

Health and Safety Executive Board			HSE/22/A04
Meeting date	26-Apr-22	FOI Status	Open
CM9 Ref	2022/65118		
AGENDA HSE Board Meeting 26 April 2022 Redgrave Court			

08:30 **Private Session - HSE Board**
- **including Forward Look**

09:15

09:15

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09:45 **Break**

GOVERNANCE

09:45			Presenter
1	Welcome		Chair
	Declarations of interest		
	Minutes of meeting 29 March 2022	HSE/22/M03	
	Matters arising & Action Log	HSE/22/AL	
	Chair's update	Verbal	
	Finance and Performance Committee update	Verbal	Susan Johnson


ASSURANCE

10:05	2 Chief Executive's Report - 28 March 2022	HSE/22/20 and Verbal update	Sarah Albon & ExCo members
10:35	3 Business Performance	HSE/22/21	David Murray

12:05

Lunch

DECISIONS

12:50	4 Update on asbestos - Work and Pensions Committee Report	Report and verbal update	Rick Brunt/ 
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13:20	5	HSE Board Stakeholder engagement events for 2022/23	HSE/22/22	Lester Posner
13:50	6	AOB and Meeting Review		
14:00		Meeting ends		





Health and Safety Executive Board			HSE/22/M04
Meeting Date:	31 May 2022	FoI Status	Open
FoI Exemptions			
CM9 Reference:	2022/096371		
Minutes of HSE Board Meeting 25 April 2022 Redgrave Court, Bootle			

Attending

Sarah Newton – Chair	Elaine Bailey	Debbie Gillatt	Ken Robertson
Susan Johnson	Claire Sullivan	Ged Nichols (online)	John McDermid (online)


Also attending

Sarah Albon – Chief Executive	Rick Brunt – Interim Director, Engagement and Policy	Katy Shrimplin – Director, Legal Services	Peter Baker – Director, Building Safety and Construction
Angela Storey – Director, Operational Services	Philip White – Director, Regulation	David Murray – Director, Finance and Corporate Services	Karen Russ – Director, Science and Commercial


 (all items);
 (item 4),
 -
Secretariat

Apologies: Martin Esom, Gina Radford

Minutes Dawn Hepworth

Closed Meeting	
1	Welcome and Declarations of Interest Sarah Newton welcomed everyone to the meeting. In particular, she welcomed  , of the Parliamentary Liaison Team, who was attending to observe the meeting as part of her induction and development. Martin Esom and Gina Radford gave apologies. 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. Draft minutes of meeting 29 March 2022 (HSE/22/M03), matters arising and actions (HSE/22/AL) The minutes of the previous meeting were cleared. The action log was noted and the following updates provided:

	<p>1) Action 7 of 26 January – Confirmed that Ken Robertson would be taking up a role on the new Science Quality Assurance Group.</p> <p>2) Action 4 of 29 March – It was confirmed that a review of the Board Operating Framework would be undertaken to ensure it reflected the Board’s decisions and current committee structure ahead of the independent review.</p> <p>There were no other Matters arising.</p> <p>Susan Johnson provided an update on proceedings at the Finance and Performance Committee (FPC) meeting 14 April 2022. Highlights noted included discussions around: pro-active inspections; mitigating future underspends; interaction between FPC and other board committees; challenges faced by specialist teams around recruitment; an update on ongoing work to strengthen performance measuring and reporting; new approach to medium term financial planning; and an update on ExCo’s business case process.</p> <p>Linked to the above, the Board discussed strategies for attracting candidates into “hard to recruit” specialisms, highlighting potential markets to consider.</p>
Decision	Minutes cleared.
2	Chief Executive’s Report (HSE/22/20)
	<p>Sarah Albon updated the Board on recent activities, including recent engagement with Ministers; the Business Plan publication process; the forthcoming independent review of HSE and also some of the challenges around financial planning that have arisen as a result of external factors.</p> <p>The Board sought and received assurance around the following:</p> <ol style="list-style-type: none"> 1. Noting the list of fatalities on its own did not appear to show trends, how other methods of data analysis enable the identification of some high level trends used to inform sector plans. 2. The extent of collaborative working with other regulators and law enforcement authorities to manage risk; for example vehicle load safety. 3. Where the new Strategy meant a review of how resources would be prioritised, that the Board would have a role in scrutinising and challenging decisions, to provide it with assurance.
3	Business Performance – Quarter 4 2021/22 (HSE/22/21)
	<p>David Murray presented the Q4 performance report, providing details of delivery both of Business Plan targets and financial performance, highlighting in particular:</p> <ul style="list-style-type: none"> • areas of strong performance where Business Plan targets were exceeded, including the completion of pro-active inspections, HSE’s support to the pandemic, fatal and non-fatal investigations closure, health and safety concerns and Major Hazard safety cases and issues resolved, Biocide evaluations, and staff engagement; and • those areas which missed their respective targets, including pesticide evaluations (noting performance had shown sustained improvement over the year due to the positive impact of the recruitment of new regulatory scientists) and average working days lost (AWDL).

