

Health and Safety Executive Board			HSE/22/A09
Meeting date	24-Oct-22	FOI Status	Open
CM9 Ref	2022/193801		
AGENDA HSE Board Meeting and Business Planning Event 24/25 October 2022 INNSiDE Hotel, Liverpool			
		24-Oct	
		Lunch available from 12:30	
		GOVERNANCE	Presenter
13:15	1	Welcome Declarations of interest Minutes of meeting 27 September 2022 Matters arising & Action Log Chair's update Finance and Performance Committee verbal report (17 October)	HSE/22/M08 HSE/22/AL Verbal Verbal Susan Johnson
		ASSURANCE	
13:35	2	Chief Executive's Report - October 2022 <i>(to include update on Covid Pandemic Public Inquiry)</i>	HSE/22/46 and Verbal update Sarah Albon, Katy Shrimplin & ExCo members
14:20	3	Business Performance - Q2 2022/23 (including review of risk register).	HSE/22/47 David Murray
14:50	4	AOB and meeting review	
14:55		Break Tea/coffee available	
15:15 -		Business Planning Event - see separate programme	
		25-Oct	
08:30-14:30		Business Planning event - see separate programme	

Health and Safety Executive Board			HSE/22/M09
Meeting Date:	28 November 2022	FoI Status	Open
FoI Exemptions			
CM9 Reference:	2022/217105		
DRAFT Minutes of HSE Board Meeting 24 October 2022 Inside Hotel, Liverpool			

Attending

Sarah Newton – Chair	Chyrel Brown	Martin Esom	Susan Johnson
John McDermid	Ged Nichols	Ken Robertson	Gina Radford
Claire Sullivan			

Also attending

Sarah Albon – Chief Executive	James Anderson – Chief Technology Officer	Rick Brunt – Director, Engagement and Policy	Clare Millington-Hume – Director, Human Resources
David Murray – Director, Finance and Corporate Services	Karen Russ – Director, Science and Commercial	Katy Shrimplin – Director, Legal Services	Angela Storey – Director, Operational Services
Philip White – Director, Regulation			

[Redacted] - Secretariat

Apologies: David Coats, Debbie Gillatt (travel delays), Peter Baker

Minutes

Closed Meeting	
1	Welcome and Declarations of Interest
	<p>Sarah Newton welcomed everyone to the meeting, noting how several of those present encountered serious travel challenges as a result of rail engineering works.</p> <p>Apologies were received from David Coats and Peter Baker.</p> <p>The Chair reminded the Board of the importance of keeping the register of interests up to date and that any changes should be reported to the Secretariat.</p> <p>Ken Robertson declared that his son had been successful in a recent CRD recruitment exercise and was awaiting a formal job offer. The Board noted this declaration.</p> <p>The Chair informed the Board that she had signed, on behalf of the Executive, the Offshore Installations (Safety Zones) (No 3) Order (2022).</p>

	<p>Draft minutes of meeting 27 September 2022 (HSE/22/M08), matters arising and actions (HSE/22/AL)</p> <p>The minutes of the previous meeting were cleared subject to an amendment to paragraph 6(1) to clarify the different policy remits of BEIS (security of supply) and HSE (safety).</p> <p>The action log was noted. In relation to the covid spot checks lessons learnt action, the Board noted that employee engagement, whether via official employee (TU) representatives, other employee representatives or direct employee engagement remained a routine and pivotal element of an inspection and that evidence demonstrated that, when employees were engaged in identifying and managing risks, health and safety performance improved. Whilst sectoral comparisons may be possible, there were challenges in differentiating between the different types of employee engagement due to the way in which the data was collected.</p> <p>There were no other Matters arising.</p>
Decision	Minutes cleared subject to the amendment requested.
Action 1	Amend the minutes as requested.
2	<p>Chief Executive's Report (HSE/22/46)</p> <p>Sarah Albon updated the Board on current issues, including the appointment of the new Minister with responsibility for HSE, Claire Countinho and positive initial meeting with her where she was engaged and interested in a broad range of matters. She also updated the Board on challenges relating to the delivery of the Building Safety Regulator (BSR), including recruitment, procurement, funding and communications preparation.</p> <p>The Board also received an update from Katy Shrimplin on HSE's preparations for and scope of the three public inquiries, including those in Scotland and Wales, looking to establish lessons learnt relating to the Covid-19 pandemic. This included the approach being adopted, likely themes, the process for gathering, cataloguing and submitting evidence and the different status for contributors to the inquiry. HSE's team had been set up using existing resources able to flex to match priorities.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The ongoing engagement with DLUHC and HMT with the aim of managing risks to funding and delivery of the BSR. The Board commissioned an update on BSR, including recruitment, for its next meeting 2. Risks and potential opportunities for HSE as outcomes/recommendations for the public inquiries.
Action 2	Bring an update to the Board on BSR for the next meeting, to include recruitment.
3	<p>Business performance (HSE/22/47)</p> <p>David Murray confirmed that the Annual report and Accounts had been certified by the Comptroller and Auditor General the previous week and would be laid in Parliament on 26 October.</p> <p>He then presented the performance report for Quarter 2 2022/23, providing details of both Business Plan targets and financial performance:</p>

