

**Health and Safety Executive (HSE)**

**Consolidated Report on findings from the Deloitte &  
Touche reviews of the impact of charging on COMAH,  
Offshore, Railways and Gas Transportation**

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## 1. EXECUTIVE SUMMARY

### Background, Method and Scope

- 1.1 The 1997 Review of the Health and Safety Executive (HSE) and Health and Safety Commission (HSC) recommended that HSE should investigate introducing charging for four, safety case, regimes. A feasibility study was completed and hours-based charging was introduced for the Control of Major Accident Hazards (COMAH) from April 1999 and for Railways, Gas Transportation and Offshore from October 1999.
- 1.2 Because of concerns, Ministers agreed that a review should be conducted after two years of operation. Deloitte & Touche were commissioned to carry out this review. The purpose was to establish the:
- effects of the introduction of charging on HSE's relationship with industry;
  - impact of charging on HSE's effectiveness;
  - effectiveness of the financial and administrative arrangements for the charging schemes.
- 1.3 Our work was carried out through tripartite consultation with dutyholders, HSE staff and unions. Consultation was supplemented by a limited review of health and safety statistics. The consultation involved questionnaires, interviews and workshops. Using these methods provided us with opportunities to explore the impact of charging from a number of different viewpoints and dimensions.
- 1.4 This report consolidates findings from our reports on the impact of introducing charging. It also contains Deloitte & Touche's conclusions and recommendations. The report does not include findings from our other reports, which are on the HSE web-site, and cover:
- the efficiency of charging;
  - the effectiveness of the queries and disputes procedure;
  - the reasonableness of charge-out rates.

### Findings

#### *The cost of compliance*

- 1.5 The start-up costs to industry in complying with the introduction of charging were slight. HSE was treated as an additional creditor. Of more significance are the ongoing costs of compliance. There are two main costs:
- paying charges. For some companies in Railways and COMAH these costs can be very significant;
  - reviewing and checking invoices and correcting any errors.

- 1.6 A key issue for dutyholders was the unpredictability of charges. This makes budgeting difficult and can result in:
- other health and safety expenditure being cut;
  - Railway companies factoring in premiums for uncertainty when seeking subsidies or bidding for franchises.
- 1.7 The costs to HSE of administering charging is significant. The annual costs are in the region of £1m to £1.8m. This represents approximately 6% - 11% of income. As stated in our review of the efficiency of charging we suggest that - if the hours-based method of charging is retained - HSE should consider investing in an integrated time recording system.

*The effect on policies, compliance and performance*

- 1.8 The overwhelming majority of dutyholders felt that there was no change in their health and safety policies, practices and compliance performance that was attributable to the introduction of charging.

*Effect on operational behaviour*

- 1.9 68% of dutyholders thought the introduction of charging had no effect on the behaviour of inspectors. For those who thought there had been changes the main examples were that inspectors are uncomfortable with charging. They felt that consequences of this are less site-familiarisation work by inspectors and less interaction between inspectors and dutyholders. While most dutyholders saw these changes as detrimental others saw them as a benefit. They said inspectors had become more professional and focused.
- 1.10 Inspectors in COMAH and part of the Railways Inspectorate felt that operational decisions risked being distorted by the introduction of hours-based charging. They felt that the advent of billable-hours targets had the potential to skew priorities. Some HSE staff felt there had been a change in the mode of management with an increasing amount of time being focused on financial performance.

*Effect on morale*

- 1.11 Inspectors felt that morale had been adversely affected by charging. Feelings were strongest in Railways. Across all schemes inspectors claimed the drop in morale has had a detrimental impact on recruitment and retention. Other consequences of the drop in morale are that some inspectors are less confident and less comfortable in their roles. The reasons given for this negative impact on morale were:
- disagreement with charging in principle, or with the hours-based method of charging, because they felt it risked having a detrimental impact on the relationship between regulator and regulated by reducing the flow of information between these parties;
  - frustration with the disparate systems used to generate the information for invoices.

### *Effect on strategic goals and policy approach*

- 1.12 Consultees agreed that charging has had no direct impact on HSE's strategic goals and policy approach to developing health and safety regulations. However some indirect consequences were suggested including slowing down and complicating external consultation processes and tying-up senior management time.

### *Effect on the relationship with industry*

- 1.13 74% of dutyholders described the relationship with HSE as good prior to the introduction of charging. Across all industries 24% felt that the relationship with HSE had deteriorated as a result of the introduction of charging. 1% of dutyholders felt the relationship had got better.
- 1.14 There was a general feeling that hours-based charging resulted in a different and more formal relationship. This was generally seen as negative. The most commonly cited evidence of this change was that there was less information flowing between dutyholders and inspectors. This was a result both of less advice being sought from dutyholders and of less advice being proffered by inspectors. Other examples of greater formality include reluctance to invite inspectors to meetings or to show them around premises and an increased tendency to challenge their value for money.

### *The impact of charging on regulatory effectiveness and performance*

- 1.15 Our review of trends in health and safety statistics provided no evidence on whether charging has had any impact on health and safety outcomes. The main reasons for this were:
- the short time since the introduction of charging and the nature of major accidents which are typically sporadic, few in number and long apart;
  - the relative unimportance of charging in relation to more significant changes since charging was introduced.
- 1.16 It is hard to measure HSE's regulatory performance and, as discussed above, it is not possible to identify any effect of charging on regulatory performance. Most consultees suggested that charging has probably had no impact on regulatory performance. Even in Railways, where charging has helped to enable a rapid growth in inspector numbers, the extent of any beneficial impact on health and safety is not clear.