	<ul style="list-style-type: none"> the latest financial position, noting the challenges around underspends on ring-fenced funding and increased cost recovery in Q4, which exceeded forecast. <p>It was noted that, overall, this was a positive report which would form the basis of HSE’s Annual Report and Accounts.</p> <p>The Board also considered the Risk Register and mitigations in place.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> How the articulation of the mitigating actions in the Risk Register would be dynamic to reflect the impact of those actions. The internal assurance mechanisms in place to challenge delivery assumptions/optimism bias and provide a strategic perspective looking across all change activity. Consideration of weighting and prioritising actions based on their potential impact. The wider impact of underspends and action required to level out peaks and troughs of income. The range of measures in place to deliver the change set out in the new Strategy and mitigate associated risks. Progress update on the Building Safety legislation, including communications and stakeholder engagement, programme challenges, digitalisation preparation and governance. The Board noted that the Infrastructure and Projects Authority was conducting its next phase review and that a fuller update, which would map out duties and responsibilities, would be provided at the May Board meeting along with a paper on proposed fees and charges. A broad range of assurance mechanisms was in place for the programme and HSE had been transparent on the challenges posed by any delays in implementing secondary legislation.
Decision	The Board placed on record its thanks to everyone within the organisation for the notable performance achievements for the year.
4	Update on Work and Pensions Committee report on The Health and Safety Executive’s approach to asbestos management (HSE/22/23)
	<p>Rick Brunt and ██████████ introduced the report, explaining next steps and early thinking on the recommendations relevant to HSE.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> How HSE could more clearly articulate the duties contained in the Control of Asbestos Regulations (CAR) ensuring a balance between scientific/factual evidence and proportionality whilst acknowledging the need to demonstrate in a compassionate and empathetic way an appreciation of the impact of past asbestos exposure. That HSE will be transparent, considering the recommendations, on which areas would be proportionately deliverable and which would be undeliverable, ensuring that overall messaging reflected the positive and supportive tone of the report. That the lessons learned from Covid spot checks will be used to support future proactive activity to give the public the assurances needed, whilst continuing a strategic focus of resources on new workplace health harms.

	<p>4. That the post implementation review (PIR) of the CAR would continue, taking account of the report's findings and recommendations as HSE indicated to the committee it would do.</p> <p>5. That the HSE Board would in due course receive both HSE's contribution to the Government response to the report and the PIR.</p>
Decision	The Board confirmed it was content with HSE's proposed approach in responding to the Committee's report.
Action 1	Ensure the Board has an opportunity to provide views in respect of the PIR of the CAR.
5	HSE Board stakeholder engagement events 2022/23 (HSE/22/22)
	<p>Lester Posner introduced his paper outlining the proposed format for the Stakeholder events in Aberdeen and Cardiff and the General Meeting, the range of stakeholders to be invited and the role of the Board. In addition, the theme and venue for Aberdeen were outlined.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. That the proposed format for the Stakeholder events would facilitate an effective combination of table and plenary discussions in an appropriate venue. 2. That Stakeholders would represent the tripartite nature of HSE in addition to including partners in the Devolved Administrations. The Board felt these should be senior decision-makers in their respective organisations in order to influence change. 3. That the purpose and anticipated outcome, both from HSE's perspective and for those attending, would be clearly articulated and would directly link to one of the new strategic themes. The Board would be provided with full briefing on the events' themes and supported by officials with relevant expertise. 4. That the General Meeting would enable stakeholders to effectively hold the organisation to account as well as increasing the visibility of the Board and encouraging greater collaboration on our future priorities. Stakeholder attendance will be offered via a combination of in-person and online and Board members will be fully briefed to take part in a question and answer session.
Decision	Subject to the comments above the Board agreed the general approach.
Other Business/Meeting Review	The Board commented how the discussion on Performance and Risk, in particular, had been informative and fruitful.

