



Regulation and recognition

Towards good performance in health and safety

This consultation document explores ways to improve standards of work-related health and safety. It looks at the methods the main regulatory bodies, the Health and Safety Executive and Local Authorities, use to influence employers and others who have legal duties. Some of these methods are tried and tested, some are less so. We want your views on the best mix to use; whether we should give recognition to good performance; and how to make the most of the resources of HSE, LAs, employers and others who share our aim. That aim is to achieve “workplace health and safety that leads the world”

We would welcome your comments on our proposals. These can be sent using the electronic comment form on the consultation webpage at www.hse.gov.uk/consultation and returned by e-mail to regulationandrecognition@hse.gsi.gov.uk

If you wish to make a hard copy return, please refer to the appendix at the end of the document and send your comments to:

Mr Jim Holt, Room 908, Daniel House
Trinity Road, Bootle, Merseyside L20 3TW

All comments should be returned by Friday 24th December 2004.

The Commission tries to make its consultation procedure as thorough and open as possible. Responses to this consultative document will be lodged with the Health and Safety Executive’s Information Centres after the close of the consultation period where they can be inspected by members of the public or be copied to them on payment of the appropriate fee to cover costs.

Responses to this consultative document are invited on the basis that anyone submitting them agrees to their response being dealt with in this way. Responses, or part of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases, a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

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CONSULTATIVE DOCUMENT

REGULATION AND RECOGNITION

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Chair's foreword

In February 2004 we published our strategy for workplace health and safety in Great Britain to 2010 and beyond. It set out our vision to gain wider recognition of health and safety as a cornerstone of a civilised society and for workplace health and safety that leads the world. Our strategy is for the whole health and safety community; it is about change, about doing things differently and about getting everyone involved.

In this document we have outlined the methods the Health and Safety Executive (HSE) and local authorities (LAs), use to influence workplace health and safety standards. We call these "intervention techniques", and we describe thirteen. We need to decide with the resources at our disposal which technique to use where, and what to give priority to so that we make the greatest impact.

We cannot work this out alone. We value the contribution of everyone involved, employers, workers, their representative organisations, professional and trade bodies and other interested parties. So I commend this document to you, and look forward very much to receiving your views. These will shape the way that we, as regulators, work with you towards

"workplace health and safety that leads the world".

I look forward to hearing from you.

Bill Callaghan
Chair
The Health and Safety Commission

September 2004

Introduction

1. The Health and Safety Commission's (HSC) Strategy for Workplace Health and Safety in Great Britain to 2010 and beyond envisages a significant change in how the Health & Safety Executive (HSE) and Local Authorities (LAs) work together with the aim of making them collectively more effective in improving health and safety.
2. One of the main themes of the strategy is to focus on our core business and the right interventions where we are best placed to reduce workplace injury and ill health; bearing in mind that different organisations respond best to different blends of intervention. There is no single "universal mix".
3. Two key elements of this theme are an "interventions strategy" – setting out the main techniques that we use as regulators - and being clear about our priorities. This document presents proposals for both of these elements.
4. The intention of the strategy is to contribute to the national targets for health and safety that were set in 2000 as part of the Government's Revitalising Health and Safety initiative by:
 - Guiding the choice and use of interventions so that HSE and LAs can achieve the best effect they can with available resources;
 - Allowing HSE and LAs to concentrate on activities directly related to work where they have the skills, expertise and evidence and where they, rather than others, can be the principal drivers for change;
 - Supporting closer working between HSE and LAs;
 - Recognising good performance in managing health and safety; and
 - Enabling HSE and LAs to justify through evaluation and evidence the approaches we adopt, including areas where HSE and LAs will not intervene proactively because the risks are properly managed.
5. This work is part of our effort to develop arrangements for an effective working partnership between HSE and LAs. It is therefore mainly concerned with the activities where HSE and LAs share an interest as regulators. It does not cover all the methods used by HSE to regulate major hazards.
6. The Hampton Review of Regulatory Inspection and Enforcement (which is looking at all interactions between businesses and regulators) is expected to report early in 2005 with an initial report due in the autumn during our consultation period. We will need to take account of the Review's recommendations.