### *Health and safety benefits from the additional resources charging has generated*

- 1.17 HSE has provided us with a statement about the health and safety benefits that have resulted from the additional resources that charging has generated. This is summarised below.

*The increased budget from charging has been focused on:*

- *dealing with the implementation of the COMAH regime;*
- *strengthening the Railway Inspectorate to deal with new projects and the immediate follow up to the recent Ladbroke Grove crash;*
- *strengthening operational capacity generally, to increase the number of regulatory contacts and, in particular, the number of investigations.*

*The short timescales since the introduction of charging make it very difficult to draw any clear conclusions on whether there has been a direct impact...particularly given the fact that health and safety performance is influenced by many variables, of which regulator's activity is only one.*

### *Efficiency improvements*

- 1.18 66% of dutyholders survey felt that the introduction of charging had not resulted in any change in the efficiency of the HSE. 26% felt the HSE had become less efficient as a consequence of introducing charging. Most of those who felt efficiency had decreased made the point that administrative costs had risen with no corresponding rise in outputs or effectiveness. This view was shared by most inspectors.
- 1.19 8% of respondents felt the HSE had become more efficient. These dutyholders usually made the point that inspectors were better organised. This view was shared by some inspectors.

### *Other benefits from operating in an open and transparent way*

- 1.20 Despite the publication of charge-out rates and guidance on which activities are chargeable, most consultees do not see charging as open or transparent. A common sentiment was that charging merely highlighted costs over which dutyholders had no control. This negative view was shared by many inspectors. However in COMAH some dutyholders said that charging revealed costs that were previously unknown. Dutyholders also pointed out that charging can show inconsistencies about how HSE inspectors operate at similar sites.

### *Suggested changes or improvements to the charging schemes arising from consultation*

- 1.21 70% of dutyholders said they were not broadly content with the existing hours-based system of charging. Most consultees favoured the replacement of the current scheme with some sort of flat rate or levy. Almost all inspectors shared this preference. The main reasons for advocating this change were as follows:

- *easier budgeting and planning for industry;*
- *lower administrative costs for HSE and industry;*

- a better relationship, with more dialogue, between industry and HSE.
- 1.22 The most common dutyholder suggestions for improving the charging schemes were for HSE to:
- provide budget estimates to industry;
  - provide more detail on invoices;
  - provide clearer guidance on what is and what is not chargeable.
- 1.23 For inspectors the most common suggestions were for the introduction of more integrated information systems and for clearer guidance and/or training on what is and what is not chargeable.

### **Deloitte & Touche conclusions and recommendations**

1.24 The origin of this review lay with concerns raised prior to the introduction of charging. The following table summarises Deloitte & Touche’s views in relation to the main concerns raised in the Feasibility Study Report:

| <b>Concern</b>   | <b>Deloitte &amp; Touche view</b>   | <b>Summary of evidence</b>   |
|--|---|--|
| Charging changes a sound relationship with industry  | Yes – to some extent. Relationship more difficult and more complex. Some dutyholders now (wrongly) see HSE as a service-provider.                               | 24% of dutyholders said charging made the relationship “worse”. 44% said they are more reluctant to seek advice. This change is seen by Dutyholders and Inspectors as detrimental. |
| A change to HSE’s position as a publicly funded not a profit making body                         | No. However there is a link to the concern that charging might skew priorities (see 2.1.e).   | NA   |
| Charges imply approval, weaken managerial responsibility and give rise to additional liabilities | No.   | Only raised once.  |
| Disproportion – other industrial sectors are higher risk   | No view.  | Raised by a small number of consultees.  |
| Skewing priorities   | Yes – to a small extent. The need to have revenue targets for budgeted income risks leading to pressure being put on inspectors to do particular types of work. | Inspectors in Rail and COMAH feel targets can distort behaviour in ways that may be to the detriment of health and safety.   |

1.25 Overall the impact of charging has been fairly limited. There are nevertheless important cross-cutting issues from the four reviews which HSE should address. These are summarised below with our recommendations:

| Key issue from terms of reference | Summary of recommendation  |
|-----------------------------------|--|
| Relationship with industry        | <p>1. Senior management should consider how our review impacts on their views on the appropriateness of hours-based charging. This should focus on the finding that charging led to no change in industry's health and safety policies, practices and compliance performance and the issues relating to:</p> <ul style="list-style-type: none"> <li>● the relationship with industry;</li> <li>● industry's views on the appropriateness of hours-based based charging;</li> <li>● the risk of hours-based charging skewing priorities.</li> </ul>                                   |
| Morale and operational behaviour  | <p>2. HSE should ensure that all change management issues are properly considered when changes, that may be seen as primarily financial, are made that are likely to have a significant impact on operations.</p> <p>3. On the assumption that hours-based charging is retained HSE should ensure that inspectors are involved in the setting of billable-hours targets.</p> <p>4. HSE should ensure that there is clear communication and explanation of all decisions being taken as a result of Deloitte &amp; Touche's review to all inspectors.</p>                             |
| Improvements                      | <p>5. On the assumption that hours-based charging is retained, HSE should develop proposals that address the practical concerns raised in this and the scheme specific reports.</p> <p>6. HSE and industry should carefully consider the future of the CRG's following completion of Deloitte &amp; Touche's review. This should include the cost-benefit of the meetings, the CRG's role and terms of reference.</p> <p>7. On the assumption that hours-based charging is retained HSE should develop a business case for investment in more integrated time recording systems.</p> |
| Efficiency and transparency       | <p>8. HSE should attempt to reduce the rates it charges to industry.</p> <p>9. HSE should consider whether more helpful outputs from inspection work could not be provided to dutyholders.</p>   |

## 2. BACKGROUND

### Introduction

2.1 This section provides background to the review and explains the scope and origins of this Consolidated Report. It is structured as follows:

- background to the review and terms of reference;
- summary of methodology for the four reviews, the findings of which are consolidated in this report;
- scope, status and structure of this report.

