

March 2010

# The Government Response to the Rita Donaghy Report



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## **One Death is too Many – Inquiry into the Underlying Causes of Construction Fatal Accidents**

Presented to Parliament by the Secretary of State for Work and Pensions by  
Command of Her Majesty

March 2010

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## Foreword

The UK is rightly regarded as having one of the best health and safety records in the world. Since 1997/8 the rate of fatal injuries to workers has fallen by 40 per cent, including in the construction sector, reflecting the significant focus on improving safety by the Health and Safety Executive, local authorities, businesses and trades unions. While this is very welcome, every death is one too many and a tragedy to those involved and their families. That is why we need to do more.

The number of deaths in the construction industry has been a particular cause of concern, with the rate of fatal accidents four times that of other industries. While there have been important improvements, 53 construction workers were still killed in 2008/9, for example. We therefore asked Rita Donaghy to carry out a review into the causes of construction fatalities. I would like to thank Rita Donaghy and her team for their excellent work and their wide ranging recommendations.

The Government's response reflects widespread consultation across government and with stakeholders. I hope that the action set out in the response further improves the safety record in the construction sector and provides comfort to the families of those who have been killed by construction related accidents.

This response is not an end in itself though, and we must continue to work together – government, business, unions and workers – if we are to ensure that jobs in construction are as safe as any other.



**Yvette Cooper, MP**  
**Secretary of State for Work and Pensions**

## **The Government Response to the Report by Rita Donaghy CBE: One Death is too Many – Inquiry into the Underlying Causes of Construction Fatal Accidents**

### **Background to the Rita Donaghy Inquiry**

On 4 December 2008 the Secretary of State for Work and Pensions commissioned an inquiry into the underlying causes of fatal accidents in the construction industry. The commission reflected the Government's concern over the unacceptable level of deaths in the construction industry over the previous 25 years. In addition, the Government recognises that there are also a considerable number of injuries and many dying of the effects of long latency diseases each year resulting from working in construction.

Rita Donaghy CBE, former chair of the Advisory, Conciliation and Arbitration Service, was appointed as the independent chair of the inquiry. She subsequently appointed an academic peer review group:

- Professor Andrew Hale, Professor of Safety Science, Delft University of Technology
- Dr Sonia McKay, Reader, Working Lives Research Institute, London Metropolitan University
- Professor David Walters, Professor of Work Environment & Director of Cardiff Work Environment Research Centre, Cardiff University.

The team were supported by a secretariat supplied by the Health and Safety Executive (HSE) and the Department for Work and Pensions (DWP).

Under the Chair's direction and the scrutiny of the peer reviewers, the work of the inquiry included:

- A review by HSE of recent work to consolidate and summarise existing knowledge of causal factors in fatal accidents in the construction industry (including learning from 25 migrant/foreign worker fatalities).
- An external review of evidence about root causes of construction accidents and levers within and beyond health and safety systems to make further improvements.
- Review of a further 25 recent construction fatalities with independent oversight to enrich and inform the inquiry.

In addition, the inquiry included an extensive consultation with stakeholders, encompassing a wide range of employee and employer groups, academics, trainers, health and safety experts and members of the legal profession.

The Government would like to thank Rita Donaghy and her team for their work in undertaking the inquiry and producing the report 'One Death is too Many – Inquiry into the Underlying Causes of Construction Fatal Accidents', which was published on 9 July 2009. The Government welcomes the report which contains 28 recommendations for improving safety and health in the construction industry.

This is the Government response to those recommendations.

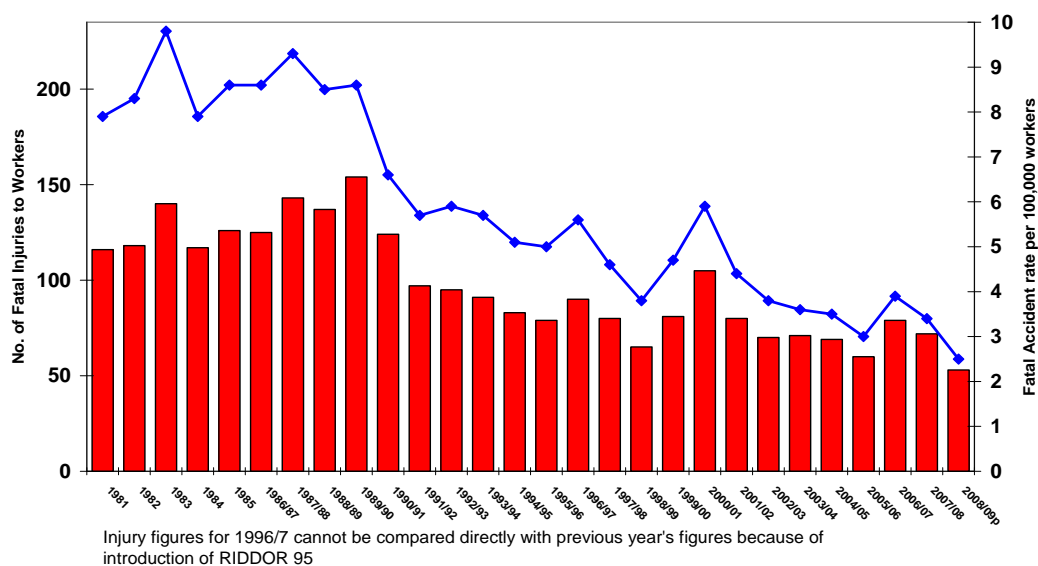
## Response to Rita Donaghy's Conclusions and Recommendations

