

Health and Safety Executive Board			HSE/22/A06
Meeting date	28-Jun-22	FOI Status	Open
CM9 Ref	2022/107167		
AGENDA HSE Board Meeting 28 June 2022 Aberdeen			

08:30 **Private Session - HSE Board**
- **including Forward Look**
09:15

09:15
-
09:45 **Break**

GOVERNANCE			Presenter
09:45	1	Welcome Declarations of interest Minutes of meeting 31 May 2022 Matters arising & Action Log Chair's update Finance and Performance Committee quarterly report (14 April) ARAC quarterly report (25 May) Remuneration and People Committee quarterly report (30 May)	Chair HSE/22/M05 HSE/22/AL Verbal HSE/22/32 Susan Johnson HSE/22/33 Debbie Gillatt HSE/22/34 Claire Sullivan
ASSURANCE			
10:05	3	Chief Executive's Report - June 2022	HSE/22/35 and Verbal update Sarah Albon & ExCo members
10:35	4	Business Performance	HSE/22/36 David Murray
INFORMATION BRIEFING			
11:20	5	Civil Service 2025	Discussion Sarah Albon/David Murray
11:50	6	HSE Working with Scotland and Wales	Presentation ██████████

12:20 7 AOB and meeting review

Overview of HSE in Scotland

Philip White

12:30

**Lunch
to include networking with Aberdeen
colleagues**

	<p>Debbie Gillatt informed the Board of her recent appointment to the Board of Victim Support UK. It was agreed that there were no conflicts of interest.</p> <p>There were no declarations of interest.</p> <p>The Chair informed the Board that she had cleared the Offshore Installations (Safety Zones) (No 2) order (2022) on behalf of the Board.</p> <p>Draft minutes of meeting 31 May 2022 (HSE/22/M05), matters arising and actions (HSE/22/AL)</p> <p>The minutes of the previous meeting were cleared with no amendment.</p> <p>The action log was noted and the following updates provided:</p> <ol style="list-style-type: none"> 1) Action 1 of 31 May – The Board Operating Framework (BOF) had been revised to take account of suggestions and would be included in the Board’s papers for the next meeting, for information. 2) Action 2 of 31 May – a further review of the BOF would take account of any recommendations to emerge from the independent review of HSE. <p>There were no other Matters arising.</p> <p>Board Committee updates:</p> <p>The Chairs of the three Board Committees would be meeting to consider their approach to deep dives, with a focus on the risks and specific mitigations, being overseen by their respective Committees, to avoid duplication. Committee plans for deeps dives to be shared with the Head of Business Assurance to test whether they will give the right assurances to the Board.</p> <p>John McDermid would be supporting the head of Performance in developing leading performance indicators.</p> <p>Programme/project forecasting processes was continually improving, giving greater confidence.</p>
Decision	Minutes cleared.
2	Chief Executive’s report (HSE/22/35)
	<p>The Board learnt of Karen Russ’ planned change of role and thanked her for her contribution to the Board. Interim replacement plans were being put in place.</p> <p>Sarah Albon updated the Board on the Public Accounts Committee (PAC) follow-up hearing on Regulating after EU Exit. Technical questions raised were being responded to and would be shared with the Board in due course.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. That the International Labour Organisation’s fifth Fundamental Principle and Right at Work was already met in GB via existing legislation, such as the Health and Safety at Work etc Act 1974. 2. How correspondence relating to operational matters received directly by Board members has been and would continue to be handled by the Chief Executive’s team. 3. The complexity of the Grenfell investigation and HSE’s support to it. Content on HSE’s website was being reviewed to reflect HSE’s new powers as the Building Safety Regulator. 4. HSE’s policy on supporting its disabled workers, with practical examples given demonstrating its application; for example reasonable adjustments,

