

| Health and Safety Executive Board | | | HSE/23/A10 |
|---|-------------|---|--|
| Meeting date | 28-Nov-23 | FOI Status | Open |
| CM9 Ref | 2023/214323 | | |
| AGENDA HSE Board Meeting and Stakeholder Event 28 November 2022 Sky Loft, Park Regis Hotel, Birmingham | | | |
| | | 28-Nov | |
| 08:30-09:15 | | Private session including Forward look | HSE/23/FL |
| 09:15-09:30 | | Break | |
| | | GOVERNANCE | Presenter |
| 09:30 | 1 | Welcome Declarations of interest Minutes of meeting 23 October 2023 Matters arising & Action Log Chair's update Committee updates: ARAC - verbal report | HSE/23/M09 HSE/23/AL Verbal Martin Esom |
| | | ASSURANCE | |
| 09:50 | 2 | Chief Executive's Report - November 2023 (to include verbal update on Notifiable non-licensable asbestos work) | HSE/23/49 and Verbal update Sarah Albon & ExCo members |
| 10:20 | 3 | Business Performance - October 2023 | HSE/23/50 David Murray |
| 10:50 | 4 | CRD fees review | HSE/23/51 David Murray |
| 11:10 | 5 | Aligning the science planning process to the HSE planning cycle: progress and next steps | HSE/23/52 Andrew Curran |
| 11:30 | 6 | LA Annual Report | HSE/23/53 Rick Brunt |
| | | DECISION | |
| 11:50 | 7 | Regulation of Carbon Capture Usage and Storage | HSE/23/54 Rick Brunt |
| 12:20 | 8 | AOB and meeting review | |

| Health and Safety Executive Board | | | HSE/23/M10 |
|--|-----------------|------------|------------|
| Meeting Date: | 30 January 2023 | FoI Status | Open |
| FoI Exemptions | None | | |
| CM9 Reference: | 2023/000465 | | |
| DRAFT Minutes of HSE Board Meeting 28 November 2023 Birmingham | | | |

Attending

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| Sarah Newton – Chair | Chyrel Brown | David Coats | Martin Esom |
| Debbie Gillatt | Susan Johnson | John McDermid | Ged Nichols |
| Gina Radford | Ken Rivers | | |

Also attending

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| Sarah Albon – Chief Executive | James Anderson – Chief Technology Officer | Andrew Curran – Director, Science | Rick Brunt – Director, Engagement and Policy |
| Michael Jennings – Director, Legal Services | Jane Lassey – Director, Regulation | Clare Millington-Hume – Director, Human Resources | David Murray – Director, Finance and Corporate Services |
| Angela Storey – Director, Operational Services | Philip White – Director, Building Safety | | |

[REDACTED] - CEPS [REDACTED] - observing

Apologies: Claire Sullivan

Minutes Dawn Hepworth

| Closed Meeting | |
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| 1 | Welcome and Declarations of Interest Sarah Newton welcomed everyone to the meeting. Apologies were given for Claire Sullivan. The Chair invited declarations of interest. As a member of the ISSG, Ken Rivers declared an interest in the theme for the Board stakeholder event for the afternoon. 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 23/24 October 2023 (HSE/23/M09), matters arising and actions (HSE/23/AL) The minutes of the previous meeting were cleared. |