### Introduction

Great Britain consistently has fewer fatal injuries in the workplace than comparable industrialised nations in the rest of Europe. Provisional figures show that the number of people killed at work in 2008-09 was 180 - a reduction of 53 compared to the previous year. In the construction industry, 53 workers were killed in 2008-9 compared to 72 in 2007-08. This equates to a rate of 2.5 per 100,000 workers, a reduction from 3.4 the year before. Based on these provisional figures, both the number of worker deaths and their incidence rate for 2008-09 are the lowest on record. Figure 1 below shows the most recent figures in the context of the number (bar) of fatalities and the incidence rate (line) since 1981.

Figures released by the Health and Safety Executive (HSE) in late December 2009 for the first six months of 2009-10 (April- September 2009) gave a total of 21 fatal accidents in construction (18 fatal accidents to workers, plus three members of the public). This shows a decrease of over 30% in fatal accident notifications received for the half year when compared with 2008/09p at the same stage.

**Figure 1:** Fatal injuries to workers in construction January 1981 to March 2009  
Trends in fatal accidents in construction



Source: Health and Safety Executive

While the record of the UK construction industry compares well with that of other countries, and the latest statistics are encouraging, the fatal accident rate remains over four times the average for all industries. So, although the latest figures show a welcome fall in the fatal accident rate, they are of little comfort to those who have lost loved ones, and the Government agrees with Rita Donaghy that every death remains a tragedy.

## Building Regulations

**Recommendation 1 - I recommend extending the Building Regulations so that health and safety processes should be included when considering building control applications or building warrants.**

The Government fully recognises the benefits of better and closer working between HSE and Building Control professionals and significant improvements in this area are already being taken forward. However, both the Government and industry recognise the limits to what can be delivered through Building Regulations. This is because, in many instances where fatal accidents occur, the type of work, for example roof repairs or electrical work, may not be covered by Building Regulations or may be self-certified and therefore not subject to building control scrutiny. Furthermore, the limited use of full plans applications restricts the opportunity for Building Control professionals to apply scrutiny to construction health and safety issues prior to work starting on site.

Government consultation with stakeholders identified limited support for Building Control Officers (BCOs) to take on the role of health and safety enforcing officers, due in part to the fact that Building Control in England and Wales is carried out by both the public and private sectors. However, there was a high level of support for BCOs to identify poor practice when they undertake site inspections and to help to raise awareness of construction site safety issues with their clients. In Scotland Building Control is a devolved matter and building standards verification is currently only carried out by local authorities, although legislation allows for both public and private sector involvement. There are similar opportunities in Scotland for Building Standard Surveyors to identify poor practice and raise awareness.

The Government considers that there is great value in improving the way in which information about health and safety is shared at a local level between HSE and other regulators such as Building Control. HSE's Local Authority Construction Engagement (LACE) project is rapidly increasing local liaison between HSE and Building Control, with a view to improving the intelligence about poor health and safety practices where these are encountered. A small number of local liaison groups have been established, and this number is planned to grow as more local authorities participate and these groups extend to cover Approved Inspectors (private sector Building Control). This work also encourages all Building Control Bodies to provide web links to current health and safety information on the HSE website. To facilitate this work, the Government is working towards a national framework agreement covering joint working arrangements between HSE and the Building Control Alliance (who represent both Local Authority Building Control and Approved Inspectors in England and Wales). In Scotland, there is scope for similar cooperation between HSE and local authorities.