### Background to the review and terms of reference

2.2 The Government's 1997 Quinquennial Review of the Health and Safety Executive (HSE) and Health and Safety Commission (HSC) recommended that HSE should investigate introducing charging for four permissioning, safety case, regimes. A feasibility study was completed and hours-based charging was introduced for the Control of Major Accident Hazards (COMAH) from April 1999 and for Railways, Gas Transportation and Offshore from October 1999.

2.3 Because of concerns about the introduction of charging raised by HSC, Ministers agreed with HSC's recommendation that a review of each charging scheme should be conducted after two years of operation. In June, 2001 Deloitte & Touche were commissioned to carry out this review programme.

2.4 The purpose of the review was to establish the:

- effects of the introduction of charging on HSE's relationship with industry;
- impact of charging, in each industry, on HSE's effectiveness and, in the case of COMAH, on the effectiveness of the Environment Agency (EA) and the Scottish Environment Protection Agency (SEPA);
- effectiveness of the financial and administrative arrangements for the charging schemes.

2.5 The terms of reference of the review were to examine the efficiency and effectiveness of the COMAH, Gas Transportation, Offshore and Railways charging schemes and, in particular, to explore:

- the practical effect of charging on industry's health and safety policies, practices and compliance performance (and environment for COMAH);
- the effect that charging has had on the shaping of HSE's strategic goals and policy approach to developing health and safety regulations;
- the costs to industry, and HSE, incurred in complying with and administering the new charging arrangements;

- any health and safety benefits that have resulted from the additional resources that charging has generated;
- the effect of charging on the relationship between HSE and industry;
- the effect of charging on HSE's regulatory performance;
- the effect of charging on the operational behaviour and morale of inspectors;
- whether charging has resulted in efficiency improvements in the way in which HSE carries out its function and whether the operation of charging in an open and transparent way has resulted in benefits to industry and the regulator;
- what further business improvements could be made to the charging systems.

### **Summary of methodology**

- 2.6 Our reviews of the four charging schemes was carried out primarily through a structured, and sequential, process of consultation with the following:
- dutyholders;
  - dutyholder representative groups;
  - HSE inspectors;
  - HSE senior managers;
  - unions.
- 2.7 For each review the largest number of consultees came from industry. Consultation was carried out through a survey of all dutyholders who had been invoiced on more than two occasions. Across the four industries we had a response rate of 33% (160 responses)<sup>1</sup>. The highest response rate was in Railways (46%) and the lowest in Gas Transportation (16%). Surveys were followed up by interviews with dutyholders and workshops with industry representative groups.
- 2.8 HSE staff and union representatives were consulted through interviews. We selected which inspectors to interview and invited unions to nominate representatives. HSE nominated senior managers for us to interview
- 2.9 All consultation was undertaken in the confidence that views would not be attributed to individuals. Standard sampling techniques and survey best practice was followed throughout.
- 2.10 We supplemented this consultation with a limited review of key statistics to identify whether there have been any changes in the outcomes of health and safety across COMAH, Railways and Offshore since charging was introduced. The Gas Transportation CRG suggested omitting the review of statistics from the Gas Transportation review as no meaningful results were expected.

<sup>1</sup> The surveys consisted of between 43 and 44 questions and not all 160 respondents answered all questions. In the text of this report % figures refer to the % of respondents who answered specific questions.

## Scope, status and structure of this report

- 2.11 This report consolidates the findings from our separate reports evaluating the impact of charging on COMAH, Railways, Gas Transportation and Offshore and provides conclusions on the impact of charging and recommendations for HSE. The report does not include the findings from our other cross-cutting reports. These are available separately on the HSE web-site. These reviews cover:
- the efficiency of charging;
  - the effectiveness of the queries and disputes procedure;
  - the reasonableness of charge-out rates.
- 2.12 At our presentation to the ICRG, and other invitees, on 14<sup>th</sup> November, 2002 we presented and discussed findings relating to the whole review programme.
- 2.13 This is the final Consolidated Report. It has been agreed by the HSE. The report is structured as follows:
- Section 1: Executive Summary;
  - Section 2: Background;
  - Section 3: Findings;
  - Section 4: Deloitte & Touche conclusions and recommendations.