	<ul style="list-style-type: none"> • areas of strong performance against new Business Plan milestones, including: the completion of pro-active inspections (with latest figure being >8500) and material breach rates across the sectors largely as expected; Chemical Regulation evaluations; fatal and non-fatal investigations closure, with new data providing a positive rolling 12 month performance against new timeliness and enforcement targets for non-fatal investigations; Business Plan deliverables with all Q2 milestones delivered, noting that two deliverables were off track; and • areas of focus, including: delivery against new performance measures for Major Hazards; and average working days lost (AWDL), for which HR colleagues are providing support to Divisions in managing absence; • HSE's financial position and the submission for the supplementary estimate. <p>ExCo had also reviewed the Risk Register with target tolerance levels included, and some risk indicators revised. Emerging risks would be captured during the Business Planning process.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. ExCo had conducted a mid year review of material breach rates for proactive inspections and considered issues around targeting, training and outcome expectations. 2. How the new data on investigation closure was informing discussions on development of risk-based performance measures. 3. How the impact of the mitigating actions would, in due course, be taken into account when reviewing the level of risk. <p>Susan Johnson updated the Board on proceedings at the recent Finance and Performance Committee, which included a probing discussion on the end to end process of enforcement/investigation and closure rates; recruitment challenges; and HSE's financial position.</p>
Decision	The Board noted the performance report.
Other Business/Meeting Review	The Board noted that this was Katy Shrimplin's last meeting before she left HSE to take up another post outside of the Civil Service. The Board thanks her for her leadership in delivering change in Legal Services Division and wished her well for her new role.

Health and Safety Executive Board		HSE/22/46	
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Type of Paper:	For discussion	Exemptions:	None

Chief Executive's Report October 2022

Reduce work-related ill health, with a specific focus on mental health and stress

Preventing work related stress to promote, support and sustain good mental health: Working Minds continues to raise awareness of workplace stress. In support of World Mental Health Day (10th October) HSE issued a statement from Sarah Albon underlining the importance of supporting staff to help productivity during these challenging times. This was complemented by social media activity with campaign partners - creating two options of social media graphics and tailored communications to partners, resulting in 10 creating social media posts and 3 sharing our two posts. These received more than 60,000 impressions, 900 likes, and 300 shares. Together these delivered the equivalent of 1.5 months' worth of subscriptions to [Working Minds](#) in 48 hours – 6% of the overall total. Next month will be the anniversary of the launch of the campaign – with activity centred around the Health & Work conference on 15th November.

Construction sector campaign focused on manual handling: The “[Your Health. Your Future](#)” campaign continues to support the six-week inspection programme, at the end of week two (6 October) more than 40 pieces of coverage had been generated driving 7,000 page views and more than 1,500 downloads of guidance. Campaign activity to-date has included speaking at UK Construction Week, and the launch of a manual handling quiz, with a webinar with IOSH, and a HSE podcast to follow.

Increase and maintain trust to ensure people feel safe where they live, where they work and, in their environment

Building Safety Regulator

Building Advisory Committee: Under the Building Safety Act 2022, BSR is required to set up a statutory committee (Building Advisory Committee) to provide information and advice relating to the BSR's building functions. The Building Advisory Committee (BAC) will be set up as an industry representative steering group, consisting of industry leaders and underpinned by technical expert working groups, to deliver the necessary culture change in built environment. The initial advert for roles on the Building Advisory Committee was published on 26 September 2022 with a closing date of 23 October, seeking applications from industry leaders to form the steering group. Interviews are planned for November 2022 with BAC's first meeting scheduled for December 2022. Appointments to working groups will follow at a later date.

Safety Case Toolbox: Over the summer months as part of the 'Get Ready campaign' HSE has been highlighting the [safety case toolbox](#) and best practice examples for planning gateway one, encouraging over 7000 views of the information. Utilising the 45 communications partners to help spread the messages, the social media content reached more than 134,000. HSE will build on the

communications with a targeted PR plan taking advantage of key moments and ensure messages are placed directly in front of the different audience groups.