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| | <p>The action log was noted. Andrew Curran informed the Board that the Annual health and safety statistics did not include workplace covid-19 data as these data were no longer collected centrally through the ONS. Therefore, it was not possible to provide this information in the current release, and it would not be possible for future releases, unless ONS data becomes available</p> <p>Chair's update</p> <p>The Chair informed the Board revised timings for the delivery of the Board's independent effectiveness review.</p> <p>There were no Matters arising.</p> <p><u>Committee updates</u></p> <p>Audit and Risk Assurance Committee (ARAC) - verbal update from October meeting</p> <p>Martin Esom updated the Board on discussions at the last ARAC meeting. Issues discussed included: the Strategic Risk Register and ARAC's oversight of the risk management framework; HSE's Fraud, Bribery and Corruption Risk Assessment; GIAA delivery of its plan and agreed changes; HSE's fixed asset register; and ARAC effectiveness review and skills mapping exercise.</p> |
| Decision | Minutes of previous meeting cleared. |
| 2 | Chief Executive's Report (HSE/23/49) |
| | <p>In addition to her written report, Sarah Albon updated the Board on the appointment of Philip White as Director Building Safety on a permanent basis and interim arrangements for and plans substantively to fill the Director of Regulation (DoR) role. She confirmed that Jane Lassey would continue in the DoR role in the meantime. She also updated the Board on the ongoing procurement exercise for the Gas Safe Register and on recent engagement with the Fire Brigades Union and National Fire Chiefs Council.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> Changes being introduced to HSE's tendering and procurement process. <p>The Board noted the variances in the costs awarded in the prosecution cases highlighted in the Chief Executive's written report and received an explanation in how decisions related to the award of costs were taken. As a result of the discussion, a broader information paper on HSE's fees and cost recovery framework and funding opportunities would be brought to the Board and Finance and Performance Committee (FPC) in April 2024.</p> |
| Action 1 | List papers on HSE's fees and cost recovery framework and funding opportunities for May 2024 Board meeting and April FPC meeting. |
| 3 | Business performance (HSE/23/50) |
| | <p>David Murray presented the Performance Report for Quarter 2 2023/24, providing details of the Business performance:</p> <ul style="list-style-type: none"> areas of strong performance against Business Plan milestones, including: proactive inspections, whilst remaining mindful of the short term impact of the implementation of Project 1; enforcement expectations in high risk areas; pesticides and biocides permissions; gas competency checks; non-fatal investigations; the rolling 12-month performance against the timeliness of investigation closures and the rate of enforcement on investigations proceeding beyond review stage; major hazard activities; |

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| | <p>major hazard safety cases/reports assessed within agreed timescales; and average working days lost (AWDL).</p> <ul style="list-style-type: none"> • areas of focus including: Planning Gateway 1 (Building Safety Regulator (BSR)); fatal investigation performance; prosecution cases awaiting a charging decision within 12 weeks. • Business Plan milestone delivery which was strong year to date, with closer scrutiny being given at the performance Hub to those overdue or at risk. • HSE's financial position, noting that some BSR-related IT costs had been reallocated. <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The risks associated with the reprioritisation of safety report consideration work and mitigating actions introduced. 2. The factors affecting the delivery of the modernised concerns handling process, noting that the service continues to be delivered to a high standard. The Board noted that the ARAC would be undertaking a follow-up deep dive into this project at its February 2024 meeting. |
| Decision | The Board noted the business performance report. |
| 4 | Chemicals Regulation Fees Review (HSE/23/51) |
| | <p>David Murray presented this item, explaining the background to a funding gap issue, action taken, including engagement with Defra (which funds this work); non-legislative funding proposals and reprioritisation plans being developed; and actions being taken within Chemical Regulation Division to mitigate the deficit.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The position of industry in relation to the fees chargeable for approvals versus the commercial value of the approval, and the respective risks to industry and HSE. 2. The risks relating to the impact of reprioritisation measures on HSE's resources. |
| Decision | The Board fully supported the approach adopted and proposed next steps. |
| 5 | Aligning the science planning process to the HSE planning cycle: progress and next steps (HSE/23/52) |
| | <p>Andrew Curran presented this item which updated the Board on the progress to date on developing a Science Plan which was aligned with the HSE Strategy and Business Plan. He articulated the portfolio approach to reorganise science resources to align with strategic themes, for example the Net Zero Hub, and how the science commissioning process would strengthen the quality, alignment and impact of HSE's science, engineering and analytical work. A more detailed plan would be presented to the Board in February 2024.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. Measures available and being taken to fill any skills gaps that could arise as a result of historical recruitment priorities. This also included the use of procured specialist expertise for investigation/prosecution work, with a need for strengthened commissioning and cost recovery processes. The new case management system would support this. |