An interventions strategy

7. By "interventions" we mean all the available methods and techniques used to influence behavioural change in managing or undertaking work,

so as to improve standards of health and safety. Influencing behavioural change is a complex process, which needs to consider more than just a mix of carrot (e.g. fewer inspections) and stick (e.g. enforcement). Different people and organisations are motivated in different ways. Indeed many employers welcome “traditional” inspections and would not welcome losing them. So the strategy needs to provide criteria for the best mix of intervention techniques for different circumstances. We need also to be clever about how we prioritise; not just the technique we choose, but to which employers to pay more attention. This document explores ways to be more transparent in our choices, and how we might give recognition to good performance.

8. A range of thirteen techniques is described in this document. HSE and LAs believe that most of them merit being used more widely than they currently are. The evidence we have, although incomplete, strongly supports this view. To help develop the Strategy for Workplace Health and Safety in Great Britain we asked Greenstreet Berman Ltd to review all the available research into interventions to improve health and safety compliance (reference c) at paragraph 90, below). Their overall conclusion was that:

“The evidence available from current studies does indicate that there is a range of new ways (such as working via intermediaries and insurance incentives) of accessing, contacting and influencing employers, including the hard to reach SME sector. Accepting that there is a need to effect greater influence on SMEs, these avenues offer opportunities for the HSC/E and LAs to amplify their effect. The exact balance and composition of these methods requires further research, piloting and evaluation before definitive conclusions can be reached on the benefit to be gained from specific types of new interventions. This is inevitable given the novel nature of some of the interventions. There is, at the same time, evidence to support the continuation of current advisory, enforcement and regulation based activities in all sectors and sizes of organisations.”

9. The purpose of this document is to add the combined judgement of a wide range of participants in health and safety – you, our readers - to the evidence we already have. With your help we wish to develop proposals for the best mix of interventions to use, when and in which combinations; evaluating as we then apply these, to confirm that we are getting the best benefits for health and safety that we can from the resources we have. There is a particular need to explore methods that could offer wide benefits, across whole sectors or through audiences at awareness events, for example, as we will never have enough resources to secure compliance and raise standards through inspection and incident investigation alone. There are 3.5 million or so businesses in Great Britain. 90% of these employ fewer than 10 people, although nearly half of the workforce is employed in large organisations. HSE’s Field Operations Directorate and LAs deploy

approximately 1700 frontline staff, including Inspectors. Many other HSE staff, such as those in policy functions, act in frontline roles too.

10. With only finite resource available there has to be a reasoned choice of the best mix of different techniques. In determining what that choice should be, we need to consider both what will have the greatest impact on our strategic priorities and what provides the best value for money. The references at paragraph 90 below include research that has already been done by Greenstreet Berman and others to inform these decisions; more is planned (e.g. the relative benefits (and costs) of working with different intermediary groups to amplify HSE's awareness raising work).
11. The Work & Pensions Select Committee, in their recent report on the work of HSC/E, recommended that additional resource should be made available and that implementation of the strategy should not mean a shift away from inspection and enforcement.

Being clear about our priorities

12. The HSC Strategy states that

“Where proper management of risks can be assured, HSE and LAs will not intervene proactively. This means we will discourage HSE and LAs from putting resources into issues where the risks are of low significance, well understood and properly managed. This process needs to be open and transparent to everyone. We are asking HSE and LAs to work closely together in consultation with stakeholders to devise suitable criteria to identify those areas where HSE and LAs will not intervene proactively.”

13. There is already much ‘targeting’ of HSE and LA resource towards the more significant hazards and higher risk activities. At the level of employment sectors and specific hazards this is achieved through strategic programmes of work. These direct resource towards some sectors and hazards (e.g. construction, musculoskeletal disorders) and hence less to others (e.g. general manufacturing, machinery safety). At the individual employer level, HSE and LAs use rating systems to ensure more frequent inspection of workplaces where risks have previously been judged to be poorly managed.
14. In practice, such targeting means there will be less proactive intervention with better performers. Furthermore, neither HSE nor LAs will ever realistically have the resource to maintain inspection programmes that cover all known premises and organisations, nor, indeed, would that be a good use of resources. So the issue is not a choice between inspecting workplaces or not. Such targeting is a legitimate and necessary process for using available resource most effectively; so that we can concentrate where there is the greatest scope to raise standards, and not waste precious resources on employers who have already achieved high standards and who can be

expected to maintain and build on these. Targeting is by no means new; but we need to consider being more transparent in its use.