Health and Safety Executive Board		HSE/22/20	
Meeting Date:	26 April 2022	FOI Status:	Open
Type of Paper:	For discussion	Exemptions:	None

Chief Executive's Report April 2022

Provide an effective regulatory framework

Personal Protective Equipment (Amendment) Regulations 2022: On 6 April 2022 the [Personal Protective Equipment at Work \(Amendment\) Regulations 2022](#) (PPER 2022) came into force. They amend the [1992 Regulations](#) (PPER 1992) by extending employers' and employees' duties regarding personal protective equipment (PPE) to limb (b) workers. In the UK, section 230(3) of the Employment Rights Act 1996's definition of a worker has 2 limbs:

- Limb (a) describes those with a contract of employment. This group are employees under the Health and Safety at Work etc Act 1974 and are already in scope of PPER 1992
- Limb (b) describes workers who generally have a more casual employment relationship and work under a contract for service – they do not currently come under the scope of PPER 1992

PPER 2022 draws on this definition of worker and captures both employees and limb (b) workers.

Under PPER 2022, the types of duties and responsibilities on employers and employees under PPER 1992 remain unchanged but are extended to [limb \(b\) workers](#), as defined in PPER 2022. If PPE is required, employers must ensure their workers have sufficient information, instruction and training on the use of PPE. A limb (b) worker now has a duty to use the PPE in accordance with their training and instruction, and ensure it is returned to the storage area provided by their employer.

Lead and engage with others to improve workplace health and safety

Covid-19 communications: HSE updated its [webpages](#) on 1st April following discussion with other Government Departments and representatives from devolved administrations to support businesses in the transition to the remaining longer term public health led advisory approach to managing the risk of COVID-19. The guidance is clear on which dutyholders will still be expected to consider COVID-19 in their COSHH risk assessments and RIDDOR reporting expectations (in effect, those directly working with COVID-19 in laboratories or those working with infectious COVID-19 patients). In addition to signposting visitors to UKHSA and Scottish and Welsh Government advice and information from other organisations such as ACAS, HSE has also created new advice on general workplace ventilation with an introductory animation. This explains the ventilation requirements of the Workplace (Health, Safety and Welfare) Regulations 1992, rather than those previously required to manage the risk of COVID-19 transmission. The advice can be found on this link: www.hse.gov.uk/ventilation/index.htm.

Support for disabled workers and those with long term health conditions in work: As part of the Government's response to the "Health is Everyone's Business" (HIEB) consultation, HSE has progressed its work to produce guidance to empower employers to support disabled workers and workers with long-term health conditions to remain in work. Working with stakeholders including ACAS, EHRC, IOSH, disability organisations and charities (DRUK, Scope), HR and employer representatives (CIPD, FSB, Business Disability Forum) and trades unions (Unison), HSE has co-produced a set of clear and concise principles, upon which to base the guidance. HSE is working closely with the DWP/DHSC Joint Work and Health Unit, to ensure these closely align with their digital information and advice service to ensure there is a seamless journey for users. Work is underway to compile an evaluation strategy to meaningfully measure the reach, use and impact of the guidance.

Secure effective management and control of risk

Securing compliance with the law

Press releases giving details of recent prosecution cases, along with other HSE press announcements, are published on this [link](#). The cases cited below illustrate just some of the complex and challenging investigations and interventions undertaken or supported by HSE.