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| | <ol style="list-style-type: none"> 2. How the plan would increase transparency and visibility of HSE's science function, whilst noting the need for science work to be delivered efficiently and with relevance. 3. How science work and collaboration with others to support HSE's strategic theme on health, specifically work related stress would be delivered. The Board requested a paper/presentation on this in due course. |
| Decision | The Board noted and was assured on progress in developing a science plan that would |
| Action 2 | Present in due course how science on would support the work related stress research. |
| 7 | Data collection – Analysis of LAE1 2022/23 data from Local Authorities (HSE/23/53) |
| | <p>Rick Brunt presented this report, articulating the conclusions drawn from the analysis of the data, particularly that it demonstrates comparable performance to HSE and that Local Authorities are discharging their duties under section 18 of the Health and Safety at Work etc Act 1974.</p> <p>In noting the report, the Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The very positive response rate of 98% which appeared to demonstrate the continued delivery of Health and Safety inspection work by Local Authorities, despite financial pressures and the importance applied to this statutory responsibility. 2. That the data was in the public domain. <i>DN – it is available on this link</i> |
| 8 | Regulation of hydrogen production and carbon capture activities onshore and offshore (HSE/23/54) |
| | <p>Rick Brunt presented this item outlining the approach adopted, including the review of evidence on the risks associated with existing carbon capture and underground storage and hydrogen production activities and continuing engagement with industry to identify regulatory gaps. He invited the Board to agree to seek ministerial agreement to legislative changes to address the regulatory gaps, particularly in the major hazard regime.</p> <p>The Board sought and received assurance on the following:</p> <ol style="list-style-type: none"> 1. The use of expertise, both in-house and from external sources, in assessing the evidence to emerge from trials. 2. That some aspects of hydrogen storage (above specific levels) were already captured under the onshore COMAH regulations. The provisions of the HSWA already applied more broadly but the regulatory changes would provide greater certainty. 3. The strength of HSE's relationship and close engagement with Department for Energy Security and Net Zero as policy lead for enabling the expansion of these activities. 4. That delivery of legislative clarity would be achievable by the September 2024 milestone set by the government. <p>The Board sought legislative clarity on regulatory responsibility for floating production storage and offloading (FPSO) units.</p> |
| Action 3 | Advise the Board on the legislative position for regulating FPSO units. |

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| Decision | The Board was assured by the approach articulated in the paper and agreed to seek the Minister's agreement in due course to the legislative changes. |
| Other Business/Meeting Review | Rick Brunt updated the Board on operational activity in relation to non-reportable licensable asbestos work. He gave an undertaking to update the Board at regular intervals on delivery of recommendations in the work and Pensions Committee report on HSE's work on asbestos. |

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| Health and Safety Executive Board | | | HSE/23/49 |
| Meeting Date: | 28 November 2023 | FOI Status: | Open |
| Type of Paper: | For discussion | Exemptions: | None |

Chief Executive's Report November 2023

[Health and Safety at Work – Annual Statistics](#)

HSE publishes a range of statistics relating to health and safety in Great Britain. Using a variety of data sources, including surveys and surveillance schemes, we provide statistics on:

- Work-related ill health and disease
- Workplace injury
- Working days lost and costs to Britain as a result of health and safety incidents
- Working conditions and management of health and safety in the workplace

Statistics relating to the year 2022/23 were published on 22 November.

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

Working Minds – new online learning tool: Businesses are being encouraged to sign-up to a new free-to-use [interactive tool](#), designed by the Working Minds campaign, to understand what they need to do to comply with the law. The tool provides the simple and effective guidance employers need to take action to meet their legal duties and begin to understand how to include stress in their workplace risk assessments.

Health and Work virtual conference: The conference, which took place on 8 November, focused on prevention methods, risk management and how employers can control exposures to some of the most common causes of work-related ill health. Targeted at specific duty holders, they were invited to declare their interest with 786 attendees participating on the day. Delegates represented a wide range of sectors, including local authorities, the NHS, education, and industry such as construction, food manufacturing and pharmaceuticals.

Preliminary findings from the post-event survey are positive, current showing that:

- 81% of delegates would attend the Health and Work Conference again.
- 80% of delegates would recommend the Health and Work Conference.
- 80% of delegates considered the Health and Work Conference a good use of their time.

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

Survey: [Managing asbestos in non-domestic buildings: Using asbestos surveying and analytical services](#) The survey, launched on 26 October, is targeted at those with responsibility for managing buildings that may contain asbestos. It is part of the HSE's response to the recommendation from the Work and Pensions Select Committee asbestos inquiry regarding accreditation of asbestos surveyors. The survey is due to run until 8 December. Separate surveys

are planned for licensed asbestos contractors and asbestos analysts and will be launched in the near future.

Engagement with asbestos professionals: HSE delivered key messages at the British Occupational Hygiene Society Faculty of Asbestos Assessment and Management 'Asbestos 2023 Conference' on the 17th and 18th October. Industry were updated on the findings from last year's Inspection Programme to assess the Management of Asbestos in School Buildings and the next steps, as well as important points being landed on the effectiveness of licensed asbestos removal control measures and witnessed four stage clearance testing.

BUILDING SAFETY REGULATOR

The Building Safety Act 2022 introduced new roles and legal duties for people and organisations who are responsible for managing building safety risks in high-rise residential buildings (HRBs) in England.

Each HRB in England must have one clearly identifiable accountable person, known as the principal accountable person (PAP). The role of the PAP is significant and necessary to ensure the safety of people living in HRBs. [Information on the wider role of the PAP](#) was recently published on the Making Buildings Safer campaign microsite on gov.uk, which included case studies on resident engagement strategies.

