Regulation of health and safety at work

Introduction

1   The law on health and safety at work in Great Britain is regulated by the Health and Safety Executive (HSE) and local authorities (LAs). Between them, HSE and LAs regulate a diverse range of work activities and workplaces that have different levels of health and safety risk.

2   The primary responsibility for managing these risks lies with the business or, in some instances, the person that creates the risk. As regulators, our role is to determine that businesses are effectively and proportionately managing their health and safety risks to workers and others.

3   To do this, we use a range of interventions to influence, encourage and advise business and, where necessary, hold to account those who fail to meet their responsibilities. As regulators, we conduct our regulatory activity in accordance with the principles of good regulation (targeted, proportionate, consistent, transparent and accountable) and with regard to the *Regulators' Code* (www.gov.uk/government/publications/regulators-code), including having regard to economic growth. This document explains the main features of our regulatory approach, including the interventions that we use.

> Inspection and enforcement of health and safety law is allocated to either HSE or LAs by the Health and Safety (Enforcing Authority) Regulations 1998, according to the main work activity being undertaken. HSE has a central policy role for the regulation of health and safety at work in Great Britain. This includes setting the risk-based regulatory approach that should be adopted by LAs, which is outlined in the national *LA Enforcement Code* (www.hse.gov.uk/lau/national-la-code.pdf).

The main features of our approach

Determining where to intervene and choosing the most appropriate interventions

4   At a high level, the HSE Board takes into account the health and safety performance across Great Britain. It sets the strategy (www.hse.gov.uk/strategy/index.htm) that guides all those with a role to play in delivering improved standards in health and safety performance, with the ultimate mission to prevent death, injury and ill health in Great Britain's workplaces.

5   A key part of putting the HSE Board strategy into practice is the development of strategies for specific industry sectors (www.hse.gov.uk/aboutus/strategiesandplans/sector-strategies/index.htm). These define the key health and safety issues for that industry sector taking into account factors such as the size and demographics of the industry, death, injury and ill-health rates and potential future risks.

6   These strategies identify what needs to be done, and why, to address the key health and safety issues. An important part of our regulatory approach is then choosing and developing the best intervention(s) to improve the management of health and safety risks.

7   We use a range and mixture of regulatory interventions to improve the management of health and safety risks. The main ones are:

■ influencing and engaging with stakeholders and others in industry;
■ influencing large employers;
■ creating knowledge and awareness of health and safety risks and encouraging behaviour change;
■ promoting proportionate and sensible health and safety;
■ inspection;
■ investigation;
■ enforcement;
■ engaging with the workforce; and
■ working with other regulators and government departments.

8   These interventions are used at different times depending on when the risks arise. This is summarised in the diagram below:
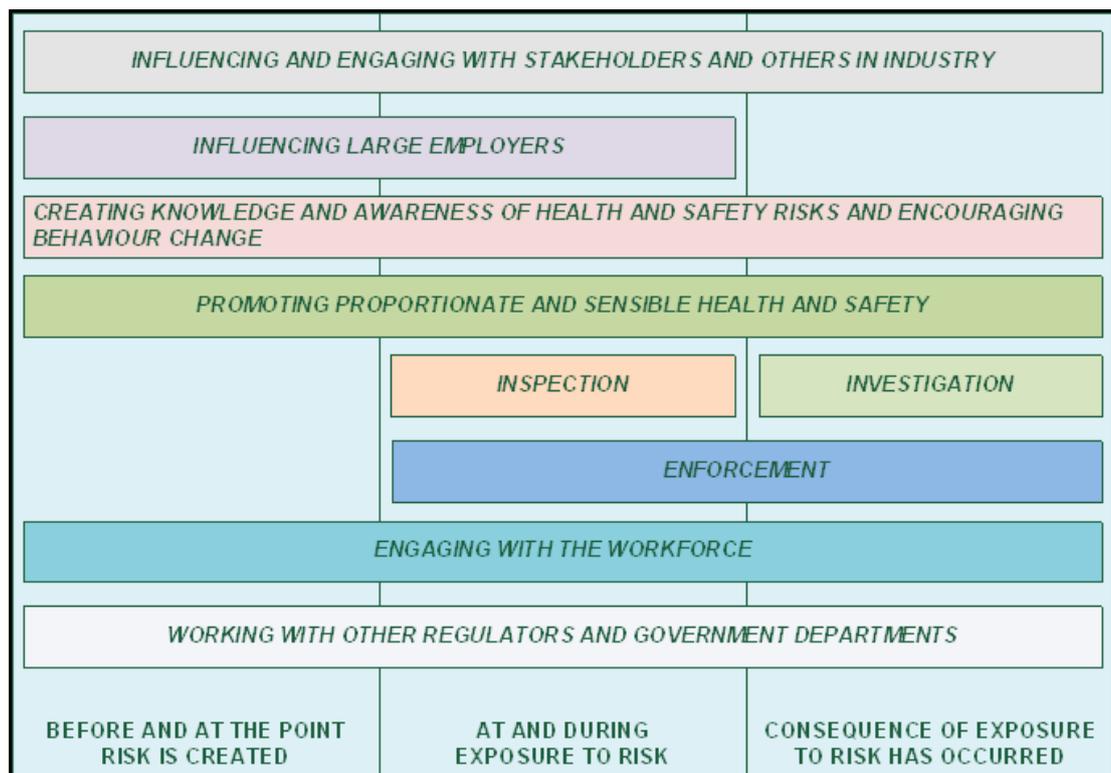
9   The sector strategies, the relative efficiency and effectiveness of different types of interventions, together with wider government policies and the information that we have on the health and safety performance of businesses guide our choice of intervention(s). We keep our interventions under review to check that we are using the most efficient and effective approach. The rest of this document outlines some of the key features of the regulatory interventions that we use.