HSE's LACE work also recognises the increased role that other local authority regulators, such as Environmental Health, can play in improving health and safety standards on construction sites. Pilot projects are underway through which Environmental Health Officers (EHOs) are influencing designers and clients to comply with their duties under Construction (Design and Management) Regulations

2007 (CDM), where the completed premises will fall to them for enforcement under health and safety legislation. Other pilot projects are widening the powers of EHOs through flexible warranting schemes to enforce the provisions of CDM where they encounter problems at smaller sites which may not otherwise come to the attention of HSE. In support of this work a range of supporting material has been developed to equip EHOs to provide advice to dutyholders on complying with the health, safety and welfare requirements of CDM.

HSE plans similar work in the future with other Local Authority regulators such as Trading Standards, Highways and Planning. In particular, a number of regional initiatives have started to improve the safety of scaffolding near public highways through improving the consistency of their licensing conditions by Local Authorities.

The Government is committed to evaluating the CDM Regulations. The HSE has recently started this review which will consider how more use can be made of local authority enforcement functions.

The Government also has an important role to play in raising awareness of health and safety issues both with the construction industry and their clients, particularly small firms and householders, and much work is already in hand. As part of this awareness raising the Department for Communities and Local Government (CLG) has already incorporated a number of links to health and safety information into the building regulations pages of the Planning Portal website. HSE and CLG will explore how to further improve awareness of such information, potentially through the tools on the Planning Portal such as the “interactive house” and including links to basic health and safety information in other guidance documents and leaflets.

## Gangmasters Licensing Regulations

**Recommendation 2 - I recommend that the remit of the Gangmasters Licensing Regulations should be extended to include construction. Alternatively, a Regulation should be made which has the same effect.**

Rita Donaghy's report recommends the introduction of licensing arrangements in the construction industry where exploitative employment practices exist. She suggests that what she terms as the construction "floor" should be licensed. This term is used to cover those workers she considers as likely to be the least protected on safety and other grounds – typically those involved in labour only subcontracts. This includes gangmaster arrangements, some of which, it is suggested, may have migrated to the construction industry to avoid the application of the gangmasters licensing regime.

The Gangmasters Licensing Authority (GLA) was introduced to regulate activity undertaken by gangmasters in the agriculture, horticulture, shell fishing and related processing and packaging industries. Its mission is to safeguard the welfare and interests of workers as defined by the Gangmasters (Licensing) Act 2004, whilst ensuring labour providers operate within the law. The GLA's licensing standards cover eight key areas including pay, tax, accommodation and health and safety. The GLA does not impose new regulations in these areas but instead provides enforcement of existing requirements. For health and safety the main aim of the licensing regime is to ensure agreement between the labour supplier and hirer on who will have responsibility for managing day to day health and safety including the preparation and implementation of suitable risk assessments.

The responsibility for ensuring the health and safety of construction workers, however, is already clear. Under the CDM regulations, the principal contractor has responsibilities for ensuring the health and safety of all individuals who work on a construction site, regardless of their employment status – including those directly employed, labour-only sub-contractors and the self-employed. Additionally, each contractor working under the principal contractor has duties to all individuals who are working under their control. These duties are on top of the requirements that individual employers have to their employees. These existing legal responsibilities are enforced by the HSE.

Duties on the principal contractor include the requirement to consult with all workers involved in a project to ensure that the measures taken to protect workers' health and safety are effective. Contractors are also under a requirement to provide workers under their control with any necessary information which they need in order to work safely, to report problems or to respond appropriately in an emergency.

It would therefore appear that, from a narrow health and safety perspective, robust protections are in place. When the CDM regulations were introduced, however, the Government gave a commitment to carry out an early review of the regulatory package and associated guidance. The HSE has recently started this review, which will include consideration of whether the health and safety protection afforded to all workers by these regulations is still adequate.

The Government also recognises the need to do more to protect vulnerable workers, particularly short term and casual workers, on wider non-health and safety matters, and is taking forward a number of workstreams to address this issue.

The Government's Vulnerable Worker Enforcement Forum (VWEF), launched in June 2007, had a mandate to look at evidence across all UK industry and workers of the nature and extent of abuse of workplace rights and the effectiveness of existing enforcement arrangements. This included consideration of the extension of the GLA's remit to include sectors believed to have a high proportion of vulnerable workers, which included construction. The VWEF report was published in August 2008. In it, the Government concluded, having heard conflicting views on the case for extending licensing, that the priority was effective enforcement of the existing law which could be achieved through measures such as increasing the powers, resources and profile of the EAS.