### 3. FINDINGS

#### **Costs to Industry and HSE in complying with and administering the charging schemes**

##### *Costs to industry*

- 3.1 The start-up costs to industry in complying with the introduction of charging has been slight. 71% of survey respondents said they have not had to introduce additional administrative arrangements to make payments to charging schemes. Simply put, HSE have been treated as an additional creditor. Of those dutyholders that did need to make new arrangements the start-up costs were below £3,000 in over 80% of cases.
- 3.2 Of more significance are the ongoing costs of compliance. There are two main types of cost:
- the cost of paying charges. For some Train Operating Companies in Railways and for some companies within the scope of COMAH these costs can be very significant. The point was made by COMAH dutyholders that international competitors do not bear these same costs directly;
  - the cost of reviewing and checking invoices and correcting any errors. This is a particularly contentious issue in Railways where over 30% of invoices have been queried each year since the introduction of charging<sup>2</sup>.
- 3.3 Another issue that was raised regularly by dutyholders in COMAH , Railways and Offshore was that the unpredictability of charges makes budgeting difficult. Consequences of this are that:
- other health and safety expenditure may be cut if a larger than expected invoice is received;
  - Railway companies need to factor in premiums for uncertainty when seeking subsidies from the Strategic Rail Authority or when bidding for franchises. This results, ultimately, in Treasury paying for passing this uncertainty to the private sector.

##### *Costs to HSE*

- 3.4 The administrative costs to HSE of charging are significant. Our separate report on the efficiency of charging suggested that at the time of this piece of work the four Charging Teams and the Central Finance functions incurred costs of around £500,000, or 3% of the total amount invoiced<sup>3</sup>. These costs exclude the costs of data input by inspectors, local administration, systems' maintenance and development and management time.

<sup>2</sup> It should be noted that invoices in Railways are significantly more detailed than those in the other industries and can comprise of numerous separate items (for example, in a recent batch 13% comprised of over 50 lines).

<sup>3</sup> Since our work was carried out we understand that the three HID (Hazardous Installation Division) Charging Teams have been merged.

- 3.5 Inspectors suggest that they spend about 1-2 hours per week on administration related directly to charging. HSE management think this figure is an overstatement. Taking the lower figure suggests that across the four schemes this might represent an opportunity cost of about £1.3m<sup>4</sup> or a direct cost of about £500,000<sup>5</sup>. No data is available on the time senior management have spent on charging and charging-related issues.
- 3.6 These figures suggest that the annual costs of administering charging are likely to be in the region of £1m to £1.8m excluding the costs of local administration, systems maintenance and development and management time. This represents approximately 6% - 11% of income from charging. As recommended in our review of the efficiency of charging we think this is fairly high and suggest HSE consider the business case for investment in an integrated time recording system.

### **Other practical effects of the introduction of charging**

#### *Effect on policies, compliance and performance*

- 3.7 The overwhelming majority of dutyholders felt that there was no change in industry's health and safety policies, practices and compliance performance that was attributable to the introduction of charging. This finding was common across all four charging schemes and was held by all parties consulted.
- 3.8 On the few occasions where consultees felt there had been a change it was often found that this was partly due to another change that was introduced at the same time as charging and was therefore closely associated with charging. Examples of this are:
- COMAH - some consultees suggested the reduction of inventories was linked to the introduction of charging but the more significant driver appears to be the introduction of COMAH regulations;
  - Railways – some consultees suggested the increase in inspection activity was due to the introduction of charging but a far more significant driver appears to have been changes introduced as a result of recent major accidents and incidents.

#### *Effect on operational behaviour*

- 3.9 Across all four schemes 68% of dutyholders thought the introduction of charging had had no effect on the operational behaviour of inspectors. The figures varied considerably between schemes. In COMAH and Railways 39% and 29% felt there had been changes in behaviour while in both of Offshore and Gas Transportation only one survey respondent indicated that they felt there had been changes.
- 3.10 For dutyholders who thought there had been changes in behaviour the examples most commonly cited were that inspectors are uncomfortable with charging and consequences of this are that they carry out less site-familiarisation work and interact less with dutyholders. This observation is consistent with the commonly held view

<sup>4</sup> Approximately 420 inspectors across 4 schemes\* average hourly rate of £122 \* 2.5% \* 147 days \* 7.4 hours (figures from Review of reasonableness of charge out rates)

<sup>5</sup> Approximately 420 inspectors across the four schemes\* assumed direct gross cost of £50,000 per annum \* 2.5%

that inspectors are less ready to proffer advice (see paragraph 3.16). While most dutyholders saw these changes as detrimental some COMAH dutyholders saw them as a benefit of charging. They said inspectors had become more professional and focused in their work.

- 3.11 Inspectors in COMAH and the part of the Railways Inspectorate dealing with regulatory enforcement and monitoring (RI3) felt that operational decisions risked being distorted by the introduction of hours-based charging. They felt that the introduction of billable-hours targets had the potential to skew priorities. Almost all inspectors in Offshore and Gas Transportation felt that operational behaviour had not been affected by charging. Some HSE staff felt there had been a change in the mode of management with an increasing amount of time, inevitably, being focused on financial aspects of performance.

#### *Effect on morale*

- 3.12 Significant numbers of inspectors from all four schemes felt that morale had been adversely affected by the introduction of charging. Feelings were strongest in Railways. Across all schemes inspectors claimed the drop in morale has had a detrimental impact on recruitment and retention. Figures were not available to test this view. Other consequences of the drop in morale appear to have been that some inspectors are less confident and less comfortable in their roles. Many COMAH inspectors said that one response to this was to undercharge for hours worked. Of course in the longer term this is likely to lead to more pressure on inspectors to increase billable hours so overall budget income levels are met.
- 3.13 The reasons given for the introduction of charging having had a negative impact on inspector morale were broadly consistent:
- firstly, inspectors disagreed either with charging in principle or with the hours based method of calculating charges. The reason for this is because they felt it risked having a detrimental impact on the relationship between regulator and regulated by reducing the free flow of information between these parties;
  - secondly, inspectors were frustrated by the practicalities of the disparate systems that are used to generate the information required to raise invoices (see paragraph 3.5 above).