15. Stakeholders such as employers and workers' organisations indicate strong support for improving these targeting arrangements (and ensuring better enforcement particularly of health priorities) as an important way of meeting strategic aims. We believe that the underlying criteria and policies, which support this targeting, should be made more transparent. This document seeks views about how such approaches could be developed and whether they should be formalised. We also need to consider whether HSE and LAs should give public recognition for good practice and performance. Ideas about how all of these points might be addressed are discussed in paragraphs 59-68.
16. There are some long-standing international examples of formal approaches such as the Voluntary Protection Programme operated in the USA by OSHA. This appears quite resource-intensive and bureaucratic to administer (for both the regulator and employer) and therefore is not a model we would wish to follow. A simpler version is to be trialled soon in Ireland by the agencies both north and south of the border in co-operation with OSHA.

Our conclusions

17. From the research it is clear that all the interventions can and do produce improvements in the workplace. It is difficult to rank them, as they are mutually supportive and reinforcing. For example, the prospect of inspection encourages duty holders to attend awareness events, and to commit to making improvements; indeed we believe that the effectiveness of all the techniques we use depends on an effective regime for inspection, investigation and where needed, enforcement of the law. Therefore, choosing a “preferred mix” is not a simple task and varying the mix requires some difficult choices.

Small to medium enterprises

18. It is clear from our research that small firms prefer direct contact in the workplace and specific advice and information, which they do not have to interpret. Some want this from regulators. Others are afraid of enforcement consequences if they seek advice from that source – but all SMEs express the desire for clear and specific guidance. In response we are developing a policy statement on the use of more specific approaches both in our published guidance and when directly advising employers and others. However, as indicated in paragraph 14, direct contact with all workplaces is not an option so we need an alternative way of influencing the majority. This requires a range of interventions to be used. From the evidence, inspection, education and awareness raising combined with support from intermediaries are of particular value.

Large organisations

19. The research supports a multi-dimensional strategy for large firms with education, the need to protect reputation, incentives (such as public recognition for good performance); supply chain and inspection enjoying a greater impact.

Traditional interventions

20. The research evidence supports the continuing use of our traditional interventions (inspection & enforcement, incident and ill health investigation and dealing with issues of concern that are raised and complaints).

21. The research shows that workforce involvement is beneficial. Increasing it would be of particular benefit to both the unionised and non-unionised sectors.

New interventions

22. The research evidence also indicates that the remaining interventions examined, which represent a range of comparatively new ways of working, are successful in accessing, contacting and influencing employers, including the hard to reach SME sector. Some of these “new ways” are resource intensive (such as working in partnership) but others require relatively little primary effort by the regulator (e.g. supply

chain initiatives) or can achieve wide impact for the resources consumed (e.g. education and awareness).

23. Nationally co-ordinated sector based interventions have been effective in a number of sectors.

Preferred mix of interventions for use by the regulator

24. The purpose of the interventions strategy, towards which this document is leading, is to influence and develop the range of approaches that regulators and employers use to raise standards. Adopting a preferred mix therefore implies a readiness:

- By regulators to plan their programmes of work somewhat differently; and
- By employers, of their own volition, to support this strategy by making greater use of the approaches that do not require a primary stimulus by the regulators.

25. From our findings we see a case in favour of a preferred mix based primarily on:

- Motivating senior managers
- Sector & industry wide initiatives;
- Working with those at risk;
- Education & awareness;
- Inspection & enforcement;
- Intermediaries;
- Accident and ill health investigation; and
- Dealing with issues of concern raised and complaints.

26. Partnership, supply chain and best practice may be used by employers of their own volition to improve their standards of health and safety. We would appreciate your views on the use of the design and supply intervention.

27. The matrix below is intended to further guide choices to suit different circumstances such as small versus large employers. It summarises our findings from a regulator's point of view. These are indicative only and we accept that there are other criteria on which the interventions could be judged.

Targeting the resource of the regulator

28. Bearing in mind the Work & Pensions Select Committee report recommendation (mentioned at paragraph 11), we would welcome views on how our frontline resource should be allocated between the different types of interventions. In particular, how should we reallocate resources to increase the use of the interventions listed in paragraph 25? The preferred mix contains 8 of the 13 types of intervention. Is

further sub-division necessary or possible? Are there other interventions that we should consider? At the end of this document is a questionnaire seeking your views on this and other issues.