	<p>colleague network, engagement on office design. Colleagues were encouraged to declare protected characteristics but declaration rates were relatively low. The People and Remuneration Committee would consider this to obtain assurance for the Board.</p> <p>5. How lessons learnt on specific investigations/prosecutions were communicated.</p>
Action 1	Share with the Board the responses to PAC technical questions.
Action 2	People and Remuneration Committee to consider policy and application of support for disabled workers to obtain assurance for the Board.
3	Business performance (HSE/22/36)
	<p>David Murray presented the performance report for April 2022, 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 deliverables, including: the completion of pro-active inspections and material breach (MB) rates; Chemical Regulation evaluations; fatal and non-fatal investigations closure; and • areas of focus, including: Construction Division's MB rate; delivery against new performance measures for Major Hazards; and average working days lost (AWDL), with a focus on long term absences. • HSE's financial position. <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The reasoning behind adjustments to the Chemicals Regulation evaluations targets and plans to review, noting that in some areas, low numbers were a factor in high percentage achievement. 2. How Material Breach rates were just one element of demonstrating inspection effectiveness. The priority remained in ensuring efficient and effective targeting to improve health and safety standards leading to more workplaces being kept safe. Mechanisms for improving the use of intelligence/data to identify poor performers were continuing to mature. An example was the recent campaign targeting silica dust in construction activity, with a focus on small refurbishment projects/SMEs, using both inspection and communications activity to reinforce messages.
Decision	The Board acknowledged the sustained effort to continue the upwards trajectory for pro-active inspections delivered during Q4 of 2021/22.
4	Civil Service 2025 (presentation)
	<p>The Board received an update on HSE's submission to DWP in respect of the recent Civil Service 2025 Commission.</p> <p>The Board endorsed the clear approach taken, which makes clear that any reduction in personnel will impact upon the level of services, and mix of services, HSE is able to provide in future.</p> <p>It was noted that HSE is already an efficient body, with existing plans for the current Spending Review period already factoring in further efficiencies to the way that the organisation delivers.</p>
Decision	The Board strongly endorsed the approach being adopted and requested a further discussion at its next meeting.
Action 3	Add discussion item to the agenda for the next meeting.

5	HSE working with Scotland and Wales (presentation)
	<p>██████████ delivered a presentation aimed at providing the Board with assurance on the extent of HSE's, as a GB-wide regulator, engagement and activity with and on behalf of the devolved nations. She highlighted the key differences in approach and how colleagues applied a specific framework to ensure consistency. Members of ExCo provided examples of specific areas where HSE engaged with and undertook activity on behalf of the Devolved Administrations which reinforced the effectiveness of HSE's approach.</p>
Decision	<p>The Board confirmed that it was assured that HSE continued effectively to manage its relationships with and responsibilities in the devolved nations.</p>
Other Business/Meeting Review	<p>The Chair marked Elaine Bailey's final meeting as a member of the Board by thanking her for her contribution, not only to the HSE Board, but to the Building Safety Regulator Programme Board.</p> <p>The Board also acknowledged the work of all involved in the Net Zero stakeholder event which took place the previous day, recognising its success in seeking stakeholder views on specific topics.</p>

Health and Safety Executive Board		HSE/22/35	
Meeting Date:	28 June 2022	FOI Status:	Open
Type of Paper:	For discussion	Exemptions:	None

Chief Executive's Report

28 June 2022

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

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 continues to progress 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, HR and employer representatives and trades unions, HSE has co-produced a set of clear and concise principles, upon which to base the guidance. This group is also contributing to HSE's user testing and evaluation strategy. HSE has commissioned independent insight research to capture key, qualitative evidence to support the format of HSE's non-statutory guidance. This will also seek to provide 'lived experience' case studies to further guide and inform the next phase of developing the non-statutory guidance.

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

Electrical safety messages: Ahead of an exciting and busy summer season including major events such as the Commonwealth Games and the Queen's Platinum Jubilee, we have urged pubs, restaurants and other hospitality venues to make sure electrical installations and electrical equipment for use in outdoor spaces are safe. We are keen to reinforce electrical safety messages to those responsible for planning to make use of outdoor spaces, particularly those that have electrical installations and equipment, where electrical equipment may have been unused and in storage for a long period of time. A [press release](#) was issued on 5 April 2022 to reinforce those messages.