10   There are industry sectors that we define as major hazard[1] because failures in health and safety management and risk control have the potential to cause large numbers of deaths, injuries and ill health from a single event, as well as potential long-term impacts on society, the environment or the economy. Many of the businesses within these sectors operate under permissioning regimes[2] set by law, which our approach to intervention in these industries has to take into account. *Safety Management in Major Hazard Industries* (www.hse.gov.uk/hid/hid-regulatory-model.pdf) explains in further detail how we regulate these industries.

Influencing and engaging with stakeholders and others in industry

11   Working at a strategic level with industries and others in the health and safety system is a key feature of our approach. We act as a catalyst for wider action by challenging and encouraging others to raise awareness, create behavioural change and take ownership for driving forward improvements in health and safety standards. We use the following techniques to do this:

■ Work with trade associations, professional bodies, trade unions, other organisations that represent workers and other stakeholders and intermediaries who have significant influence over businesses and can help set and promote health and safety standards.

HSE and representatives from the waste and recycling industry, including trade associations, professional associations, trade unions, recycling organisations and national and local government bodies have formed the Waste Industry Safety and Health (WISH) forum (www.hse.gov.uk/waste/wish.htm). WISH works to publicise, facilitate and bring about improvements in health and safety standards in the industry by promoting good practice, sharing ideas and solutions and providing information and guidance to support and enable behaviour change.

■ Enter into both multilateral and bilateral partnerships with industry, trade unions and other organisations.

The Quarries Partnership Team (www.safequarry.com/pdf/qpt-statement.pdf) is working together to increase the awareness of the risks associated with the inhalation of dust within the quarrying industry and to promote good control practices and the adoption of safe behaviours.

■ Encourage designers, suppliers, equipment manufacturers and educational organisations etc to set appropriate health and safety standards for the products and services they provide.

The Paving, Road and Highways Supply Chain Project aims to improve the control and management of health risks in the supply chain to reduce ill health in the construction and maintenance of paving, roads and highways. Three working groups are examining guidance and training, health surveillance and monitoring and the client and designer roles.

1   Control of major accident hazards (COMAH) sites, offshore installations, certain pipelines and the gas distribution networks, explosive manufacturing and storage sites, mines, biological agent facilities and other major hazard sites which present a significant risk because of the dangerous substances they handle.
2   Regimes under which the start or continuation of particular work activities are conditional upon approval of a safety case or safety report, licence, notification etc by the health and safety regulator.

Influencing large employers

12   By influencing large employers we have the potential to significantly improve health and safety for large numbers of people and maximise the efficient use of our own resources.

13   One technique with large employers is to encourage them to make continuous improvements in health and safety management as part of their corporate governance.

> We undertake strategic interventions at boardroom level with the 30 construction companies who have the largest financial turnover. Themes discussed with senior management are leadership and worker engagement, corporate risk management (including preventing catastrophe), managing health risks, maintaining competence as the industry emerges from recession and reducing risk though procurement and design.

14   Large organisations also have significant influence on other businesses and we encourage them to use this influence to improve standards, eg further down the supply chain by inclusion of suitable conditions in purchasing contracts.