Following publication of the VWEF report, a major programme of work has been undertaken to improve the enforcement of basic rights and ensure that all workers, including agency workers, benefit from the improved framework of employment law protections put in place since 1997. These steps have included:

- The launch in 2009 of a £6 million, three-year information campaign to improve awareness of vulnerable workers rights and how to report abuses.
- The launch, in September 2009, of single Pay and Work Rights Helpline (0800 917 2368) covering the National Minimum Wage, Agricultural Minimum Wage, working hour limits and potential abuses of employment agency and gangmaster regulations.
- The Employment Act 2008 which brought in new and tougher penalties for failing to comply with employment law.
- The launch of a third round of the Union Modernisation Fund to improve the support that unions are able to provide for vulnerable workers. As part of the round, BIS is supporting a UCATT project to establish a vulnerable worker unit.
- More joint working between the enforcement bodies, better information-sharing gateways and building improved links with trade unions and others with local intelligence about employers flouting the law.
- The establishment of a Fair Employment Enforcement Board made up of the Government's enforcement bodies, unions, business groups and Citizens Advice to drive further progress.

While some businesses in construction maintain their workforce through direct employment, the more common practice is for firms to finalise labour engagement as and when they secure contracts. In her report Rita Donaghy was clear that the construction industry is too diverse to make a blanket recommendation on direct employment. Sub-contracting and self-employment is key to the functioning of the construction industry and this is acknowledged in the inquiry report. The Government recognises, however, the issue associated with "false" or "bogus" self-employment which is identified in the inquiry report as a factor in reducing job security, discouraging the reporting of unsafe practices and serious accidents. While the Government had previously made targeted efforts to address this problem in the construction industry, and despite measures to encourage voluntary compliance,

there has been no obvious lasting reduction in the problem. The Government therefore concluded that the best way to address the problem was through legislation.

In July 2009 the Government therefore launched a consultation: 'False self-employment in construction: taxation of workers'. It outlined a proposal to deem workers to be in receipt of employment income unless one of three criteria is met. The consultation closed on 12 October 2009 and a summary of responses was published on 9 March 2010. The responses reflected a very wide range of views and there was no consensus as to the criteria to be included in the test or that there should be a legislative solution of the nature proposed. The Government remains committed to addressing the problem of false self-employment and will continue to work with stakeholders to develop a legislative solution that is well targeted, effective and that allows the industry to retain a flexible labour supply.

The diverse employment and contracting arrangements in the construction industry mean that an extension of the gangmasters licensing regime to construction in its current form would bring nearly all contractors, employment agencies and other suppliers within scope. This is not what the Government understand Rita Donaghy's report to be recommending. Such a regime could involve licensing in excess of 200,000 construction businesses. Given that the current GLA operation is much smaller, issuing about 1,200 licenses, this would result in significant capacity and cost implications.

In looking how further to protect vulnerable workers in the construction industry from exploitation, the Government will continue to consider whether applying aspects of a licensing regime to parts of the industry would be an effective method of achieving this.

## Directors Duties

**Recommendation 3 - I recommend that there should be positive duties on directors to ensure good health and safety management through a framework of planning, delivering, monitoring and reviewing.**

The Government agrees that directors have a duty to take positive action to ensure good health and safety management through a framework of planning, delivering, monitoring and reviewing. Effective leadership of health and safety is required not only of directors but their equivalents across the private, public and third sectors. This requirement for active and positive leadership on health and safety is not new and should not be in the least bit contentious. It is clearly expressed in the Institute of Directors (IoD) / HSE guide entitled “Leading Health and Safety at Work”.

The Government also considers that those directors who fail in their responsibility should be properly held to account, so that the actions, decisions and omissions of individuals are not just attributed to those of the body corporate. This should include, where appropriate and as a result of due process, being prosecuted and variously fined, disqualified from acting as a director or imprisoned.

So, in essence, the Government see this as an issue about the means rather than the ends. On the ends, the Government share a common vision with Rita Donaghy and, the Government believe, most stakeholders.

What continues to be contentious is whether the existing legal framework needs to be amended to better achieve these objectives – in particular, whether the status quo is sufficiently robust to drive and incentivise the leadership responsibility we seek and to hold individuals to account when they fail.

Discussion with stakeholders on this issue has identified that there is considerable polarisation of opinion. There is strong support from some for the strengthening of positive duties on directors via the introduction of new legislation. Others are strongly opposed to additional legislation. The opposition is based on the opinion that there is sufficient legislation already in place, the full impact of which is still to be seen.