Intervention matrix

Intervention/ Factors affecting choice of technique	1	2	3	4	5	6	7	8	9	10	11	12	13
	Partnership	Motivating senior managers	Supply chain	Design & supply	Sector & industry wide initiatives	Working with those at risk	Education & awareness	Recognising good performance	Inspection & enforcement	Intermediaries	Best practice	Incident & ill health investigation	Dealing with issues of concern & complaints
Company size S/M/L/All	All	L	L	All	All	All	All	?	All	All	All	All	All
Track record (good/poor or both)	B	B	G	B	B	B	B	?	P	B	G	B	B
Part of trade or sector assoc.	✓			✓				?		✓	✓		
National, regional or local companies	All	N	N	All	All	All	All	?	All	All	All	All	All
National regional or local coordination required	All	N	All	All	All	All	All	?	All	N	All	All	All
Level of workforce involvement required (high/low)	L	L	H	L	H	H	H	?	H	L	L	H	H
Multi-site coordination required			✓		✓		✓	?		✓			
Nature of organisation (professional, skilled, manual)	All	All	All	All	All	All	All	?	All	All	All	All	All
Works well in combination with	Best practice			Sector & industry wide initiatives		Inspection & enforcement	Intermediaries, Inspection & enforcement		Working with those at risk	Education & awareness	Partnership, Inspection & enforcement	Inspection & enforcement	Inspection & enforcement

Matrix note: Proposals for criteria for recognising good performance are being consulted on as part of this exercise and therefore, whilst it is listed as an intervention it is not yet possible to complete this matrix

Discussion

Interventions before and at the point of creation of risk

Partnership

29. *Strategic relationships between organisations or groups who are convinced that improving health and safety will help them achieve their own objectives. This may involve duty holders or trade unions, regulators, other Government departments, trade bodies, investors, insurers or educational or media organisations.*
30. Partnerships could be between HSE and LAs, between employers or between regulator and employer. They have great potential for a positive impact as they present a useful tool to allow sharing of good practice across a large number of stakeholders. However, they are resource demanding and require participants to commit and maintain continuity of the relationship over a sustained period.
31. This intervention generally involves many different activities, such as seeking commitment to targets, preparation of guidance, information exchange etc., in conjunction with trade associations and sometimes involving trade unions. Some partnerships are industry wide such as those with the paper and rubber industry, and others are with individual employers.
32. Experiences of the effectiveness of partnership at both local and national levels tend to be varied. Some sectors have used this type of intervention extensively (e.g. manufacturing and construction). LA Lead Authority Partnership Schemes have had some success in improving consistency in the way LAs enforce health and safety in companies with outlets in different areas.
33. This intervention has been shown to work well in larger companies and there is the potential for yielding significant improvements in health and safety across many other sectors and types of organisations including Small to Medium Enterprises (SMEs). It works well where strong communication networks already exist. There is, however, significant scope for employers to forge their own partnerships with other organisations, and to do so of their own volition.

Motivating senior managers

34. *Encouraging the most senior managers to enlist their commitment to achieving continuous improvement in health and safety performance as part of good corporate governance, and to ensure that lessons learnt in one part of the organisation are applied throughout it (and beyond).*
35. Studies show that large firms are sensitive to their public image in respect of the perceived level of internal governance and social responsibility. Firms with “high street” names want to protect their

public image or “brand” and avoid negative publicity. This creates an incentive to actively manage health and safety.

36. Other than the regulator contacting senior managers as part of the inspection process there have been limited interventions to date in this area. Initiatives include work by the HSC with the Top 350 companies in the UK and the publication of an Offenders database. The Environment Agency has also had success in this area with their “fame & shame” approach with businesses.
37. This intervention is judged to be more effective with larger companies where senior manager commitment can help strengthen messages to staff and influence company policy.

Supply chain

38. *Encouraging those at the top of the supply chain (who are usually large organisations, often with relatively high standards) to use their influence to raise standards further down the chain, e.g. by inclusion of suitable conditions in purchasing contracts.*
39. Supply chain pressure is recognised as an area where there is potential for lasting, significant and wide reaching impact in raising health and safety standards.
40. Where organisations make good standards of health and safety performance a precondition for their suppliers it does have a significant impact. It is considered a successful practice in the building trade and has parallels with current food safety regulations. However, there is evidence that many organisations do not yet effectively apply this pressure. To be effective it may be necessary to engage stakeholders throughout a chain of supply (as was the case in persuading the construction industry to reduce the size of bags for materials to 25kg maximum).
41. Large customers can impose health and safety requirements on their suppliers, but smaller, local businesses are unlikely to have the volume purchasing power to have any real influence. We have mixed evidence about the effect of Good Neighbour schemes and this may be a fruitful area for employers to explore of their own volition. Work is under way to establish the Government as an exemplar for others.