#### *Effect on strategic goals and policy approach*

- 3.14 Dutyholders and HSE inspectors and senior staff – and staff from across the Competent Authority for COMAH - agreed that charging has had no direct impact on HSE's strategic goals and policy approach to developing health and safety regulations. However several indirect consequences were suggested:
- strongly held negative feelings about charging has slowed down and complicated consultation processes with external parties;
  - dealing with charging related issues – such as disputes and potential shortfalls in income - has tied-up significant amounts of senior management time;

- there may be pressure to maintain, or increase, levels of front-line inspection work as the hourly rate is seen as a proxy for efficiency and any transfer of resources away from the front-line would lead to a rise in rates.

### **The effects of charging on the relationship with industry**

- 3.15 The surveys showed that 74% of dutyholders described the relationship with HSE as good prior to the introduction of charging. However a significant minority of dutyholders in Railways (28%) and COMAH (27%) felt that the relationship with HSE had deteriorated as a result of the introduction of charging. The comparative figure for Offshore was 11%. Across all industries the proportion of dutyholders who thought there had been a deterioration in the relationship was 24%<sup>6</sup>. 1% of dutyholders felt the relationship had got better.
- 3.16 There was a general feeling across all charging schemes, from dutyholders and inspectors, that hours-based charging resulted in a different and more formal relationship. This was generally seen, by both regulated and regulator, as a negative development<sup>7</sup>. The most commonly cited evidence of this change was that there was less information flowing between dutyholders and inspectors. This was a result both of less advice being sought from dutyholders and of less advice being proffered by inspectors:
- in Railways and COMAH half of dutyholders said they now sought less advice from HSE. The views of inspectors generally backed up these assertions;
  - in Offshore industry one quarter of dutyholders said they were less likely to seek advice. Some inspectors said that they felt this was happening;
  - in Gas Transportation no dutyholders said they were less likely to seek advice but respondents did say charging had the potential to have a negative influence on the relationship by reducing the flow of information. Some inspectors said that they felt this was happening.
- 3.17 Other frequently cited examples of how the relationship has become more formal – and for a small minority, adversarial - include:
- greater reluctance to invite HSE inspectors to industry meetings or to show them around industry premises;
  - an increased tendency to challenge the experience, competence and value for money of inspectors. Dutyholders increasingly see HSE as a service provider.
- 3.18 It should be noted that all the changes mentioned above are largely effects of the method of charging that has been introduced (actual charges based on hours worked) rather than the introduction of charging by itself. However it should be noted that it became apparent during our consultation that a significant proportion of those

<sup>6</sup> This 24% is made up of 22% of dutyholders who said the relationship had “got worse” and 2% who said it had “got much worse”.

<sup>7</sup> The Cullen Inquiry reported that HSE’s relationship with the Railways industry was too close.

consulted – among dutyholders, HSE staff and unions - disagreed with charging in principle.

## **The impact of charging on regulatory effectiveness and performance**

### *Results of review of trends in health and safety statistics*

3.19 For COMAH, Railways and Offshore scheme we conducted a limited review of key statistics in order to:

- provide a context for understanding health and safety trends;
- identify whether there have been any changes in the outcomes of health and safety that can be attributable to charging.

3.20 Across all industries, over the period 1997/98 – 1999/2000, there was a general decline in fatal, major and over 3-day-absence accident levels. Trends in the three areas where charging was introduced have been consistent with this broader trend, with the partial exception of Railways. Results are summarised below:

- a decline in minor accidents and dangerous occurrences in Offshore;
- a decline in over 3-day absence injuries, dangerous occurrences and non-fatal major industries in COMAH;
- fluctuating levels of Railway fatalities and train incidents but a decline in signals passed at danger and track defects.

3.21 It was not possible to use statistics to reach a conclusion on whether charging has had any impact on the outcomes of health and safety. The main reasons for this were:

- the short time since the introduction of charging and the nature of major accidents which are typically sporadic, few in number and long apart;
- the relative unimportance of charging in relation to other more significant changes in the last few years such as the introduction of COMAH regulations and the changes in the operating environment for the Railway industry.

### *The effect of charging on HSE's regulatory performance*

3.22 It is hard to measure HSE's regulatory performance and, as discussed above, it is certainly not possible after only two years to identify any effect of charging on regulatory performance. Most consultees suggested that charging has probably had no impact on regulatory performance. Even in Railways where charging has helped to enable a rapid growth in inspector numbers from 56 in 1998/99 to 103 in 2000/01 the extent of any beneficial impact on health and safety is not clear.

3.23 It is possible that a reduction in information flows between the regulator and the regulated might make effective regulation more difficult. This argument was made regularly during the consultation process. Similarly if the drop in morale among inspectors did lead to problems with recruitment and retention this could also be expected to have a negative impact on regulatory performance.

## Benefits from charging

### *Health and safety benefits from the additional resources charging has generated*

3.24 HSE has provided us with a statement about the health and safety benefits that it feels have resulted from the additional resources that charging has generated. This is summarised in italics below.

#### **HSE statement**

3.25 The extension of charging was an issue in the 1998 Comprehensive Spending Review (CSR). In December 1998, the Government announced that the Health and Safety Commission/Executive's budget was to be increased over the three years 1999/2000 - 2001/02 by £63m. Of this, £43m was to be raised from the extension of charging to cover HSE's activities on COMAH, and in the Railways, offshore and gas transportation sector.