In July 2008 the Government made a commitment to the Work and Pensions Select Committee to revisit the question of more specific legal duties on directors following a thorough and independent evaluation of the impact of the current approach. The evaluation has been conducted by an Independent Steering Group chaired by HSE’s Chief Scientist with members that include employer and employee representatives. It was a substantial piece of work which took a comprehensive look at the recent measures taken to strengthen director leadership on health and safety. These measures include:

- The Corporate Manslaughter and Corporate Homicide Act 2007 which redefines the offence of corporate manslaughter and allows for prosecution of the corporate body with penalties of unlimited fines and (potentially) adverse publicity orders

- The Health and Safety (Offences) Act 2008 which means, following a successful prosecution of an individual, a custodial sentence is an option, as well as a fine, for a wider range of health and safety offences
- Joint IoD/HSE guidance “Leading Health and Safety at Work: leadership actions for directors and board members“, published in 2007
- Revised prosecution guidance for HSE inspectors

The Steering Group is in the final stages of compiling their report but the Government has had advance sight of some of the evidence they have considered. While this evidence does highlight that many directors are already demonstrating the behaviours the Government is looking for, and that there has been some improvement in behaviours, there seems little to show that any such improvements are as a direct result of the various measures introduced. For example, survey results have shown an improvement in the proportion of directors aware of the IoD/HSE guidance and who have read it. The evidence was inconclusive, however, on whether those directors were more likely to take action subsequently.

While some of the findings are positive, in the absence of sufficient evidence that behaviours have changed significantly, the Government does accept that the options for further reform should be looked at.

There are a number of measures that should be examined. Most extend beyond the construction sector, and therefore would need to be assessed carefully in terms of their real impacts and whether they are proportionate.

Non-legislative options include:

- The wide range of work underway under the leadership theme of the HSE strategy, including building strategic partnerships across organisations; developing tailored approaches for different industries; and establishing exemplars, case studies and networks for spreading good practice.
- Proposals to augment the IoD/HSE guidance with a suite of sector-targeted guidance
- Ongoing work to boost the competence of HSE inspectors when dealing with leadership issues and leadership failures – in particular, ensuring inspectors are provided with support, when needed, to ensure the consistent application of HSE’s prosecution policy

Rita Donaghy outlined two suggested legislative approaches:

- The imposition of a general duty on directors by way of an amendment to the Health and Safety at Work Act 1974
- A self-standing regulation made under the Act, supported by an Approved Code of Practice

Other possible areas to consider include;

- reviewing the threshold in the 1974 Health and Safety at Work Act (e.g. s37) for prosecuting directors and others for health and safety breaches;
- requiring that health and safety policy statements include a named director or equivalent senior manager responsible for overseeing health and safety;
- increasing focus on health and safety by including it as one of the issues to be covered by the 2006 Companies Act business review. We would need to be mindful, however, that proceeding via the Companies Act, especially those provisions that apply only to larger and/or listed entities, would be unlikely to be sufficiently targeted.

In recognising the need to do more, the Government is actively considering whether the legislative approaches outlined above would achieve the common vision. The Government is therefore undertaking further work to assess the effectiveness, viability and appropriateness of the various options in encouraging directors to be proactive in their health and safety responsibilities. The Government will, of course, continue to fully engage stakeholders and consult widely as this work is taken forward.

## The Courts

**Recommendation 4 - I recommend that the courts should be assisted on the issue of specific responsibilities of directors to carry out corporate health and safety governance so that they can make appropriate judgements about the verdict or level of fine or whether disqualification is merited and, if so, for how long.**

The Government supports the provision of appropriate sentencing guidance to the Courts. To encourage consistent and proportionate sentencing an independent body, the Sentencing Guidelines Council (SGC), produces and keeps under review sentencing guidelines that all courts in England and Wales must have regard to. Different arrangements exist in Scotland and in Northern Ireland where similar sentencing bodies have not been established<sup>1</sup>.

The previous sentencing guidelines for offences in Magistrates' Courts, published in 2004, included guidance on health and safety offences. The SGC reviewed the whole guidelines package in 2007 and consulted on proposed amendments in December 2007. The SGC published its Revised Magistrates Court Sentencing Guidelines on 12 May 2008. The guidelines were implemented on 4 August 2008 and make it clear that disqualification is an option for the courts when a director is convicted of a health and safety offence. General guidelines for sentencing in the higher courts are in the form of sentencing principles and guideline judgements, which include health and safety cases.