Maintain Great Britain's record as one of the safest countries to work in

HSE's work with the Ministry of Defence: A revised Memorandum of Understanding, known as the 'General Agreement', with the Ministry of Defence (MOD) and an all new working protocol with the Defence Accident Investigation Branch (DAIB) have been agreed. HSE has worked with the Defence Safety Authority (DSA) and DAIB to agree a working protocol between both organisations following an earlier public consultation proposing that the DAIB has statutory powers to protect evidence that it gathers as part of its role. Other accident investigation branches have these statutory protections. The effect of the new working protocol is to:

- Ensure a timely and effective investigation of military safety related accidents and incidents in England, Scotland, and Wales by both organisations.
- Ensure a common understanding of the roles of the DAIB and the HSE, outlining how they will cooperate to pursue their respective safety investigations.
- Reach an agreement that means there is no legislative alteration of HSE's statutory powers.

Securing compliance with the law

Press releases giving details of recent prosecution cases, along with other HSE press announcements, are published on this [link](#).

CatAlloy Limited of Widnes was recently fined £120,000 and ordered to pay costs of £50,000 for breaching Sections 2 (1) and 3 (1) of the Health and Safety at Work etc. Act 1974 (HSWA). Catalloy Ltd is a small company with approximately 12 employees manufacturing nickel catalyst. An explosion occurred on 3rd December 2015 and HSE's investigation found how air drawn into the reactor mixed with hydrogen, caused over pressure that led to the explosion. The lid of the reactor burst open and the gearbox and the electric drive motor, situated on top of it, were ejected through the roof of the building after breaking their mountings. Fortunately, nobody was injured as a result of the incident. The company had been prosecuted previously for a similar incident which occurred in 2011. HSE's intervention ensured that a systematic review, to identify cause(s) was carried out and remedial action taken to ensure safety of future operations and a Prohibition Notice was served. This was an extremely complex investigation which initially involved Specialist inspectors from the Process Safety, Mechanical Engineering and Electrical Control & Instrumentation disciplines of Chemical, Explosives and Microbiological Hazards Division (CEMHD).

The investigation focussed on the basis of safety for the nickel catalyst manufacture with support from Process Safety. This was hampered by a further release on 29 April 2016 which required investigating.

Laboratory risks: HSE's Microbiology & Biotechnology Specialist Inspectors are warranted to undertake Specified Animal Pathogens Order (SAPO) licensing and related regulatory activities on behalf of Department of the Environment, Food and Rural Affairs (Defra) under the terms of an Agency Agreement.

A dutyholder with a Containment Level 4 (CL4) laboratory (highest containment level, handling the highest risk biological agents) has a SAPO licence due to expire in early 2023 and an inspection on 13 & 14 September 2022 identified a number of issues relating to training and competence of staff. This meant that HSE was not in a position to renew the SAPO licence and allow work with

SAPO agents to continue. The dutyholder has acknowledged that the members of staff who would undertake any SAPO work at CL4 are currently not fully competent in the relevant procedures.

Formal enforcement was not deemed appropriate as the relevant facility has not been handling SAPO agents since 2019. However it does have SAPO agents in storage at the facility, something that would not be permitted if its SAPO licence were to be completely withdrawn. HSE has therefore taken a proportionate and pragmatic decision to renew the licence for storage only of SAPO agents, subject to application of relevant physical controls etc as stipulated. The dutyholder is aware and has accepted this outcome. Storage is the best case scenario in terms of managing risk as withdrawal of the licence would necessitate the destruction or transfer of agents out of the facility. Not only was HSE's approach proportionate but it is also enabling, meaning that SAPO work can be resumed more easily once the current operational challenges are addressed.

Nuclear medicine company fined for workers' excessive radiation exposure: On 29 September 2022, Leeds Magistrates' Court heard that on 25 March 2019, a vial of a radioactive substance (FDG) leaked after it was installed into a shielded dispensing pot in the dispensing laboratory of Alliance Medical Limited's (AML) Positron emission tomography-computed tomography (PET-CT) facility at St James's University Hospital in Leeds. This resulted in two members of staff becoming contaminated with skin doses in excess of the annual dose limit as defined by the Ionising Radiations Regulations 2017 (IRR).

In a second incident, on 15 November 2019, the same radioactive substance was unknowingly handled during the production process at the Alliance Medical Radiopharmacy Limited (AMRL) facility at Keele University Science Park in Staffordshire. Consequently, a member of staff was contaminated with a skin dose in excess of the annual dose limit as defined by IRR.