> We have used targeted interventions with LAs who procure and manage municipal waste and recycling services, focusing on their role as clients and service providers.

Creating knowledge and awareness of health and safety risks and encouraging behaviour change

15   We provide a range of information to help businesses identify what they must do to manage the risks that they create. These include:

- web-based tools – examples include self-assessment aids, audio clips, podcasts, images, videos, presentations and case studies;
- guidance – which is topic or industry-specific, explaining the risks and the practical ways of controlling them; and
- Approved Codes of Practice (ACOP) – practical guides on how to comply with the law. ACOPs describe the preferred or recommended methods that can be used to achieve compliance.[3]

16   We aim to provide information that is fit for purpose, tailored to the needs of our audience, concise and straightforward, proportionate to the risk and focused on what is required by the law. We also work in partnership with trade associations and trade bodies to help them provide guidance, information and training courses for their industries.

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3   An ACOP has a special legal status in law. This is described in HSE's *Enforcement Policy Statement* (www.hse.gov.uk/pubns/hse41.pdf).

17   We recognise that small and medium-sized enterprises (SMEs) can find it difficult to understand what is required of them. We use a range of tailored approaches to encourage and support SMEs to understand the risks in their business and what they need to do about them. These approaches include the following:

■   Guidance (www.hse.gov.uk/abc/) specific to SMEs, including the basics for managing health and safety, straightforward advice on practical steps to control common workplace hazards and risks, as well as example risk assessments.

■   Delivery and participation in education and awareness raising events on key health and safety issues, in partnership with trade associations, industry bodies and larger businesses.

■   Work with a wide range of partners to help smaller businesses (www.hse.gov.uk/estatesexcellence/index.htm) to improve health and safety standards through support visits, on-site training, guidance and support networks.

> We deliver Safety and Health Awareness Days (SHADs) for specific industry sectors. These are face-to-face events that make contact with large numbers of traditionally hard to reach audiences. For example, we have established SHADs for farmers to highlight the dangers of agricultural work and encourage appropriate behaviour change. The SHADs are promoted by their industry and trade associations. This type of event has also recently been undertaken successfully with the fairground industry.

Promoting proportionate and sensible health and safety

18   We seek to discourage unnecessary risk-averse behaviour and promote a proportionate and sensible approach to health and safety.

19   The Independent Regulatory Challenge Panel (www.hse.gov.uk/contact/challenge-panel.htm) is an independent means for any person (whether companies or individuals) to complain about advice issued by HSE or LA inspectors that is considered to be incorrect or disproportionate to the risk.

> A sensible approach to health and safety means focusing on the significant risks – those with the potential to cause real harm and suffering – and avoiding wasting resource on everyday and insignificant risks. We have published guidance on sensible risk management (www.hse.gov.uk/risk/principles.htm) and specifically on sensible risk in local government (www.hse.gov.uk/services/localgovernment/sensible-risk/).

20   The Myth Busters Challenge Panel (www.hse.gov.uk/contact/myth-busting.htm) is a mechanism to challenge incorrect or over-the-top decisions or advice given by non-regulators, such as insurance companies, health and safety consultants and employers, taken in the name of health and safety.

Inspection

21   Inspection is a key activity for assessing how well businesses are managing their health and safety risks and, where they are not, to bring about improvements to achieve this.

Major hazard industries
22   We maintain a strong inspection element to our regulatory approach with these industries. Periodic inspection is a pre-condition for sites subject to a permissioning regime, to continue to show that they are effectively controlling risks.

23   We take a risk-based approach when we prepare intervention plans, using intelligence from a number of sources, including safety cases and reports, previous performance and intrinsic hazard to make the best use of resource. Greater emphasis is given to higher risk activities and where there is evidence of failings in health and safety management.

Other industries
24   We target and inspect dutyholders:

■   in sectors that give rise to the most serious risks; or
■   where we have evidence and intelligence that indicates that health and safety performance is a significant concern. Such information includes previous performance, ratings from earlier inspections, concerns raised by workers and members of the public, incident investigations and reports of injuries, diseases and dangerous occurrences.

25   In accordance with the national LA Enforcement Code (www.hse.gov.uk/lau/national-la-code.pdf), inspection by LAs should only be used for high risk activities in industry sectors specified by HSE or where intelligence suggests that risks are not being effectively managed. The list of activities/sectors (www.hse.gov.uk/lau/activities.pdf) is published separately to the Code to allow for it to be periodically reviewed and updated.

