with an impossible task. It would create swathes of waste land which would increase public safety but would not cater for communities' or society's broader needs. HSE takes account of this broader perspective by basing its advice on risk i.e. both the chances of an incident occurring and the severity of the consequences should it happen. In this way the twin needs of economic

growth, including through development, and the safety of the public and workers are met.

### **HSE's role**

HSE is the national regulator for health and safety in the workplace and aims to ensure that workers and the public are protected from serious harm. HSE is a statutory non-departmental public body with Crown status sponsored by the Department for Work & Pensions (DWP).

HSE uses a range of approaches to encourage business to manage their risks to protect their staff and others. HSE regulates certain higher hazard industries or activities through specific regimes that augment the general framework of health and safety law. These include issuing non-planning consents such as licences, approvals and other 'permissions' for work activities involving significant hazards or public concern, eg. where there may be the potential for multiple fatalities from a single event, or for widespread and adverse health effects. Some of these are economically important industries or activities and are now also covered by the Penfold review, including:

- the use of ionising radiation;
- the manufacture and storage of explosives, and:
- asbestos removal.

Petroleum licensing is also included but whilst HSE is responsible for the legislation, Local Authorities or Fire Authorities have responsibility for issuing petroleum licences.

HSE has met the timescales required under Penfold for the consents it issues and will publish details of our performance. For the period since implementation of Penfold (29 November 2011 - 6 March 2012) HSE received 646 consent applications, with 99.5% completed within timescales.

### **Land Use Planning**

HSE is a statutory consultee to local planning authorities (LPAs) on planning applications for Hazardous Substances Consent and developments near major hazard installations and pipelines. These planning arrangements aim to balance the need to mitigate the potentially catastrophic offsite consequences of credible major accidents with the:

- benefits of and opportunities for broad economic growth;
- needs of important chemical and other industries, and:
- needs of the local community.

HSE's role is to provide proportionate, transparent and consistent advice to enable LPAs to make informed planning decisions whilst fully understanding the public safety risks arising from an application. This extends to HSE providing LPAs with an on-line system, PADHI+ (Planning Advice for Developments near Hazardous Installations), which allows them to receive HSE's advice to their timescales in a clear and understandable format.

There are around 2,800 planning applications annually for development around hazardous installations. These are dealt with 'on-demand' by LPAs using HSE's PADHI+ system. Subsequent to this initial advice HSE deals directly with around 850 of these applications. Of the order of 97% of all applications are dealt with to time; Where time beyond the 21-day timescale is needed it is usually with the aim of seeking a solution in what are the most complex cases, high-value developments or where there is a significant difference of view between the parties. For 2011/12 we have reported in our Annual Report on the information we currently capture; identifying numbers of the most complex cases we advise on. We will report more fully for 2012/13, including quantitative and qualitative information on the small group of cases that take longer than 21 days to resolve.

HSE is also a statutory consultee for applications for development consent for nationally significant infrastructure projects (NSIPs).

### **Forward Look - 2012 and Beyond**

The Government believes the regulation of hazardous industries to be soundly based and in accordance with best international practice, and does not plan to reduce the current level of oversight. However, there will be a continuing programme of modernisation of regulatory approaches and co-operation between regulators to provide a consistent and proportionate approach for business. The Government also intends to allow HSE to cost-recover from business in relation to services it provides which are a necessary part of the process of land development <sup>1</sup>.

Our initiatives to improve further our work in the areas covered by Penfold are listed in Annex 1

Our priority in the period to April 2013 will be on further improving our performance in relation to Land Use Planning (LUP). Face-to-face feedback from business and from LPAs at the start of 2012 is that we need to:

- increase certainty for them in the process (including what will happen and when);
- improve transparency, including on our performance;
- promote wider and earlier engagement.

There will be an increasing focus on the highest-risk activities.

As part of our response to this and the changing planning agenda we have appointed a senior manager to develop and support implementation of HSE's longer-term strategic policy on LUP. This work will be framed by the NPPF and other policy developments in this area including the Government's Growth and Localism agenda. It will also include extending cost recovery for HSE's services. A key part of the role is to seek and act on feedback from 'customers'

---

<sup>1</sup> Good Health and Safety, Good for Everyone. The next steps in the Government's plans for reform of the health and safety system in Britain. 21 March 2011.  
<http://www.dwp.gov.uk/docs/good-health-and-safety.pdf>

on an ongoing basis through engaging directly with business and local authorities, as well as using targeted surveys.

An early outcome of this work, in light of feedback from LPAs and Developers in London, is a London-based 'testbed'. This will test different ways of working in partnership with business and LPAs, with the first elements being completed during the second half of 2012. More detail on the London testbed is at Annex 2. This 'change by doing' will improve our processes and further shift culture in the direction expected by Penfold

We would wish to roll-out the preferred approaches from 2013 onwards; this however will be subject to active engagement by DCLG and the Scottish and Welsh Governments.