Prosecution under the Dangerous Substances and Explosive Atmospheres Regulations 2002: Robert McBride Ltd pleaded guilty to breaching Regulation 6(1) of the Dangerous Substances and Explosive Atmospheres Regulations (DSEAR) 2002. The company was fined £480,000 and ordered to pay costs of £13,441.80 for safety breaches after a 31-year-old worker suffered 13 per cent superficial burns to his right arm and hand following the ignition of flammable vapours at the company's site in Hull in August 2017.

A batch of hairspray was being mixed in a 10,000 litre stainless steel mixing vessel. Flammable vapours were created within the mixing vessel as a result of heating. Ethanol was pumped directly into the vessel via pipework from an external storage tank. Other constituents (liquid and powder) were added to the vessel via a manway lid on the top of the vessel. The mixing process then required the addition of heat via an integral steam coil within the vessel. As the worker was adding powders into the vessel via the lid using a metal scoop, flammable vapours leaving the vessel via the lid ignited, briefly engulfing his upper torso.

HSE's investigation found there was an extraction system at the lip of the manway lid to remove vapours from this area, but it was not adequate to prevent a build-up of a flammable atmosphere. The ignition source is likely to have been a spark from the metal scoop, or static electricity build up on the workers clothing.

Ministry of Defence issued with Crown Censure: The Ministry of Defence (MoD) has been issued with a Crown Censure by the Health and Safety Executive after an employee was shot during a training exercise in January 2019.

The employee suffered severe injuries as a result of being shot with live ammunition during a training exercise where blank ammunition should have been used. This put both employees and persons not in the employment of Ministry of Defence at risk.

The incident has had severe life changing consequences for the injured employee. Following their medical discharge, they suffered from PTSD and following the incident had difficulty performing routine tasks such as getting dressed, cooking, cleaning and driving.

By accepting the Crown Censure, the MoD admitted breaching its duty under Section 2(1) and Section 3 (1) of the Health and Safety at Work etc. Act 1974 in that it failed to ensure, so far as was reasonably practicable, the health, safety and welfare at work of its employees, and persons not in their employment, particularly in relation to the risks associated with training exercises.

Reduce the likelihood of low-frequency, high-impact catastrophic incidents

Safety of critical national infrastructure sites: HSE is aware of the continuing activities of environmental protestors at UK refineries and fuel storage facilities, including actions which have the potential to disrupt the safe operation of said facilities. HSE is working with government agencies responsible for assuring safety at critical national infrastructure sites to ensure they have an understanding of the potential impact of certain protester actions. The physical security for restricting site access remains the responsibility of those operating the site.

Published fatalities update¹

Since the last update to the Board, **11** fatalities which occurred in 2021/22 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
08/10/2021	Kamil Grygieniec	23	The deceased was trapped by something collapsing	Harrogate	Services	Employee
12/10/2021	Terrence Ruck	55	The deceased was struck by an object	Powys UA	Agriculture	Employee
11/11/2021	Iris Newton	96	The deceased died following a fire	Peterborough UA	Construction	Member of the public
23/11/2021	George Tracey	57	The deceased was struck by an object	Salford	Services	Employee
30/11/2021	David Lyth	47	The deceased was struck by a moving vehicle	Halton UA	Services	Employee
16/12/2021	Susan Greens	95	The deceased died following a fall	Midlothian UA	Services	Member of the public
17/12/2021	Stephanie Beard	17	The deceased was struck by a moving vehicle	Epsom & Ewell	Services	Member of the public
17/12/2021	Princdeep Singh	21	The deceased came into contact with electricity	Hillingdon	Construction	Employee
07/02/2022	John Pryde	66	The deceased fell from height	Fife UA	Construction	Self employed
08/02/2022	Trevor Jones	54	The deceased was struck by an object	Shropshire UA	Agriculture	Employee
23/02/2022	Jasbir Sambhi	70	The deceased came into contact with machinery	Hounslow	Services	Employee

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](#).