Investigation

26   Investigating accidents, incidents, cases of ill health and concerns (complaints) raised by workers or members of the public is an important lever for changing behaviour and improving health and safety standards. It enables us to determine causes, share lessons and identify what actions a dutyholder needs to take to prevent reoccurrence.

27   We respond selectively to reports of concerns or of work-related incidents, injuries or ill health.

■   We consider all health and safety concerns (www.hse.gov.uk/foi/internalops/og/ogprocedures/complaints/index.htm) raised by workers and members of the public and make decisions based on risk to determine how these should be pursued.
■   We investigate the most serious work-related incidents, injuries or cases of ill health in line with HSE's incident selection criteria (www.hse.gov.uk/foi/internalops/og/ogprocedures/investigation/incidselcrits.pdf).

Enforcement

28   Inspection and investigation provides the basis for enforcement action to prevent harm, to secure sustained improvement in the management of health and safety risks and to hold those who fail to meet their health and safety obligations to account. Enforcement also provides a strong deterrent against those businesses who fail to meet these obligations and thereby derive an unfair competitive advantage.

29   We take proportionate enforcement action in line with HSE's *Enforcement Policy Statement* (EPS) (www.hse.gov.uk/pubns/hse41.pdf) and *Enforcement Management Model* (www.hse.gov.uk/enforce/emm.pdf). The EPS also outlines the range of enforcement tools we use.

30   When taking enforcement action, we make clear to the dutyholder which matters are subject to enforcement, where compliance has not been achieved, what measures are needed to achieve compliance (including timescales) and their right to challenge/appeal.[4]

31   We follow up on enforcement action that we have taken to check that the necessary improvements have been made.

Engaging with the workforce

32   Research provides evidence to suggest that involving workers has a positive effect on health and safety performance. There is also evidence to suggest that those with health and safety representatives are safer and healthier as a result.

> We have provided guidance for workers (www.hse.gov.uk/WORKERS/index.htm) on a range of topics and are working with the Trades Union Congress to develop a dedicated HSE contact route for safety representatives.

33   In addition to engaging with trade unions and other organisations that represent workers (see paragraph 11), we support workplace trade union representatives and health and safety representatives in the delivery of their workplace roles.

34   When we visit workplaces we engage with employees or their representatives to check that they are adequately involved and consulted on health and safety.

35   When we identify matters affecting their health, safety or welfare we inform employees or their representatives and explain the action that we are requiring their employer to take to put matters right.

Working with other regulators and government departments

36   Where appropriate, we work closely with other regulators, whose functions overlap with ours[5] to:

- set demarcation arrangements where health and safety law overlaps with more specific law enforced by another regulator;

> We work with Home Office Investigation and Enforcement and Her Majesty's Revenue and Customs to tackle poor health and safety standards for migrant or illegal workers.

- promote cooperation and minimise duplication;
- coordinate and undertake joint regulatory activities where proportionate and appropriate; and

> We exchange information and intelligence with the Gangmasters Licensing Authority with the aim of preventing abuse, harm or injury to potentially vulnerable workers.

- share appropriate information and intelligence in a timely manner.

4   There are different routes of challenge/appeal depending on the enforcement action taken. These are set out in the leaflet *What to expect when a health and safety inspector calls* (www.hse.gov.uk/pubns/hsc14.pdf) and on HSE's website (www.hse.gov.uk/contact/regulatory-complaints.htm).
5   A complete list of other regulators we have formal arrangements and understandings with is available on HSE's website (www.hse.gov.uk/aboutus/howwework/framework/f-2001-3.htm).

37   We work jointly with the Environment Agency, Scottish Environment Protection Agency and Natural Resources Wales to effectively regulate onshore major hazard industries. Offshore major hazard industries are regulated jointly by ourselves and the Department of Environment and Climate Change (DECC).

38   Onshore, we also support the work of the Office for Nuclear Regulation by regulation of COMAH activities at nuclear licensed sites. Offshore, we work with the Civil Aviation Authority on aviation matters and the Maritime and Coastguard Agency on marine and shipping matters.

39   We work with other government departments to ensure that proportionate health and safety supports the delivery of wider government policies.

> We are working with DECC, the Office of Gas and Electricity Markets, energy distributors, suppliers and meter installers to support the safe replacement of over 50 million gas and electricity meters.

Further information

For information about health and safety, or to report inconsistencies or inaccuracies in this document, visit www.hse.gov.uk/. You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

This document is available at www.hse.gov.uk/pubns/hse51.pdf

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