#### Income from Charging

3.26 The position on income for the three financial years since the introduction of the charging schemes is summarised below:

| Year      | FORECAST RECEIPTS<br>(CSR SETTLEMENT)<br>£000s | ACTUAL INCOME<br>£000s |
|-----------|--|------------------------|
| 1999/2000 | 8,570  | 8,384                  |
| 2000/2001 | 15,700   | 14,043                 |
| 2001/2002 | 17,616   | 14,553                 |
| Total     | £41,886  | £36,980                |

#### Benefits from increased funding

3.27 The extra resources granted to HSC/E were focused on the following areas:

- to deal with the implementation of the COMAH regime;
- to strengthen HSE's Railway Inspectorate to deal with new projects and the immediate follow up to the recent Ladbroke Grove crash;
- to strengthen HSE's operational capacity generally, to increase the number of regulatory contacts and, in particular, the number of investigations.

3.28 The short timescales since the introduction of charging make it very difficult to draw any clear conclusions on whether there has been a direct impact. A similar cautious view needs to be taken on the resource injection, particularly given the fact that health and safety performance is influenced by many variables, of which regulator's activity is only one.

3.29 Overall, the CSR resource settlement enabled HSC/E to start to rebuild its operational capacity. Although it is impossible to say what would have happened if the extra resources had not been granted:

- the demands on COMAH and Railways were non-discretionary;
- significant political and public momentum had developed behind HSE undertaking more investigations and enforcement. HSE would not have been in a position to respond to this without extra resources.

### *Efficiency improvements*

- 3.30 Across the four schemes 66% of dutyholders responding to the survey felt that the introduction of charging had not resulted in any change in the efficiency of the HSE.
- 3.31 26% of respondents felt the HSE had become less efficient as a consequence of introducing charging. The proportion was highest in Railways (40%) and lowest in Gas Transportation and Offshore (13% and 12%). Most dutyholders who felt efficiency had decreased made the point that administrative costs had risen with no corresponding rise in outputs or effectiveness. This view was shared by most inspectors, in all four schemes, that we spoke to.
- 3.32 8% of respondents felt the HSE had become more efficient as a consequence of introducing charging. The proportion was highest in Gas Transportation (38%). The comparative figures were: COMAH (8%); Railways (4%); Offshore (0%). Most dutyholders who felt efficiency had increased made the point that inspectors were better organised and more focused during their visits. This view was shared by some inspectors, particularly in COMAH.

### *Other benefits from operating in an open and transparent way*

- 3.33 Despite the publication of charge-out rates and the availability of guidance on which activities are chargeable most consultees do not see charging as either open or transparent. A common sentiment was that charging merely highlighted costs over which dutyholders had no control. This negative view was shared by many inspectors. It was argued that despite the introduction of charges HSE had no incentive to alter or improve processes to increase efficiency. Other inspectors made the point that charges left an inadequate audit trail.
- 3.34 However in COMAH some dutyholders said that charging had revealed the level of HSE costs. The point was made that these costs were previously unknown. Dutyholders also pointed out that charging can show inconsistencies about how HSE inspectors operate at similar sites. This is most apparent in situations where operators own several sites and may get charged different amounts for work at each.

### **Suggested changes or improvements to the charging schemes arising from consultation**

- 3.35 70% of dutyholders who answered the question said they were not broadly content with the existing hours-based system of charging<sup>8</sup>. Discontent was highest in Rail (80%), COMAH and Gas Transportation (both 70%) and lowest in Offshore (50%).
- 3.36 Most consultees favoured the replacement of hours-based charging with some sort of flat rate or levy. Almost all inspectors shared this preference. The main reasons for advocating this change were as follows:
- easier budgeting and planning for industry;
  - lower administrative costs for HSE and industry. In Gas Transportation dutyholders pointed out that the budgeted receipts from the scheme might be less than the associated total administrative expenditure;

<sup>8</sup> 151 respondents out of 160 responded to this question (Question 41) of the survey.

- an improved relationship, characterised by greater dialogue, between industry and HSE.
- 3.37 In all four schemes the most common suggestions for improvements to the existing scheme were for HSE to:
- provide budget estimates to industry;
  - provide more detail on invoices;
  - provide clearer guidance on what is and what is not chargeable.
- 3.38 For inspectors in all four schemes the most common suggestions were for the introduction of new more integrated data entry systems and for clearer guidance and/or training on what is and what is not chargeable.

## 4. DELOITTE & TOUCHE CONCLUSIONS AND RECOMMENDATIONS

### Introduction

- 4.1 In each of the individual reports on the impact of charging on COMAH, Railways, Gas Transportation and Offshore we have focused on consolidating and summarising findings from the process of consultation with industry, unions and HSE staff. We have also attempted to challenge, interpret and edit findings to try and ensure that the views that are put forward in our reports:
- relate to the terms of reference;
  - have some basis in evidence.
- 4.2 In these reports we hesitated to put forward Deloitte & Touche views on the impact of charging. Part of this lay in the fact that we do not have first hand experience of the charging schemes. Other reasons were fairly low response rates to the questionnaires and the fact that the results of data analysis – across all four charging schemes – were inconclusive. We were therefore heavily reliant on our professional judgement in trying to interpret the large number of often conflicting views put forward during consultation.
- 4.3 Because charging was introduced six months earlier for COMAH than the other industries, and because the review process has involved extensive consultation and review, this work has been conducted over a 20 month period. One consequence is that we have steadily gained a deeper appreciation of the issues connected with charging. For this reason we are now in a position to draw conclusions on the impact of charging and to make recommendations to HSE.
- 4.4 This sections sets out:
- our views on the main concerns set out in the Feasibility Study prior to the introduction of charging;
  - our views on other key issues that have emerged from our review and recommendations for HSE.