An investigation by HSE into the incident at the AML Leeds PET-CT centre found that training and instruction was inadequate and supervision below an acceptable standard. Staff were not made fully aware of the localised instructions and were using personal protective equipment (PPE) unsuitable for work with radioactive material.

A separate investigation by HSE found that, at AMRL's facility at Keele University Science Park, the radiation warning system associated with the particular production equipment was not operational at the time of the incident and had not undergone routine maintenance and testing at suitable intervals.

Alliance Medical Limited, based at Icen Centre, Warwick Technology Park, Warwick, Warwickshire pleaded guilty to breaches of the Ionising Radiations Regulations 2017, Regulations 12, 18(3), 18(4) and 18(5)a, and was fined £300,000 and ordered to pay costs of £11,382.

Alliance Medical Radiopharmacy Limited, also based at Icen Centre, pleaded guilty to breaches of the Ionising Radiations Regulations 2017, Regulations 9(2)a, 11(1) and 12, and was fined £120,000 and ordered to pay costs of £11,382.

This case illustrates the importance of our inspection programme focused on ill health arising from ionising radiation – and helps underpin the system of notification, consent and licensing in place to ensure the risks are effectively managed.

Exclusive Oriental Classics (UK) Ltd: This company and its director, Kian Hoo Tay, were recently prosecuted for failing to have Employers Liability Compulsory Insurance (ELCI) and were both fined £1650 and ordered to pay costs of £1750. It followed the serious injury of an employee at a Local Authority (LA) enforced premises on 1 March 2022. On 31 May the LA informed HSE that the company had failed to provide the employee's solicitor with a copy of their ELCI for the period when the incident occurred. Due to the six-month statutory time limit for summary offences, HSE had just 3 months to obtain evidence and lay informations. A team comprising of inspectors,

a visiting officer and administrative colleagues worked at pace to gather evidence, including checking the Police National Computer records. It was established that the dutyholder's ELCI had been allowed to lapse and the case was submitted to Legal Services Division colleagues to consider prosecution. As a result of this team effort, the deadline of 1 September was met and the prosecution case heard in October, ensuring that justice was served for the dutyholder's failings.

Bernard Matthews Food: Following two separate incidents on its production line machinery, in which two employees sustained serious, and in one case, lifechanging injuries, Bernard Matthews Food, after pleading guilty to offences under section 2(1) of HSWA, has been fined a total of £400,000 (£300,000 for one incident and £100,000 for the other) and ordered to pay costs of £15,000 and £170 surcharge.

Published fatalities update¹

Since the last update to the Board, 12 fatalities which occurred in 2022/23 have subsequently been published on the HSE website. Please see table below for details.

Date of incident	Name	Age	Description of incident	Local Authority	General Industry Sector	Employment status
25/04/2022	Jordan Little	25	The deceased was struck by an object	South Lanarkshire UA	Services	Employee
10/05/2022	Ian Hogg	72	The deceased was struck by a moving vehicle	Borders UA	Construction	Employee
12/05/2022	Stuart Garnet	44	The deceased was struck by a moving vehicle	Barrow-in-Furness	Water/Waste Management	Employee
19/05/2022	Leslie Wartnaby	66	The deceased fell from height	Birmingham	Construction	Self employed
30/05/2022	Robert Morris	49	The deceased was struck by a moving vehicle	Haringey	Construction	Employee
06/06/2022	David Bradley	45	The deceased was struck by an object	Bassetlaw	Agriculture	Employee
14/06/2022	Rory Brownlee	18	The deceased fell from height	Dundee UA	Construction	Employee
22/06/2022	Luke Searle	17	The deceased came into contact with machinery	South Hams	Agriculture	Employee
01/07/2022	Greg Waller	33	The deceased was struck by an object	Falkirk UA	Manufacturing	Employee
20/07/2022	Bhakta Rai	40	The deceased fell from height	Rushmoor	Construction	Employee
21/07/2022	Marius Alexandru Badoiu	35	The deceased was struck by an object	Crawley	Construction	Employee
19/08/2022	Alistair Cheyne	36	The deceased fell from height	South Cambridgeshire	Construction	Self employed

¹ In some cases, the publication of a fatality on the HSE website may be some months after the date of the initial incident. This is due to the verification checks that are carried out to ensure that the fatality is within HSE's enforcement remit and if so, the correct information is subsequently published. The complex nature of some fatality investigations may mean that it can take some time to verify this information. The full list of the names of the deceased plus additional details may be viewed [here](#).