National Audit Office (NAO) review 'Regulating after EU exit' and Public Accounts Committee (PAC) session: Since November 2021 the National Audit Office (NAO) has been carrying out a review of 'Regulating after EU exit'. The NAO worked with 3 regulators: the Food Standards Agency, the Competition and Markets Authority and HSE. From HSE's perspective the review focussed on chemicals regulation as the area of HSE work most impacted by EU exit. The review was looking at the challenges and opportunities that EU exit has presented to regulators.

From November to March the NAO worked with colleagues in HSE to gather the evidence to inform the review and report, including the provision of documentary evidence in line with a number of key themes, as well as 12 separate interviews with over 20 HSE staff. The NAO report was published on 18th May 2022 – [Regulating after EU Exit - National Audit Office \(NAO\) Report](#)

Following the NAO report, I was called to give evidence to a PAC session on the same subject. This took place on Monday 13th June. The session explored a number of themes identified in the NAO report, including what regulators saw as their biggest challenge and risk following EU exit,

her right arm, a dislocated left shoulder and lacerations to her forehead and right leg. She was admitted to hospital where she died on 7 December 2019.

Side Extension Limited failed to put in place measures to prevent persons, including Mrs Keys, the workers installing the window and those working for Side Extension Limited, from falling from the edges of the stairwell once the bannisters had been removed. They failed to adequately plan the work such that workers were exposed to risk of falling during the preparation and installation of the window. Additionally, Side Extension Limited failed to take suitable measures to prevent unauthorised access to persons, including Mrs Keys from entering the construction site.

The company eventually pleaded guilty to a single charge under Regulation 6(3) of Work at Height Regulations 2005 and fined £50K and ordered to pay full costs.

Joint Sussex Police/HSE investigation and subsequent CPS prosecution: Following the death of Graham Tester, a roofing contractor undertaking work on a hotel refurbishment in Brighton, two company directors and their companies were prosecuted for Gross Negligence Manslaughter and offences under Sections 2 & 3 of the Health and Safety at Work etc Act 1974. Mr Tester was sent to site by Mr Spiller (Director, Southern Asphalt Limited) despite him knowing edge protection was unlikely to have been in place, the latter having visited the site and accessed the unsafe work area an hour before the incident. On his arrival to site, Mr Tester was allowed to proceed with the work by Total Contractors Ltd (Principal Contractor) and the Site Manager/Director, Mr Wenham. The roof in question was approximately 5.3m high and had no edge protection in place. Access was gained via a straight ladder that was unsecured. Mr Tester was loading materials on the roof when he fell from the top of the ladder and subsequently died from his injuries.

HSE Inspectors attended site on the day of the incident and subsequently worked with Police and the Crown Prosecution Service to build the case for Health and Safety Offences against both companies and company directors for negligence.

HSE Construction engineering Specialist Team also acted as an expert witness in the case.

Prosecution outcome:

Mr Wenham, Director, Total Contractors Ltd:

1. Gross Negligence Manslaughter – guilty – 5 years imprisonment;
2. HSW Section 37 (1) – Section 2 (1) – guilty – 18-months imprisonment (served concurrently);
3. HSW Section 37 (1) – Section 3 (1) – guilty – 18-months imprisonment (served concurrently); and
4. Additionally, Mr Wenham was suspended from being a director for 10-years

Mr Spiller, Director, Southern Asphalt Limited:

1. Gross Negligence Manslaughter - not guilty;
2. HSW Section 37 (1) – Section 3 (1) – guilty – 15-months imprisonment

Total Contractors Ltd:

1. HSW Section 2(1) – Guilty – £20,000;
2. HSW Section 3(1) – Guilty - £190,000; and £30,000 costs

Southern Asphalt Ltd:

1. HSW Section 3(1) – Guilty - £120,000; and £20,000 costs

This case will have a hugely positive impact on industry highlighting the individual duties of those in control.