Design and supply

42. *Working with those who can improve health and safety by improving the design of processes or products.*
43. This intervention can address both products (e.g. section 6 of the Health & Safety at Work etc Act as enforced by HSE) and processes (e.g. planning applications for new developments advised on by both HSE and LAs). It is formalised in the construction industry under the

Construction (Design and Management) Regulations, which place duties on those such as designers and architects.

44. A successful initiative by HSE in the quarries sector persuaded vehicle manufacturers to improve driver visibility by persuading them to install CCTV on all new vehicles using the threat of enforcement. HSE has also worked with trade associations to advise and agree on improvements in machinery design (e.g. lifting equipment and mobile equipment such as forklift trucks).
45. Many LAs have had success in improving health and safety standards at source by acting in an advisory capacity making suggestions or recommendations on planning applications for new developments in their local area.

Sector and industry-wide initiatives

46. *“Gearing” achieved by stimulating a whole sector or an industry to sign up to an initiative to combat key risks, preferably taking ownership of improvement targets.*
47. This intervention can be most effective at reaching a large number of businesses, stimulating interest throughout a sector and effecting improvements in standards. It allows a transparent, consistent approach and has a peer pressure effect in businesses as the message spreads; this can be reinforced by appeals to ensure “a level playing field” for competitors in the sector.
48. There have been a number of sector specific collaborative initiatives including Recipe for Safety for food and drink and the Paper & Board Industry Advisory Committee initiative with paper mills. Successful LA initiatives include one focused on newspaper delivery. There is a strong body of evidence to show that these initiatives have been successful in improving injury rates and audited improvements in health and safety management arrangements.

Working with those at risk

49. *Working with safety representatives, trade unions and other organisations that represent people put at risk by work activities to support them in their roles.*
50. Trade unions and safety representatives can have a powerful role in improving workplace safety standards. The vast majority of research indicates that the involvement of employee and trade union representatives in safety initiatives is a positive one. Organisations with union representation have up to 50% lower injury rates whilst those with non-union safety committees have up to 40% lower injury rates. However, recent research has shown that 6 out of 10 workplaces have no form of worker consultation arrangements on health and safety.

51. A wide range of benefits can follow successful initiatives, far outweighing the costs involved. Examples include workforce participation in both small and large firms in the petro-chemical industry resulting in improved health and safety performance and improved health and safety culture within six months to two/three years. The involvement of unions is also essential to the success of sector initiatives.
52. Successes include an HSE funded “worker safety adviser” initiative to provide safety advisers for small businesses. The scheme resulted in real improvements to the workplaces involved and work is currently underway to extend it. In another example an LA approached employees directly and helped them train in Chartered Institute of Environmental Health certified qualifications.
53. Initiatives with safety representatives tend to be less effective in the absence of trade union linkages. Small to medium enterprises often do not recognise trade unions or have safety representatives and it can be difficult for regulators to identify individuals who can unofficially represent their fellow workers.
54. There appears to be scope for more effective interaction with trade unions and safety representatives with a greater impact achieved by applying effort at national, branch and regional levels.

Education and awareness

55. *Seeking further ways of getting messages and advice across early to key target groups, particularly those who are difficult to reach, using channels such as small business groups, chambers of commerce etc. Promoting risk education as a curriculum item at all levels of the education system.*
56. In HSE, awareness events have been successful in a number of industries, e.g. agriculture, food, construction and manufacturing. Agriculture and food sector initiatives were found to have worked best where there is the “carrot” of no inspection for some period if the individual or organisation attends and commits to some action.
57. Mail shots have been the least effective means of increasing awareness. The effectiveness varies with the size of organisation and field in which they operate. The available evidence is against using mail shots in isolation unless you are already dealing with a receptive audience such as dentists.
58. Education and awareness raising has been particularly effective where it involved an intermediary (e.g. a trade association) drawing up and recommending health and safety practices in conjunction with HSE and distributing to its members.

59. With 60% of UK adults now having access to the Internet, the web will continue to grow in importance as an information and communications tool.