### Improvement Plan

(i) HSE Non-Planning Consents/Permitting:

<b>Penfold Requirement</b>	<b>What we will do to further improve performance</b>	<b>By when</b>
Determine Consents in a maximum of 13 weeks	Achieved	March 2012
	Monitor our activities and seek further improvements for the benefit of applicants and those affected by the activities subject to consents.	Ongoing – HSE Business Plan
Publish our performance statistics	Present our performance statistics in the HSE Annual Report.	HSE Annual Report for 2012/13
	Report to DWP as required	
	Introduce measures that identify how monitoring is done, including sequencing of applications	
Remit to promote sustainable development	The Minister for Employment will publicly express his support for the Growth Agenda and write to the HSE Chair confirming its importance to HSE and its work.	Following publication of the NPPF
Other Measures	Petroleum licensing: Review the petroleum legislation framework in light of the recommendation from the Löfstedt review. This will include a consideration of the continued need for petroleum licensing.	In line with the Government response to the Löfstedt review this work is to be completed by April 2014

(ii) How we will strengthen our arrangements as land use planning statutory consultees on hazardous substances consents and on developments around major hazards installations and pipelines:

<b>Penfold/National Infrastructure Plan Requirement</b>	<b>What we will do to further improve performance</b>	<b>By when</b>
Further improve our performance in responding to applications	Work with applicants to improve the quality of their hazardous substances consent applications by giving pre-application advice to new operators of hazardous installations and to NSIPs.	From June 2012
	Streamline our receipt and checking procedures to clarify when the clock stops/starts.	By June 2012
	Develop improved handling and validation procedures.	From March 2012

<b>Penfold/National Infrastructure Plan Requirement</b>	<b>What we will do to further improve performance</b>	<b>By when</b>
Further improve our performance in responding to applications (contd)	Improve the efficiency of our technical assessment processes.	By March 2013; phased rollout as new programs and methods become available over the next 12 months
	Provide greater clarity on what will happen and when in assessing applications.	Agreed with individual applicants once a valid and complete application has been received by HSE. This will extend, in appropriate cases, to using the principles embodied in Planning Performance Agreements.
Provide enhanced support and training to local authorities in obtaining HSE's advice on developments near hazardous installations using the online system PADHI+	Continue to develop the PADHI+ support service run on our behalf by the Health & Safety Laboratory.	Ongoing
	Develop and promulgate an e-learning package for local authority users of PADHI+.	From June 2012
Strengthen our relationships with major developers	Establish new forum for engagement with major developers.	April 2012
	Model for ongoing interaction developed in conjunction with major developers.	Implemented by December 2012
Increase our transparency, in particular the information we make available on our procedures for handling applications and our performance statistics	Publish our performance statistics for: <ul style="list-style-type: none"> <li>- assessing Hazardous Substances Consents</li> <li>- individual planning applications</li> </ul>	Numbers of complex planning cases provided in HSE Annual Report 2011/12. Implement new recording arrangements from April 2012, with first full report by April 2013.
	Introduce measures that identify the usefulness, sequencing and transparency of the advice we give. This will include identifying those cases where agreement is reached between parties to alternative timescales.	Additional performance measures developed by September 2012
	Introduce enhanced arrangements for obtaining feedback on the advice we offer. This will be done initially through the PADHI+ Support service but will include targeted 'customer' surveys.	(i) October 2012 (ii) First customer survey to be targeted on London post testbed

<b>Penfold/National Infrastructure Plan Requirement</b>	<b>What we will do to further improve performance</b>	<b>By when</b>
Other Measures	(i) Enterprise Zones and Local Development Orders: Proactively work with Enterprise Zones to provide advice on public safety.	(i) Ongoing
	London Test Bed: Joint action with Business, London Boroughs & Greater London Authority to identify improvements in the timeliness, effectiveness and efficiency of the processes that Councils, Developers and HSE follow.	(ii) Design and build phase: July – November 2012

## The London 'testbed'

### *Background*

The testbed is being run in view of recent developments in land use planning, including:

- the publication of the National Planning Policy Framework;
- HSE reviewing its strategy on land use planning;
- the proposal for Supplementary Planning Guidance (SPG) on Hazardous Installations for London.

### *Objectives and outcomes of the exercise*

The objectives include:

- (i) to identify improvements in the timeliness, effectiveness and efficiency of the processes that Councils, Developers and HSE follow;
- (ii) increase understanding between the parties involved of what current and potential future players can contribute.

The expected outcomes are:

- (i) improved arrangements that will feed in to a London-specific SPG;
- (ii) lessons that will influence HSE's strategy and practice on Land Use Planning around hazardous installations.

### *Format and phasing of the exercise*

- (i) Consider feedback from stakeholders, scope exercise and identify priorities;
- (ii) Design processes for 'Triaging' planning applications; sharing information between parties;
- (iii) walk through a 'real' land-use planning scenario in London;
- (iv) Develop SPG in light of planning scenario and amended 'Triage template'
- (v) Resource and pilot amended procedures
- (vi) Evaluate exercise, including feedback from 'customers'

### *Participants*

Policy leads and practitioners from:

- London Mayor's Office.
- London First
- London Councils
- HSE