The SGC has recently published new guidelines<sup>2</sup> on the levels of fines that courts in England and Wales should impose for corporate manslaughter convictions under the Corporate Manslaughter and Corporate Homicide Act 2007 and for offences under the Health and Safety at Work Act 1974 (HSWA) causing death. The Government took Rita Donaghy's recommendations into consideration when responding to the Council's consultations with stakeholders prior to publication. In addition Health and safety offences have been identified for consideration for inclusion in a future programme of work for the Sentencing Council for England and Wales, which replaces the SGC from 6<sup>th</sup> April 2010.

HSE, when it brings legal proceedings against directors or other senior individuals, will outline to the courts the specific responsibilities and practical steps that could be taken by individuals in discharging their responsibilities and highlight the options available in respect of disqualification.

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<sup>1</sup> On 6 March 2009, the Scottish Government published the Criminal Justice and Licensing (Scotland) Bill with proposals for a Scottish Sentencing Council, which would develop a system of sentencing guidelines. The Bill is currently before the Scottish Parliament.

<sup>2</sup> Corporate Manslaughter & Health and Safety Offences Causing Death – Definitive Guideline published by the SGC on 15<sup>th</sup> February 2010 available at [http://www.sentencing-guidelines.gov.uk/docs/guideline\\_on\\_corporate\\_manslaughter.pdf](http://www.sentencing-guidelines.gov.uk/docs/guideline_on_corporate_manslaughter.pdf)

**Recommendation 5 - I recommend there should be an investigation into the built-in delays in the system leading to prosecution and conviction or other outcomes on construction fatal accidents.**

The Government supports the expedient investigation of work related accidents.

As is recognised in the Report, delays in work related death investigations and subsequent prosecutions can arise for a number of reasons and involve the police, the HSE, the Crown Prosecution Service, the Crown Office and Procurator Fiscal Service, Coroners and Courts.

In the Crown Court, work is being carried out to gain an understanding of the reasons for the increase in Crown Court workload and to improve efficiency generally, particularly in regard to robust case management and compliance with the Criminal Procedure Rules. Her Majesty's Court Service (HMCS) is working closely with the senior judiciary and other criminal justice agencies to investigate ways of achieving an improvement in the effectiveness of current practice and procedure.

In terms of magistrates' court delays, HMCS has seen significant improvements in the average time adult cases take from charge to conclusion. Through its Criminal Justice: Simple Speedy Summary programme HMCS has worked with its partner agencies and the judiciary to achieve time savings and a reduction in the average number of hearings per case.

In terms of investigation HSE has introduced improved investigation and enforcement case management procedures to ensure that matters within its control proceed as quickly as possible and enforcement decisions are reached without delay. These arrangements will continue to be subject to senior management oversight.

The Government recognises that delay can be caused by the policy not to bring criminal proceedings before the conclusion of the coroner's inquest except in exceptional circumstances. HSE intends to consider with other signatories to the Work Related Death Protocol whether a different policy, based on considering the actual legal risks in individual cases, may allow a prosecution to be brought before the inquest in some cases. This could have a significant impact on reducing the delay in bringing criminal proceedings.

The Government also recognises the impact delays may have on the bereaved. When a fatal accident is investigated both the police and HSE have arrangements in place to inform, advise and support bereaved families. Early contact is made in every case and families are provided with timely information and advice about the conduct of the investigation and, in England and Wales, any subsequent legal proceedings. In Scotland the Crown Office and Procurator Fiscal is responsible for maintaining contact with the bereaved family once they have received the investigators report. The method and timing of contacts are established by agreement with the family. Delays in the investigatory process or in legal proceedings are explained to families.

## Minister for Construction

**Recommendation 6 - I recommend that there should be a full-time Minister for Construction with a co-ordinating brief to lead on construction.**

The Minister for Business and Regulatory Reform, within the Department for Business, Innovation and Skills (BIS), has responsibility for a number of business issues and sectors, including construction. The Government is aware of the strong support from within the construction industry for a full-time Construction Minister but believes that the value that derives from a Minister being able to bring a broader sector perspective is significant. Addressing issues as part of a cross-sectoral portfolio, such as support to help businesses get through the recession, and representation of industry concerns across Whitehall, can potentially bring wider benefits to construction than might otherwise be the case. The Government therefore does not accept this recommendation at this time.

However, in recognition of the importance of the construction industry, on 24 November 2009 the Government announced the appointment of Paul Morrell OBE as the first Chief Construction Adviser (CCA). The CCA will be independent and report to HM Treasury and BIS Ministers. He will work with Government and the industry to act as a link between the two and ensure Britain's construction sector is equipped with the knowledge, skills and best practice to make the most of the opportunities which the 21st century will offer.

