

BOARD OPERATING FRAMEWORK

Background

1. The Health and Safety Executive (HSE) is a statutory body established under section 10 of the Health and Safety at Work etc Act 1974 (HSWA) as amended by the Legislative Reform (Health and Safety Executive) Order 2008 (S.I 2008/960).
2. HSE is a Crown Non-Departmental Public Body (NDPB) of the Department for Work and Pensions (DWP).
3. As an NDPB of DWP, the respective roles and responsibilities of DWP and HSE are set out in the DWP/HSE Framework Document.
4. The Secretary of State (SoS) for Work and Pensions is accountable to Parliament for matters relating to HSE. The SoS has empowered a DWP Minister with responsibility for health and safety to account for HSE's performance to Parliament, including its use of resources and the policy framework within which HSE operates. The HSE Board is responsible to the relevant Ministers for the administration of the 1974 Act.

HSE Functions

5. HSE has a number of statutory functions that are set out in the 1974 Act and are described in the DWP/ HSE Framework Document.
6. HSE's main statutory duties are to:
 - Propose and set necessary standards for health and safety performance, including submitting proposals to the relevant SoS for health and safety regulations and codes of practice;
 - Secure compliance with these standards, including making appropriate arrangements for enforcement;
 - Make such arrangements as it considers appropriate for the carrying out of research and the publication of the results of research and encouraging research by others;
 - Make such arrangements as it considers appropriate for the provision of an information and advisory service, ensuring relevant groups are kept informed of and adequately advised on matters related to health and safety; and
 - Provide Ministers on request with information and expert advice.

HSE Board

7. The HSE Board oversees all the activities of HSE, ensuring that high standards of corporate governance and ways of working are maintained. This is also described in the DWP/HSE Framework Document.

8. The Board operates collectively, concentrating on:

- Ensuring effective arrangements are in place to provide assurance on governance;
- Strategic and significant issues affecting the health and safety of those affected by work activity;
- Agreeing HSE's strategic plan, ensuring it is consistent with any policy and resources framework determined by DWP and the Minister; and
- Steering, scrutinising and challenging the effectiveness and efficiency of HSE's performance, with a view to ensuring its future and the long-term improvement of health and safety outcomes through the successful implementation of its strategy.

9. The HSE Board has no role in enforcement in individual cases. These functions must be delegated to its members of staff.

HSE Chair

10. The Chair is accountable:

- To the responsible DWP Minister and has particular responsibility as defined in the DWP/HSE Framework Document for providing effective leadership, including reviewing the Board's effectiveness; and
- For business on all Board matters requiring the involvement of Ministers and may delegate this responsibility to other Board members or the Chief Executive to act on their behalf.

11. The Board has authorised the Chair (by authorisation made on 1st April 2008 pursuant to paragraph 9 to Schedule 2 HSWA) to perform on its behalf anything which it is required to do. The Board has also authorised the Chief Executive and those authorised by the Chief Executive to exercise those functions not reserved to the Board:

<http://www.hse.gov.uk/foi/authorisations.htm>.

Board Members

12. All Board members should:

- Act in the public interest and uphold the seven principles of public life – selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Further details are explained in <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>;
- Ensure that they understand their duties, rights and roles and functions of the HSE Board and any relevant statements of Government policy;
- Raise any matters of concern through the Board acting collectively via the Secretariat or the Chair and may not, acting individually, give instructions to officials; and
- Comply with the Cabinet Office Code of Conduct for Board Members of Public Bodies; the rules relating to the use of public funds in HM Treasury Managing Public Money; this Operating Framework; the DWP/HSE Framework Document; and the terms of their contracts.

HSE Board Composition

13. The HSE Board has a prescribed structure as set out in Schedule 2 of HSWA and consists of a Chair and at least 7 and no more than 12 non-executive Board Members, who have a balance of skills and experience appropriate to directing HSE's business. The HSE Board has a tripartite composition of local authority, employee and employer representatives. Other members may be appointed after consultation with the devolved administrations and other groups/organisations, as appropriate.

14. The Chief Executive and HSE Management Board (MB) members will attend meetings of the Board.

15. Although not members of the Board, they are expected to assist Board decisions by working collaboratively, contributing to discussions and ensuring that actions are delivered. It is the responsibility of the Chief Executive to ensure that the Board is made aware of reputational issues, including anything considered as novel, contentious and repercussive, and any significant complaints.

Board Secretary

16. An HSE official (normally HSE's Head of Governance) will attend Board meetings (supported by the Board Secretariat) as Board Secretary to ensure that the Board operates effectively and in accordance with Government guidance on best practice.