## Concerns raised prior to the introduction of charging

4.5 The origin of this review lies with a series of concerns raised prior to the introduction of charging. The following table sets out our views in relation to each of the concerns raised in the Executive Summary of the Report of the Findings of the Feasibility Study.

| Paragraph within Feasibility Study: | Concern   | Deloitte & Touche view as to whether the risk has crystallised  | Evidence  |
|-------------------------------------|---|---|---|
| 2.1.a                               | The perceived risk of charging changing HSE's fundamentally sound relationship with industry built up over a quarter of a century.    | Yes – to some extent. The relationship between HSE and a significant minority of dutyholders has become more difficult and more complex. Some dutyholders do now (wrongly) see HSE as a service-provider. | One quarter (24%) of all dutyholders who responded to our surveys <sup>9</sup> said the introduction of charging had made the relationship with HSE "worse". The clearest manifestation of this change is that 44% of all responding dutyholders said they are more reluctant to seek advice than prior to the introduction of charging. This change is seen by Dutyholders and Inspectors as a detrimental step. See recommendation 1 in next table. |
| 2.1.b                               | Any alteration to HSE's position as a publicly funded not a profit making body.   | No. However there is a link to the concern that charging might skew priorities (see 2.1.e).   | NA.   |
| 2.1.c                               | The danger that charges implied approval and would weaken managerial responsibility and possibly give rise to additional liabilities. | No.   | This was only raised as an issue at one event during our entire consultation.   |
| 2.1.d                               | The argument of disproportion – that there were other industrial sectors with higher risks.   | No position to have a view.   | This argument was raised by a small number of dutyholders, union representatives and inspectors.  |
| 2.1.e                               | The danger of charging skewing priorities.  | Yes – to a small extent. It does appear that the need to have revenue targets for budgeted income risks leading to pressure being put on inspectors to do particular types of work.                       | Significant numbers of Inspectors in Rail and COMAH feel that targets for billable hours can distort behaviour in ways that may be to the detriment of health and safety. See recommendations 1, 3 and 4 below.   |

<sup>9</sup> As explained in Section 2.7, 67% of dutyholders who were sent a survey did not respond. Therefore these figures may not be representative of the targeted dutyholder population. There is a risk that those who did respond may disproportionately represent those with stronger negative feelings about charging.

## Key issues that have emerged from our work and recommendations

4.6 Overall the reports on the impact of charging in the four industries suggests that the impact of charging has generally been fairly limited. The impact that there has been has been most pronounced in COMAH and Railways. Nevertheless there are important cross-cutting issues that have emerged from the four reviews which HSE should address. These are described in the table below, which also sets out our recommendations. Appendix 1 cross references this table to our primary reports:

| Ref: | Terms of reference/key issue   | Recommendation (see table cross referencing this table to the primary reports below)   |
|------|--|--|
| A    | Relationship with industry – a significant minority of dutyholders feel that the relationship with HSE has been adversely affected by the introduction of the hours-based method of charging. There is strong evidence that there has been a decline in advice seeking and advice giving [see 2.1.a above].              | <p>1. HSE (and the Environment Agency and SEPA) senior management should consider how the results of our review impact on their views on the appropriateness of hours-based charging. This consideration should focus on the finding that charging led to no change in industry's health and safety policies, practices and compliance performance and the issues relating to:</p> <ul style="list-style-type: none"> <li>● the relationship with industry (issue A);</li> <li>● industry's views on the appropriateness of hours-based based charging (issue D);</li> <li>● the risk of hours-based charging skewing priorities (concern 2.1.e above).</li> </ul> |
| B    | Morale and operational behaviour - a large number of inspectors have significant reservations about charging more than two years after its introduction.   | <p>2. HSE should ensure that all change management issues are properly considered when changes, that may be seen as primarily financial, are made that are likely to have a significant impact on operations.</p> <p>3. On the assumption that hours-based charging is retained HSE should ensure that inspectors are involved in the setting of billable-hours targets.</p> <p>4. HSE should ensure that there is clear communication and explanation of all decisions being taken as a result of Deloitte &amp; Touche's review to all inspectors.</p>   |
| C    | Improvements - there are some practical steps that HSE could take in areas such as the clarity of invoicing and assistance with budgeting to improve its relationship with industry  | <p>5. On the assumption that hours-based charging is retained, HSE should develop proposals that address the practical concerns raised in this and the scheme specific reports.</p> <p>6. HSE and industry should consider the future of the CRG's following completion of Deloitte &amp; Touche's review. This should include the cost-benefit of the meetings, the CRG's future role and terms of reference.</p>   |
| D    | Improvements – 70% of dutyholders who responded are not broadly content with the current hours-based method of charging. Most inspectors share their views that a move from an hours-based charging scheme could deliver lower administrative costs, easier planning and a better relationship between HSE and industry. | <p>See recommendation 1 above. Also note that any consideration of alternatives will need to take account of:</p> <ul style="list-style-type: none"> <li>● the fact that a change to any type of charging scheme will result in winners and losers;</li> <li>● the results of a feasibility study into COMAH component charging that showed this to be very complex;</li> <li>● an understanding of the legislative constraints that HSE works within.</li> </ul>  |
| E    | Improvements – HSE's current approach to data capture and data processing in relation to charging is inefficient.  | <p>7. On the assumption that hours-based charging is retained HSE should develop a business case for investment in more integrated time recording systems (see more detailed recommendations from the review of charging processes).</p>   |