Enable industry to innovate safely to prevent major incidents, supporting the move towards net zero

[UK Explosion Liaison Group](#): HSE's Science and Research Centre at Buxton hosted the 63rd discussion meeting of the UKELG in October. Gemma Howard and Jonathan Hall are scientists in HSE's Science Directorate's Major Hazards group. Gemma, who specialises in battery safety, presented her work on flammable gas evolution from failing lithium ion batteries (*Experimental Understanding of Displacement and Forces Generated Due to Swelling During Lithium-ion Pouch Cell Failure*) and Jonathan, who leads the Explosive Atmospheres team, presented findings from recent research into sudden releases of hydrogen in tunnels (*Pre-normative research for safety of hydrogen driven vehicles and transport through tunnels and similar confined spaces*).

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

Securing compliance with the law

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

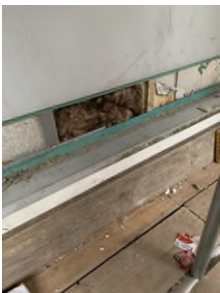
Risks to young people in the workplace: Gary Pitchford, Managing Director of Finer by Nature was prosecuted for his actions after a 16 year old severed fingers on a trial day at work. He received a 6 month custodial sentence, suspended for 12 months and has to complete 180 hours unpaid work. Finer by Nature was fined £34,000. The young person was helping out on the vacuum-filling machine to produce sausages. There was an unsafe working practice such that the operator could stand on some steps to put their hand into the machine and push down to clear blockages. If an operative was working on their own, the hold-to-run lever, at waist level of the machine, could be bypassed by putting one's foot on the handle, causing the machine to operate whilst reaching in. Mr Pitchford told the young person that the machine was dangerous but there was no proper supervision or training to ensure that these unsafe methods were not used. Mr Pitchford observed what was happening yet took no steps to stop it. The impact on this young

person has been dramatic. He talks about the physical problems, and how it has affected him socially; but particularly the psychological effect, including flashbacks to the incident.

Dangerous cladding removal: Green Facades Limited were contracted to remove the potentially dangerous aluminium composite panels and combustible insulation material, similar to that on Grenfell Tower, on an eight-storey building in Liverpool. When an inspector from the Health and Safety Executive (HSE) first visited the site on 10 January 2022, the inspection revealed that, in preparation for the removal work, combustible material had been left exposed and there were inadequate means of escaping from the scaffold which was being erected.



The situation had worsened when the inspector returned a few days later. Further combustible material had been exposed with no protection from potential sources of ignition, and combustible cladding material was found lying on residents' balconies. As the building remained occupied during the works, the inspector alerted Merseyside Fire and Rescue Service who took their own enforcement action.



Green Facades Limited had been subject to earlier enforcement for similar breaches during cladding removal at a site in London. At that time the company was provided with advice on sustainable compliance with the regulations.

An investigation by HSE found that Green Facades Limited, had failed to take appropriate precautions to address the risk of fire and to ensure the safety of residents, workers, and others. It had also failed to take account of published guidance on the safe removal of cladding following the previous issue in London. The company of Woolwich Road, London pleaded guilty to breaching regulations 11(1) and 13(1) of the Construction (Design and Management) Regulations 2015. At Liverpool Magistrates' Court the company was fined £240,000 and ordered to pay costs of £5,405.

Successful Prosecution following life threatening injuries to 3 year old child:

This prosecution arose from an HSE investigation launched in 2019, following a report of a 3-year old child suffering life threatening injuries when a large piece of slate fell from a Weymouth hotel roof being refurbished and struck her on the head. She suffered a depressed skull fracture. No brick guards, fans or exclusion zones were in place to protect the public. During the investigation, it became apparent that the designer had not fulfilled their legal duties and the contractor had failed to control the risk. Also, it emerged that the hotel client had pushed back against professional advice and refused partial closures, exclusion zones, Heras fencing and signage to protect the aesthetics of the luxury hotel that was still operating.

Segregating risky work from members of the public is an obvious necessity and is top of the “principles of prevention” for a reason. Both the hotel client and the designer, however, defended the cases vigorously. Even after being found guilty earlier this year they both continued to put forward what they believed to be convincing mitigation. However, the Judge, in sentencing, accepted HSE’s arguments about harm and culpability and awarded fitting sentences and full costs:

- LFH (Moonfleet Manor) Ltd (the Client), were fined £200K and ordered to pay over £143K of costs;
- Quadra Build Environmental Consultancy Ltd (the Designer), were fined £60K and ordered to pay £25K of costs;
- Rocare Building Services Ltd (the Contractor), were fined £160K and ordered to pay over £15K of costs.