Board Legal Adviser

17. The Board Legal Adviser will attend Board meetings to provide legal advice and support to the Board.

18. Other officials will attend meetings as required to advise, provide information and to present papers.

Board meetings

19. The arrangements for meetings of the members of the HSE Board are set out in the Annex.

Committees

20. The Board may appoint Committees to provide assurance in relation to the operation and business of HSE. The composition, terms of reference and reporting requirements of such committees shall be approved by the Board, from time to time. The Board Committees are:

- The Audit and Risk Assurance Committee
- People and Remuneration Committee
- Science, Engineering and Evidence Assurance Committee

Matters reserved to the Board

21. The following matters must be referred to the Board for decision, consideration or agreement:

Regulatory functions as set out in HSWA

- submitting of proposals for the making of regulations to the SoS (section 11(3));
- making agreements with government departments or others for them to perform HSE's functions (section 13(3));
- making agreements with Ministers, government departments or public authorities to perform their functions (section 13(4));
- conducting and authorising investigations and directing inquiries (section 14(2) & (2A));¹

¹ These are not individual investigations or inquiries into a breach of the law as carried out by HSE inspectors. These are investigations into major incidents e.g. Piper Alpha and Buncefield or an event/incident requiring an inquiry (public or closed) e.g. ICL inquiry [DN: ICL inquiry given for illustrative purposes only, this was not a HSWA inquiry – no inquiries have been carried out under HSWA S14(2A).]

- approving, revising, etc codes of practice (section 16(1)).

Strategic and financial

- Establishing the strategic aims and objectives for the overall health and safety system.
- Scrutinising health and safety performance in Great Britain and within specific sectors, occupations and processes; and the effectiveness and efficiency of HSE's interventions.
- Overseeing the development of HSE's strategic plan, ensuring it is consistent with any policy or resources framework determined by the Secretary of State.
- Agreeing a business plan that takes forward the implementation of its strategy, approving the broad allocation of resources within the plan, scrutinising progress towards achieving the plan, setting the risk appetite for the organisation and ensuring appropriate controls are in place.
- Monitoring the performance and effectiveness of HSE, including assuring itself that appropriate succession and resource planning is taking place, including selection and recommendations for appointment of the Chief Executive.
- Supporting and advising the Chief Executive in their role as Accounting Officer, as set out in Managing Public Money, for the proper conduct of business and maintenance of appropriate standards.

22. In addition to any other internal or external controls, the Board must be informed of the following matters:

- Capital expenditure in excess of £2m if in the Annual Plan, otherwise above £1m.
- Contractual agreements to commit external costs above £5m or major long-term arrangements; for example, contracts or leases of 4 years or more. These are likely lifetime values, aggregated for a programme made up of small contracts and will exclude matters which require approval from Cabinet Office or HM Treasury.
- Contractual agreements involving a material change from standard terms and conditions, or with potential liability exceeding £2m.
- Entering into or exit from partnership, alliance or joint venture agreements, whether directly or via a subsidiary.

- Closure or creation of locations (where this is permanent and of material scale).
- Significant HR policies, including pay and reward strategy.
- Concerns raised as 'whistleblowing' under the Civil Service Code.
- Investigations into bribery or fraud that could result in subsequent financial loss or reputational damage.
- Major restructuring projects which are likely to involve significant staff exits.

23. The following are matters where the Board would expect to be made aware:

- Any matter that would have a material impact on the HSE's financial position, liabilities, reputation. This includes anything considered as 'novel, contentious and repercussive' by HM Treasury, and significant complaints.
- Anything else that might reasonably be considered as materially significant and strategic – i.e. of scope and importance outside day of day management activities.

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MEETINGS OF THE MEMBERS OF THE HSE BOARD

1. The Board will meet up to ten times a year (including meetings over two days). When necessary, business will be conducted by correspondence.

Quorum

2. As HSE is a tripartite Board, for a meeting to be quorate, the Chair and at least one member representing each of the three tripartite groups (employers, employees and one not representing these groups) must be present at the Board meeting. If one of these groups is not represented, no decisions can be taken if the meeting proceeds.

3. If the Chair is unable to attend any meeting of the Board due to unforeseen circumstances and apart from the Chair the Board is quorate, those present at the meeting can nominate one of their number to chair the meeting so that the meeting can take place and business can be conducted in the absence of the Chair.

Minutes

4. Minutes of the Board will be prepared by the Secretariat and submitted for approval at the next appropriate meeting. The minutes will include a record of decisions, actions and any members' declarations of interest. Where a decision cannot be achieved by consensus a vote will be held. In the case of equality of votes the Chair will have the casting vote.

Openness

5. The Board recognises the importance of conducting its meetings in an open and transparent way and will aim to have a minimum of four meetings in public. All papers will be made publicly available on HSE's website four working days before the meeting unless they contain matters not appropriate to be discussed in public, such as:

- Governance;
- Performance management;
- Policy in development; and
- Other items of a sensitive nature.

In which case they will be discussed in closed or partly closed meetings. Papers for closed sessions will be covered by exemptions from access to information under Freedom of Information Regulations (FOI).

Handling of papers by HSE Board Members before meetings

6. All electronic and hardcopy papers will be marked and should be handled in accordance with the government's security and classification system. Further details are explained in <https://www.gov.uk/government/publications/government-security-classifications> and <http://intranet.hse.int/security/gsc-protective-marking.htm>

7. HSE Board Members should only access closed papers on an HSE approved device.
8. HSE Board Members can consult stakeholders on all papers, except those marked with the classification and handling caveat of **OFFICIAL – SENSITIVE – PERSONAL**. Such consultations and discussions will take into consideration that closed papers are not publicly available.

Retention and disposal of hardcopy papers

9. All papers should be kept securely or disposed of safely. OFFICIAL – SENSITIVE papers should be passed to HSE officials to dispose of or shredded.