The new role will provide a focal point for the construction sector, securing value for money from the Government's procurement of construction, promoting innovation and sustainability in the industry, and ensuring that the Government takes full account of the impacts of the regulatory regime on the construction industry. Assisting the drive on safety improvement, across the piece, is therefore implicit in the role of the CCA.

## Public Procurement

**Recommendation 7 - I recommend that Office of Government Commerce guidance and the mandatory Common Minimum Standards should be applied throughout publicly funded construction projects, including local authorities, and systems for accountability should be more effectively monitored and enforced with appropriate sanctions.**

Government accepts this recommendation.

The Common Minimum Standards (CMS) summarise requirements for the procurement of built environments in the public sector. The introductory page of the CMS clearly states that they are mandatory across central government including departments and the executive agencies and non-departmental public bodies for which they are responsible. Departments are required to take all reasonable measures to ensure that the standards are also adopted throughout the wider public sector, where responsibility for expenditure of public funds has been devolved – such as to local authorities, health trusts and the police. The CMS are due to be revised in the first half of 2010.

The Government agrees that public sector clients should continue to take the lead in driving up health and safety standards through the work they procure.

The HSE will consider what further work can be carried out to improve levels of awareness and understanding of methods of procurement consistent with guidance on the duties of clients under the CDM Regulations. It is currently carrying out research to gather further information about procurement practices in the public sector and current levels of awareness and understanding of the CDM guidance. The results of the research will help inform the nature of HSE's future interventions with public sector organisations.

Stakeholders consulted were strongly supportive of this recommendation due to the high proportion of publicly funded construction projects which could be used to raise standards across the industry.

**Recommendation 8 - I recommend that there should be standard agreed bench-marks to test against the myriad of pre-qualification schemes so that sub-contractors do not have to acquire a host of pre-qualifications before participating in tenders for public and private work including local schools, hospitals or housing associations. The Government should take the lead on this as a major client in public procurement.**

The Government accepts this recommendation.

Changes made to the CDM Regulations simplified competence assessment and discouraged unnecessary bureaucracy. HSE is working with health and safety pre-qualification schemes through the Safety Schemes in Procurement Forum (SSIP) to ensure that accreditation requirements are consistent with the stage 1 core competence criteria required by CDM. SSIP has established operating protocols and has appointed an independent auditor to audit each member scheme against these protocols.

HSE-funded research is currently being undertaken to identify training and competence standards for pre-qualification scheme assessors and to develop a programme of continuing professional development. The aim of this work is to achieve an agreed standard against which pre-qualification schemes can be measured consistently and to facilitate mutual recognition between schemes. HSE will continue to work with SSIP to raise awareness of the work of the Forum, increase mutual recognition between schemes and to ensure the CDM Core Criteria are properly and consistently applied.

The Government as a major client recognises that pre-qualification is an issue for the industry and has been working with HSE and the British Standards Institute (BSI), to work out a solution to improve effectiveness and reduce unnecessary cost.

Government consultation with stakeholders identified strong support for this recommendation to reduce cost to the industry and make contracts more accessible to small and medium-sized enterprises (SMEs). There is a strong desire to see Government procurement as an exemplar.

The Government, through BIS, is working with the BSI to produce a Publicly Available Specification (PAS) covering Construction Prequalification. The PAS is designed to be used by the private sector as well as the public sector so that it can be used throughout the supply chain. This work will draw together stakeholders from across the industry, including suppliers and clients. It will also involve the Office for Government Commerce (OGC) and will support the recommendations of the committee led by Ann Glover<sup>3</sup> in producing a common method of prequalification for small and medium-sized employers supplying the public sector. The final PAS will provide a single model recommendation for construction prequalification, agreed with all of the major stakeholders. The CDM regulations will form the basis for the health and safety questions being drafted into the PAS. SSIP and other important stakeholders are represented on the group developing the PAS, which will later invite wider public comment on the content according to BSI's standard for producing PAS.

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<sup>3</sup> The Glover Committee's report '[Accelerating the SME Economic Engine](#)' was published in December 2008.

## Construction Skills

**Recommendation 9 - The work of ConstructionSkills is also very important to the industry. I recommend that there should be a review of the allocation of grants as evidence suggests that it is the larger companies which make most use of the available funding. Some more redistributive allocation would be welcome.**

The Government strongly supports the work of ConstructionSkills and any work which increases the uptake of training grants by SMEs is to be welcomed.