Fun fair operator prosecuted after death of 3 year old child: Johnsons Funfair Limited, trading as Bounce About, operated a number of bouncy castles, slides and other inflatables on the beach at Gorleston, and at another site on Great Yarmouth beach. During a family day out in July 2018, Ava-May Littleboy and another 9 year old child were playing on an inflatable trampoline when it exploded. Ava-May was thrown up to 40 feet into the air and landed on a nearby beach, having sustained fatal head injuries. The 9 year old child suffered minor injuries. During the investigation, carried out jointly by Great Yarmouth Borough Council and HSE, it was discovered that the manager Curt Johnson, whose wife was the owner of Johnson’s Funfair Ltd, had imported the inflatable trampoline from China and had put it into use without carrying out any of the required testing and certification to ensure it was safe to be used by the public; neither had there been a proper risk assessment nor work procedure laid down. The defendants also allowed the company’s inflatables (which included a number of other inflatables besides the trampoline which exploded) to be operated despite not having, and not seeking, any operating instructions from the manufacturer, and without having their inflatables properly annually checked and certified by an independent expert under the ADIPS scheme (a scheme for checks comparable to MoT checks for vehicles). The company used undertrained staff paid cash in hand, some of them too young to work without child work permits which were not sought and would not have been granted for work at such a fairground.



Having pleaded guilty to breaching Sections 6(1A)(a) and 3(1) of the Health and Safety at Work etc. Act 1974, Johnsons Funfair Limited, as importer and site operator, was fined £20,000 and ordered to pay £288,475.62 in costs. Curt Johnson pleaded guilty to offences of having consented to or connived in each of the company’s two offences, or those being attributable to his neglect. Johnson was sentenced to six months in custody for each offence, to be served concurrently, and disqualified as a director for five years.

Demolition company fined £60,000 after worker struck by Falling Masonry:

MAC Demolition Ltd have been fined £60,000 after a labourer was struck by falling masonry during demolition works, sustaining multiple injuries.

Tommy Brooks had been employed as a labourer for 3 months prior to the incident. On the morning of 2 March 2022, he had been tasked with clearing bricks for reclamation when a large piece of masonry fell from the unstable roof, landing on him. Mr Brooks was left with significant long term injuries. After investigation, the HSE found MAC Demolition had failed to adequately assess the risk of falling objects during demolition and failed to implement and enforce adequate exclusion zones.

MAC Demolition Ltd pleaded guilty to breaching Regulation 20 of the Construction (Design and Management) Regulations 2015. The company was fined £60,000 and was ordered to pay £3,229 costs at a hearing at Willesden Magistrates Court on 2nd November 2023.

Ensure HSE is a great place to work, and we attract and retain exceptional people

HSE's Science event: The event, on 8 November, was an opportunity for everybody attending to learn more about the Government Science, Engineering and Analysis professions and understand how science, engineering and analysis play a vital role in our business and help support HSE's Strategy. Colleagues from Chemicals Regulation Division (CRD) contributed to the event, which took place in HSE's Science and Research Centre in Buxton. CRD scientists presented examples of their work on undertaking specialist risk assessments for biocides, pesticides and plant protection products. Other topics covered at the event included HSE's work on enabling NetZero, HSE's training and events offering, asbestos and collaborative robots.

Published fatalities update¹

Since the last update to the Board, **1** fatality which occurred in 2022/23 and **6** fatalities which occurred in 2023/24 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 |
|-------------------------|---------------|------------|--|------------------------|--------------------------------|--------------------------|
| 21/03/2023 | Tim Sullivan | 74 | The deceased died following a fall | Dorset | Services | Member of the public |
| 19/04/2023 | Leonard Smith | 65 | The deceased was struck by a moving vehicle | Slough UA | Water/Waste Management | Employee |
| 02/06/2023 | Laura Simmons | 22 | The deceased was trapped by an overturning vehicle | Gloucester | Agriculture | Employee |
| 20/06/2023 | James Smith | 56 | The deceased came into contact with cattle | Aberdeenshire UA | Agriculture | Self employed |
| 05/08/2023 | David Fowler | 39 | The deceased fell from height | Highland UA | Services | Self employed |
| 05/08/2023 | Hazel Crombie | 64 | The deceased fell from height | Highland UA | Services | Member of the public |
| 05/08/2023 | Graham Cox | 60 | The deceased fell from height | Highland UA | Services | Member of the public |

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](#).