

**Health and Safety: Sensible Management or Bureaucratic  
Strait jacket?  
Wednesday 13 July  
Committee room 3, House of Lords**

**Speech by Jonathan Rees, HSE Deputy Director General**

**Introduction**

Thank you. This afternoon's seminar is about sensible risk management. As the third speaker on a hot afternoon, I hope I have assessed the risk correctly – that my audience will want maximum time to give your views – and that I can manage it sensibly – by not speaking too long. For those of you whose eyelids are heavy, I want to make three key points:

First, HSE's approach to regulation is very much based on sensible risk management. Risk is ubiquitous. Some degree of risk whether financial, environmental or in terms of safety is necessary for progress. So when applied well, risk management is a facilitator an enabler not a burden. Our job is that it should be applied well so that risks are properly controlled and the public and workers are reassured.

Second, I want briefly to outline what HSE is doing to ensure its own house in order. As a newcomer to HSE, I can say with pride that HSE has long been seen at the forefront of sensible risk management. But that does not mean we are complacent. As both Bill and the Minister have said, we do not want schools to ban egg boxes undermining the Blue Peter traditions of a generation. Nor do we want pages and pages of risk assessment forms before undertaking fairly routinely activities. The most extreme example we have come across is a Professor who was asked to fill in a 69 page form for a field trip.

Third, we want as HSE to contribute to the much broader debate about risk on which both Bill and the Minister have spoken. I will briefly set out how HSE intends to run this debate, some of the key milestones, and what we hope to achieve.

**HSE Approach to Regulation**

Let me start with HSE's approach as a regulator. Together with local authorities, we cover virtually all sectors of economic activity, and are involved in many aspects of public safety. So we deal with nuclear plants to fairgrounds, the offshore industry to domestic gas safety. And in covering this wide span, we have long taken a risk based approach to regulation. What do we mean by that? Well at its simplest, I think it is the 3 F's: framework, focus, and effectiveness.

On the framework, we are fortunate in the way the Health and Safety at Work Act was drafted over 30 years ago. In its concept, it is goal setting rather than

prescriptive. It also lays the primary responsibility for ensuring health and safety on those who create the risk and those who work with them and not with the regulator. This approach therefore leaves room for innovation to take account of different circumstances such as the significant changes of the economy over the last thirty years. So to-day we look increasingly at issues around workplace health, such as stress and back ache compared with the more traditional safety issue of the mid-seventies.

My second F is focus: as regulator, we need to be clear where we target our efforts, and ensure that we deploy our resources where they can have most impact. This led the HSE to draw up the five principles of good regulation which have now been given the Cabinet Office seal of approval: these are targeting consistency, proportionality, transparency and accountability. Proportionality or balance is at the heart of all we do as a regulator. As Lord Hunt said, we deal with many inherently dangerous substances whether in refining oil or in chemical sector. And in regulating these sectors, we need to balance the likelihood of a dreadful incident, which is fortunately very unlikely with its impact which would be catastrophic. So our job is to enable hazardous activities to be undertaken with the minimum tolerable level of risk.

I also wanted to say a word on transparency and accountability. As a regulator, we do not operate in a vacuum. We need to understand and be guided by the public's attitude to risk. This is not straightforward and obviously changes from time to time and risk to risk. People are guided by their perceptions of how well the process is understood, how evenly the dangers distributed, how well individuals can control their own exposure whether their risk is voluntary, what the benefit to them of undertaking that risk is. And so on. Clearly society will take a different view of risks affecting particular groups say young children as compared with well informed intelligent people like most of us in this room. And as Philip said in relation to disabled people, we must be careful in the assumptions we as regulators make about how best to manage risk, and who is best placed to do so. Our aim is to approach these risks as objectively as we can. But at the end of the day, risk management is a judgement call balancing the residual risk with the benefits, the cost of further improvement with other risks, and with the wishes of society.

## **WHAT ARE WE DOING? So, how effective are we?**

As has already been mentioned, we have a pretty good story to tell in the way that workplace hazards and risks have been managed over the last 30 years. There have been significant reductions in accidents and a record on safety in Europe second only to the Swedes. But we cannot rest on our laurels. We are concerned by claims that the health and safety system is too bureaucratic. And we are also concerned if intentionally or not our actions are helping to create an unnecessarily risk averse society. So what are we as HSE doing? Let me deal briefly with four areas; information, consistency, paperwork and Europe.