Recognising good performance

60. *“Where proper management of risks can be assured, HSE and LAs will not intervene proactively. This means we will discourage HSE and LAs from putting resources into issues where the risks are of low significance, well understood and properly managed.”*

61. We discussed earlier our intention to improve targeting of interventions and our belief that this should be based on criteria understood and accepted by all those affected. In this section we explore how the recognition of good performance might become more formal under these targeting arrangements. Some good, well-motivated performers want to earn the trust of regulators even if they are treated more severely for any subsequent failures. They foresee direct benefits through increased confidence in them by stakeholders such as investors and insurers. Public recognition of such status may be prized as a positive benefit to an organisation’s reputation and this may be an important part of the incentive to keep risk under proper control and to take actions to raise standards further. Thus a well-designed and operated scheme should help deliver the primary gain of a healthier and safer workforce. Some areas of the public sector (particularly Local Authorities and NHS Trusts) have formal opportunities to achieve a recognised status, and an expectation to do so.

62. HSE has been discussing such approaches with other regulators and with the Hampton review team. One of the issues they are exploring is formal ‘earned autonomy’. The benefits will be undermined if the hurdles to attaining this type of recognition are too onerous or if different hurdles are set by different regulators. An important question is therefore whether we can identify measures, which satisfy all regulators that a particular business, or public sector body, is performing well? Moreover, the importance of precisely determining which part(s) of the business should gain recognition is acknowledged.

63. Stakeholders’ initial views about this have been diverse. Employers and their representative organisations have been broadly in favour. Trade unions question whether such an approach will save resources and believe regulation makes a positive contribution to developing safety culture rather than being a burden. Regulators (except those dealing with major hazard industries) are supportive providing the approach improves health and safety standards overall, is cost effective and non-bureaucratic and is accessible to all employers (including small firms without complex health and safety management systems).

64. In their recent report the Work & Pensions Select Committee urged that

“before adopting a policy of reduced inspection for employers with an established record of good practice, there is a need for clear and thorough evidence-based analysis to ensure that the reduction does not lead to negative outcomes such as improper pressures to achieve a reduction in accident reporting”.

65. A key issue in any approach is how the performance of duty holders is assessed. We believe the main options are:

- a) Self-assessment: The organisation declares to the regulator(s) that they meet the required standard/criteria. This could be linked to individual and collective accountability of the main board directors for the declaration and the organisation’s performance (on similar lines to financial accountability). It could be endorsed by key stakeholders such as employees and insurers;
- b) Employee assessment: Worker representatives would confirm they were satisfied with the organisation’s arrangements for ensuring the health and safety of the workforce;
- c) Third party assessment: Independent auditors would assess the organisation against the required standard/criteria (also along the lines for financial accountability);
- d) Regulator assessment: Effectively a development of the current rating systems operated by HSE and the LAs. [For large multi-site organisations there might be relief from routine site visiting but central approaches to examine performance using company’s own systems & data.]

66. Two or more of these options could be used in combination. However performance is assessed, the system needs to be clear, easy to understand and apply; and to promote confidence in the decisions that are made.

67. Some or all of the following criteria could be used for assessment:

- a) **Management (of health and safety)** perhaps against published standards (but sophisticated management system standards would not be appropriate for smaller organisations).
- b) **Commitment to being a “learning organisation”** which:
 - Investigates incidents and issues of concern
 - Has an improvement action plan with targets
 - Is open in reporting performance to its key stakeholders.
- c) **Injury and ill health incidence rates**; only meaningfully available for large organisations and the W&P Select Committee concerns should be borne in mind.
- d) **Worker involvement in H&S issues**; recent evidence suggests that the best performance in accident and ill health prevention

will only be achieved through a 'people-led' approach where the cultural and behavioural aspects of health and safety can be tackled.

- e) **Involvement of directors** (or equivalent), e.g. a named main board director being accountable for health and safety performance.
- f) **Effective systems for engaging with third parties** whose health, safety or amenity might be affected by the organisation's operations.

Practical implications of giving recognition to good performance

68. Publicly recognising good performance leads to the question of whether, and how far, regulators may then devote their resources for "intervening proactively" towards other employers who have not yet achieved good standards. As argued in paragraphs 13-14 above, this would be an extension of the targeting already practised, over many years, by HSE and LAs. It could provide a worthwhile source of freed-up resource for the other interventions discussed in this document and to concentrate more on poor employers, provided that its adoption was reasonably widespread.

69. To be acceptable to the majority such an approach probably needs to involve:

- a) Time limits: Any reduction or withdrawal of inspection and other forms of intervention should not be open-ended but subject to re-assessment after a specified period or serious incident.
- b) Incidents: If an incident meets the regulator's investigation selection criteria some action should result. This might be an employer/employee representative investigation report submitted to the regulator. More serious incidents should still be investigated by the regulator.
- c) Enforcement: The employer and individuals in the organisation should not have any immunity from prosecution in line with the Commission's Enforcement Policy Statement.