Joint HSE and CPS prosecution: Following a double fatality in the food waste industry in December 2016 HSE has worked jointly with CPS to secure convictions of Greenfeeds Limited and several company directors of Gross Negligence Manslaughter and HSWA Section 37 offences. On 16/06/2022 Greenfeeds were fined £2 million with company directors Gillian Leivers and Ian Leivers given prison terms of 13 years and 20 months respectively. Tragically two employees died whilst undertaking tanker cleaning operations in a confined space and were overcome by fumes and lack of oxygen, tragically one employee died whilst trying to save his colleague. There were an extensive range of failings over time identified by HSE and the Police during investigations both at company and director level with a lack of planning and recognition of the risks involved in the work, poor systems of work, lack of PPE/RPE provision, absent emergency arrangements and repeated failures to respond to concerns raised by employees. The incident could have been easily prevented by those in control had they assessed the well-known risks and put appropriate easily available control measures in place. We hope that the strong enforcement outcome will remind companies and in particular their directors of the importance of their health and safety responsibilities and that they will be held accountable should they fail to meet expected standards and place their employees at unnecessary risk.

Updated guidance for pregnant workers and new mothers: Following a change in case law, HSE has updated its guidance to advise that when a worker notifies their employer that they are pregnant, breastfeeding or have given birth in the last six months, their employer must complete an individual risk assessment. For many employers, there will be little practical change, as they must already consider the risks to women of a childbearing age as part of their general workplace risk assessment.

HSE worked with trade unions, employers' groups, charities, and other government departments to develop the guidance for both [employers](#) and [workers](#). The updated guidance explains the individual risk assessment process, clarifies employers' obligations to their pregnant workers and new mothers, and is supported by a [video](#) that helps to explain the changes.

New international fundamental principle and right at work: The International Labour Organization's International Labour Conference (ILC) met between 27 May and 11 June 2022. A key item on the agenda was the proposal to make occupational safety and health (OSH) a fundamental principle and right at work (FPRW). This was discussed at the ILC's General Affairs Committee (GAC). The United Kingdom's (UK) delegation to the GAC was provided by Health and Safety Executive (HSE) officials and lawyers from the Government Legal Department, with support from Department for Work and Pensions officials, who coordinated UK input to the ILC.

The GAC recommended that a 'safe and healthy working environment' be made the fifth FPRW in the ILO's Declaration on Fundamental Principles and Rights at Work and that two ILO OSH conventions (Convention 155 (C155) on OSH and Convention 187 (C187) on the Promotional Framework for OSH) be made ILO fundamental conventions. The ILC adopted the GAC's recommendation at its plenary meeting on 10 June.

The new FPRW can be given effect through the duties in our OSH legislation. In relation to the two newly classified fundamental conventions, the UK has ratified C187 but not yet ratified C155. As the UK will need to report on progress toward ratification of C155 to the ILO, the HSE will need to consider in due course what steps can be taken to pursue the Convention's ratification and advise ministers at the appropriate time.

Published fatalities update¹

Since the last update to the Board, **6** fatalities which occurred in 2021/22 and **1** 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
10/10/2021	Paul Cotsell	64	The deceased was trapped by something collapsing	Bristol UA	Services	Self employed
08/11/2021	Richard Stockdale	85	The deceased died following a fall	Craven	Construction	Member of the public
30/12/2021	Matilda Donnelly	62	The deceased died while under residential care	North Ayrshire UA	Services	Member of the public
10/01/2022	Guriqbal Singh	44	The deceased fell from height	Havering	Construction	Self employed
01/02/2022	Christopher Ascroft	54	The deceased was trapped by something collapsing	South Cambridgeshire	Agriculture	Employee
10/03/2022	Nigel Baynes	63	The deceased was trapped by something collapsing	Northumberland UA	Services	Self employed
02/04/2022	Muzaffar Mahmood	32	The deceased fell from height	Birmingham	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](#).