On information, we seek to support organisations in managing risks. Inspectors and other staff give advice as a matter of course in their work, we publish guidance, we run a confidential info line and our website contains vast amounts of free information and help receiving more than one hit every two seconds. But we need to look at whether we are getting this right. Sometimes it is possible to be too helpful; guidance we intend to help people to think through their solution can be taken as absolute requirements. So we are reviewing this, to minimise the scope for misinterpretation on what we say, for example on swimming and paddling pools. And where we think that other enforcement authorities (such as local councils) may be acting in too risk averse a way, we will advise them accordingly as we did last year on gravestones. But we intend continuously to monitor our guidance to make sure that we have got the balance right.

**Consistency:** we also need to be sure that our 1500 inspectors are also giving the right advice and are not themselves encouraging a risk averse climate by for instance unreasonable enforcement. We do not think this is a problem. We have a transparent Enforcement Model and recently introduced as part of our audit programme peer review of a sample of regulatory decisions. In all cases to date on an admittedly small sample these have shown that our inspectors have most certainly not been trigger happy. Surveys show that most employers have a high level of confidence in HSE staff – 86% of CEOs found them helpful. In collaboration with professional bodies like IOSH (Institute of Occupational Safety and Health), we will be looking further at such peer review as well as at the training and internal guidance we give to all our staff.

**Paperwork:** like all regulators we require paperwork. Many business have told me that they have found this very helpful. For instance some of the largest oil companies have admitted that the requirements we introduced under COMAH 5 years ago to pull together all their operational information into a single safety case, helped focus their own activity and improve safety. But equally, I am conscious that at times particularly in smaller organisations the safety paperwork we require – or which consultants say we require - languish on shelves building up dust. And where risks are trivial, then some minimal assurance is needed. In short Risk assessments need to be fit for purpose not war and peace. So we will be coming forward to the Health and Safety Commission later this month with proposals to look again at reducing what we require on paperwork.

**Europe:** I mentioned earlier the strength of the Health and Safety at Work Act. In common with most areas of the economy, about half of our current regulatory activity comes from Europe. So we will use the UK's current Presidency of the EU to see what more we can do to adopt a sensible risk approach in Europe. This will involve looking at risk assessments, whether legislation can be simplified, and improving the evidence base. We will host a major conference on all of this later this Autumn.

## **The Debate**

So finally, let me turn to the debate we are launching today. Why we are launching it, and what we hope to achieve.

First, we are launching a web forum which is designed to stimulate discussion. Anyone can contribute to the on-line forum that will run from today for 12 weeks until 5 October. We have structured it to reflect three main strands where it seems to us that a lot of the public concern rests: education, local government, and public safety. Both the Prime Minister and Philip Hunt today have spoken about education and how we strike the balance between letting children experience risk and protecting them. How for example we ensure school trips are well planned but avoid reams of paperwork. How do we allow traditional games like conkers to be played. The evidence suggests that many schools are managing the risks very well, but how do we spread good practice throughout education?

The second area is local government. Councils have to wrestle with some of the most difficult health and safety issues in the country. Not only are they collectively among the largest employers in the country but they also have responsibility for much of the environment in which we spend our time. This is on top of their role as enforcers of health and safety and environmental health legislation. A number of recent stories alleging an over-reaction on health and safety involved local authorities in one form or another: paddling pools, hanging baskets, paper napkins and so on.

The third area is public safety. So to-day in addition to the web forum, we are publishing a discussion document on what the HSE's role should be in protecting the public from work related risks. We set out a series of principle about where we should and indeed should not intervene. Where are the sensible limits of Government intervention? How great a role should there be for personal responsibility?

So the first stage is to stimulate and promote discussion. Building on this, we will also be trying to research and understand better what is happening. Why for instance do we see 69 page risk assessments? Or why do some authorities ban some activities when others allow them? Is it poor advice from us? Is it risk aversion by Chief Executives or elected members? Is it the perception of a compensation culture? Is it driven by insurance claims? These are all areas where I think we need to understand the picture better.

So what then? Well in the autumn, we will draw together the different strands of the debate, what we've learnt, what you and others have told us, and work towards an agreed position statement that we hope all can sign up to.

## **Conclusion**

So in conclusion, we in HSE welcome the debate which the Minister and Bill have launched today and want to play our full part in it so that we can sensibly protect people's health and safety by ensuring the risks in the changing workplace are properly controlled while encouraging a vibrant economy, and

the benefits that flow to society from that. We welcome your views on what we are doing well, and where we can improve.

Finally, I said at the beginning that I had to accept the risk of being the third speaker and manage it by not going on too long. I'm not sure I succeeded, but at least I hope the impact has not been too catastrophic.

Thank you.