Interventions at and during exposure to risk

Inspection and enforcement

70. *The regulators within the system will continue to use all the tools available to them. Inspection and enforcement will remain vital intervention strategies, and will often be the means by which other strategies are brought to bear. They are important means to achieve the objective of improved standards, and they represent what many stakeholders expect to happen.*

71. Inspection and enforcement are highly effective in ensuring workplace compliance. They are widely understood and appreciated by businesses, with most companies throughout all industry sectors responding to site inspections and altering their practices following a

visit from the enforcing authorities. Most employers support a system of routine, unannounced visits. HSE and LAs have great experience in carrying out diagnostic inspections, drawing conclusions about duty holders from a limited sample of their activities. Judgements are captured on rating systems, which determine the frequency of future contacts.

72. For small businesses health and safety inspectors are the most commonly used and preferred sources of information and advice on health and safety issues. Small firms prefer specific advice and information related to their activities, which identifies what they need to do to improve standards. Direct contact via inspection is the preferred route for this.

73. For larger organisations it is felt that other forms of interventions could be put to greater use.

Intermediaries

74. *Enhancing the work done with people and organisations that can influence duty holders. These may be trade bodies, their insurance companies, their investors or other parts of government who perhaps are providing money or training to duty holders.*

75. Intermediaries can amplify the work of HSE and LAs and bring about changes in attitudes, awareness and behaviours. They are particularly effective where there is an established network of contacts.

76. There are a wide range of intermediaries who are willing and able to work with HSE and LAs including insurance companies, trade associations, training and enterprise organisations and professional bodies. The ability and level of interest shown by intermediaries varies greatly and there are concerns around the ability of intermediaries to promulgate messages. However, where there are shared goals with the enforcing authorities intermediaries have proven to be particularly effective

77. Examples of successful work with intermediaries include the “Workwell” initiative which involved LAs, HSE, Business Link, a Strategic Health Authority, Primary Care trusts, stakeholders from local businesses and Birmingham University in promoting and improving health management in the workplace; and a machinery safety initiative on hop presses in which intermediaries informed users about the safety of specific machinery.

78. Work with intermediaries in combination with advice, awareness raising and education can greatly benefit all sizes of duty holder in all sectors, but particularly SMEs.

Best practice

79. *Encouraging the development of best practice examples with those organisations who are committed to “leading edge” performance and then using these examples to show others the practicality and value of improving their own standards.*
80. This is most effective when linked to partnership, where good practice is shared amongst trade association members, or via local safety forums. A variant of “best practice” is an initiative intended to raise standards in the public sector, so that the Government can be an exemplar for others.
81. Manufacturing and Construction sectors have worked to share good practice amongst trade association members. This strategy is often informally used during inspections.
82. Regulators can encourage the use of this approach, but as with supply chain initiatives, cannot insist upon it. Again this is a fruitful area for duty holders to explore of their own volition.

Interventions when the consequences of exposure to risk arise

Incident and ill-health investigation

83. *Making sure that the immediate and underlying causes are identified, taking the necessary enforcement action, learning and applying the lessons.*
84. Investigation is important, as the consequences of failing to manage health and safety are more easily understood from a real rather than hypothetical incident. Although it does not necessarily address the overall health and safety of an organisation it should focus the duty holder’s attention on the underlying causes of failure, and can make them more receptive to advice and direction on other H&S issues. Investigations provide valuable intelligence to the regulator and help to inform policy development.
85. Independent investigation is important to the injured, bereaved and the wider public as a means of bringing negligent duty holders to account.
86. The HSC strategy commits HSE and LAs to continue to identify circumstances that require investigation and possible enforcement on a reactive (as well as proactive) means by responding to incidents.

Dealing with issues of concern that are raised, and complaints

87. *Encouraging duty holders to be very active and making sure that concerns and complaints from stakeholders are dealt with appropriately.*
88. For low risk premises that are visited less often, complaints can help identify any difficulties between planned inspections.
89. The strategy commits HSE and LAs to continue to identify circumstances that require investigation and possible enforcement on a reactive (as well as proactive) means by responding to complaints.