| Ref: | Terms of reference/key issue  | Recommendation (see table cross referencing this table to the primary reports below)   |
|------|---|--|
| F    | Efficiency and transparency – a significant minority of dutyholders think the introduction of charging has made HSE less efficient, that charges are high and that HSE charge-out rates represent poor value for money. | <p>8. HSE should attempt to reduce the rates it charges to industry (see recommendations in review of the reasonableness of charge-out rates).</p> <p>9. HSE should consider whether more helpful outputs from inspection work could not be provided to dutyholders. Examples cited include feedback following Rail inspection visits and more feedback on the status of COMAH inspection reports.</p> |

## APPENDIX 1: CROSS REFERENCES FROM RECOMMENDATION TABLE TO PRIMARY REPORTS

| Ref: | Terms of reference/key issue   | Cross referencing to primary reports   |
|------|--|--|
| A    | Relationship with industry – a significant minority of dutyholders feel that the relationship with HSE has been adversely affected by the introduction of the hours-based method of charging. There is strong evidence that there has been a decline in advice seeking and advice giving [see 2.1.a above].              | COMAH – Section 5.3;<br>Railways – Paragraphs 5.8 – 5.17;<br>Offshore – Paragraphs 5.6 – 5.16;<br>Gas Transportation – Paragraphs 4.7 – 4.12.                      |
| B    | Morale and operational behaviour - a large number of inspectors have significant reservations about charging more than two years after its introduction.   | COMAH – Section 5.4;<br>Railways – Paragraphs 5.18 – 5.30;<br>Offshore – Paragraphs 5.6 – 5.15;<br>Gas Transportation – Paragraphs 4.14 – 4.17.                    |
| C    | Improvements - there are some practical steps that HSE could take in areas such as the clarity of invoicing and assistance with budgeting to improve its relationship with industry  | COMAH – Section 5.9<br>Railways – Paragraphs 5.73 – 5.82;<br>Offshore – Paragraphs 5.46 – 5.53;<br>Gas Transportation – Paragraphs 4.35 – 4.39.                    |
| D    | Improvements – 70% of dutyholders who responded are not broadly content with the current hours-based method of charging. Most inspectors share their views that a move from an hours-based charging scheme would deliver lower administrative costs, easier planning and a better relationship between HSE and industry. | COMAH – Section 5.9;<br>Railways – Paragraphs 5.73 – 5.82;<br>Offshore – Paragraphs 5.46 – 5.53;<br>Gas Transportation – Paragraphs 4.35 – 4.39.                   |
| E    | Improvements – HSE's current approach to data capture and data processing in relation to charging is inefficient.  | Report on the Efficiency of charging;<br>COMAH – Section 5.8;<br>Railways – Paragraph 5.78<br>Offshore – Paragraphs 5.52;<br>Gas Transportation – Paragraphs 4.38. |
| F    | Efficiency and transparency – a significant minority of dutyholders think the introduction of charging has made HSE less efficient, that charges are high and that HSE charge-out rates represent poor value for money.  | COMAH – Section 5.8;<br>Railways – Paragraphs 5.66 – 5.72;<br>Offshore – Paragraphs 5.40 – 5.44;<br>Gas Transportation – Paragraphs 4.29 – 4.34.                   |

## APPENDIX 2: PRODUCT DESCRIPTION

The agreed description of this product – as set out in the Programme Project Initiation Document of 27 November, 2001 - is included below:

| Product                       | Consolidated report on findings from four Reviews  |
|-------------------------------|--|
| Purpose                       | To bring together all findings from each regime in a consolidated document that can be widely disseminated – including to CRGs.  |
| Composition                   | <p>Concise MS Word document including:</p> <ul style="list-style-type: none"> <li>• detailed executive summary that can stand alone as a document and includes a summary of the background to the work, the approach we took and key findings from the Reviews of COMAH, Railways, Gas Transportation and Offshore against our headline terms of reference;</li> <li>• section on the effects of charging on the relationship with industry;</li> <li>• section on the impact of charging on the regulators' effectiveness and performance (including: results of all data analysis; the practical effect of charging on industry's health and safety policies, practices and compliance performance; the effect of charging on the operational behaviour and morale of inspectors; the effect that charging has had on the shaping of the HSC/E's strategic goals and policy approach to developing health and safety regulations, and the costs to industry of complying with charging);</li> <li>• any health and safety benefits that have resulted from the additional resources that charging has generated and other benefits (including: whether charging has resulted in efficiency improvements in the way HSE carries out its function and whether the operation of charging in an open and transparent way has resulted in benefits to industry and the regulator);</li> </ul> |
| Derivation                    | Stage 1 – 3 work for each regime and strategic planning.   |
| Allocated to:                 | Core Team and Chris Sullivan   |
| Quality Criteria              | <ul style="list-style-type: none"> <li>• comprehensive capture of key findings from the reviews of the four charging schemes;</li> <li>• intellectual coherence;</li> <li>• adequate presentation of findings for broad audience including glossary.</li> </ul>  |
| Quality Review Responsibility | HSE Project Manager  |
| Sign off                      | HSE Project Board Chairman   |