References

90. This consultation document is based on research undertaken with HSE and LA staff. The main research reports used are listed below. They are available on the HSE website or can be accessed by using the links provided.
- a) HSL - What works in HSE? Exploring the contextual knowledge of operational staff (2004)
http://www.hse.gov.uk/research/hsl_pdf/2004/hsl0411.pdf
 - b) WS Atkins - Evaluation of the impact of FOD interventions (2004) <http://www.hse.gov.uk/research/rrhtm/rr270.htm>
 - c) Greenstreet Berman - Building an evidence base for the HSC strategy to 2010 and beyond: a literature review of interventions to improve H&S compliance (2003)
<http://www.hse.gov.uk/research/rrhtm/rr196.htm>
 - d) Successful interventions with hard to reach groups (2003)
<http://www.hse.gov.uk/research/misc/hardtoreach.pdf>
 - e) Kings College London – Part 1 Factors influencing LA health and safety interventions and enforcement activity (2004)
<http://www.hse.gov.uk/research/misc/lainterventions.pdf>
 - f) Work & Pensions Select Committee report on the work of HSC/E
<http://www.publications.parliament.uk/pa/cm200304/cmselect/cmworpen/456/45602.htm>
 - g) Hampton Review of regulatory inspection and enforcement
http://www.hm-treasury.gov.uk/consultations_and_legislation/hampton/consult_hampton_index.cfm

Consultation Questionnaire

Our preferred method for receiving comments is electronically, via email. You can find a copy of the electronic comment form on the HSE consultation website at www.hse.gov.uk/consult/condocs/cdinterventions.htm

Completed forms should be sent to regulationandrecognition@hse.gsi.gov.uk

If you wish to send in your comments in hard copy, we would be grateful if you could supply the following information and structure your comments using the specific questions below.

Please provide some background information about yourself and your organisation.		
Title:	Forename:	Surname:
Organisation:		
Address		
Post code:		
Email address:		Telephone Number:
<p>If you are replying on behalf of an organisation please circle the most appropriate description from the 'Organisational return' list and complete the number employed or represented field. If you are replying as an individual please select from the 'Individual return' list. If none of the offered descriptions apply, please complete the appropriate 'other'</p>		
Organisational return: Employer Trade Union Enforcing Authority Trade body Professional body Other (please specify)	Number employed or represented:	Individual return: Manager Employee Union rep H &S professional Member of public Other (please specify)
Confidentiality:		
<p>Please indicate below if you do not wish details of your comments to be available to the public. (NB if you do not put a cross in the box they will be made public) Please treat my response as confidential. <input type="checkbox"/> (cross means confidential)</p>		

We would be grateful for your views on the following questions. To help us consider and analyse responses please refer to the relevant paragraph numbers or intervention number (as given on the Matrix) where possible.

Regulation – the methods available to HSE and LAs

1. What are your views on the proposed preferred mix of interventions? (See paragraph 25).
2. Assuming that there is no increase in resource available what balance would you advocate amongst the interventions? What should we concentrate on and which should we draw back from? (See paragraphs 24-27).
3. What are your views on the proposed interventions that employers could pursue of their own volition? What other interventions could employers pursue themselves? What (if anything) should we do to encourage this? (See paragraph 26).
4. What are your views on the use of the design and supply intervention? (See paragraph 26)
5. What are your views on the analysis contained in the intervention matrix? (See page 9).
6. Have we overlooked any important intervention techniques? Please provide details of any other approaches we should consider?
7. What other criteria should inform the choice or mix of interventions used?
8. Do you have any other comments on the ideas and proposals explored in this document?

Recognising good performance

9. Should existing targeting arrangements, whereby HSE and LAs direct interventions towards poorer performing organisations be developed and made more transparent?
10. The corollary of this targeting is that better performing organisations already receive less attention. Should this process be formalised and good performance be publicly recognised by regulators?
11. Other regulators (e.g. the Environment Agency, Food Standards Agency) are also examining how better performance could be assessed and influence the intervention regime for an organisation. Where this implies a withdrawal of proactive intervention it has been termed an 'earned autonomy' scheme. Should the HSE/LA approach to this be developed in conjunction with other regulators or a stand-alone system?

12. How should duty holder performance be assessed for such an approach and by whom; are the criteria suggested in paragraphs 65-67 necessary, appropriate, sufficient?
13. What should “not intervening proactively,” mean in practice?
14. Should public recognition be provided and, if yes, what form should it take?
15. Should our investigation policies and practices for incidents and complaints be altered for better performing organisations and, if so, in what way?
16. What should be the consequences of serious incidents or complaints on the organisation's status?