Matters relating to the allocation of grants are for the main Board of CITB-ConstructionSkills to address in the first instance, with proposals subject to Government approval. CITB-ConstructionSkills is the statutory Industry Training Board and, as such, they regularly monitor and review the allocation of grants to ensure that there is sufficient encouragement to SME and micro companies to train. In 2009, employers with less than 10 employees paid £30.1m in levy and received £44.8m in grant and other support payments. Employers with 250 employees or more paid £60.7m in levy and received £61.1m in grant and support payments. Employers who paid no levy, the majority of whose payments to employees and labour-only sub-contractors fell below the small firms' exclusion limit of £80,000, received grants of £27.6m in 2009.

**Recommendation 10 - I recommend that some research is carried out to identify why there is such a high drop-out rate from apprenticeships despite high volumes of applications.**

The Government is not aware of any evidence of a high drop-out rate for construction apprenticeships. The retention level for apprenticeships managed by ConstructionSkills is around 75% and we understand that this performance is higher than other training providers. However, application levels for apprenticeships fell during 2009 which was an understandable effect of the recession in the industry.

Proposals for research projects are for the main Board of CITB-ConstructionSkills to address in the first instance. ConstructionSkills may wish to explore the possibility of carrying out work to identify the underlying reasons for the non-completion of apprenticeships. This may also cover students in full-time college courses which some learners may believe are a form of apprenticeship. The research could also touch upon which specialist trades are most appropriate for 19+ year old apprentices.

**Recommendation 11 - The Construction Skills Certification Scheme card system is an important development in the industry. I recommend that the system should be further consolidated and renewed with a more strategic approach as to its future development.**

The Government welcomes the work of the Construction Skills Certification Scheme (CSCS) to promote competency and health and safety awareness in the industry. The development of the Scheme has provided an important contribution to health and safety in the construction sector with CSCS cards increasingly demanded as proof of occupational competence.

CSCS exists to meet industry needs and is construction/union owned and managed, with the Government having no direct involvement. The Government is pleased to note, however, that CSCS has accepted Rita Donaghy's recommendation that a more strategic focus is required. They consider that their current strategy provides them with a framework to build on their positive achievements over the last 14 years. The recent introduction of a SmartCard is intended to provide a facility to raise standards of ongoing competence and safety.

The initiative to 'qualify the workforce' (QtW), which is a partnership between industry and ConstructionSkills, has been in operation since the 2001 Health and Safety Summit. To date, over £5 million has been invested by ConstructionSkills in supporting major contractors, employer federations and trade unions to develop the skills of the construction workforce. One of the key tasks of the newly re-licensed Sector Skills Council for Construction will be to evaluate the success of QtW. The evaluation will include a review of the effectiveness of card schemes, such as Construction Plant Competence Scheme (CPCS), CSCS and other such schemes, in providing a 'transportable certificate' of competence, based upon industry standards that individuals and employers can rely on. This evaluation will include recommendations on the setting of competence standards (and the training and assessment that supports competence standards) in the future and to ensure a more robust system for how trained and experienced individuals can demonstrate that they are competent.

**Recommendation 12 - I recommend there should be a review by the Higher Education Funding Council for England (and the equivalent bodies in Scotland and Wales), the industry and professional bodies on the adequacy and relevance of university or college curricula in covering design, health and safety awareness and risk management issues.**

The Government supports the education of all new entrants into the construction industry to ensure awareness of health and safety risk management and the regulatory framework.

Rita Donaghy is right to highlight the adequacy and relevance of university and college curricula, and their relevance to health and safety. It is important that students understand fully the challenges of the work environment they will enter at some stage. BIS will seek to influence policy where they can through participation in various fora. This includes work with the Joint Board of Moderators (JBM): four engineering professional institutions working together; amongst other things they accredit higher education (HE) engineering programmes. Following Rita Donaghy's report, the JBM Board is paying specific attention to the teaching of Health and Safety Risk Management in HE, and how to ensure that design, health and safety awareness and risk management issues are appropriately covered in the curriculum. The Construction Industry Council<sup>4</sup> will also be taking forward a number of relevant workstreams in this area. HSE has also funded research on risk education in construction and developed tools for higher education establishments to use to deliver education on risk within their curricula. There has been some progress, however, take up of the tools and improvements has been patchy.

The Government has received a commitment from ConstructionSkills to conduct a review of the current position, including a review of current HSE research, into the provision of health and safety awareness and risk management within the curricula of the HE built environment courses. This will be conducted in consultation with the leading professional design institutions. Further consideration will be given to partnering with universities in order for their students to take advantage of the National Construction College (NCC) Constructionarium initiative that provides a unique opportunity to see the direct impact of design decisions on buildability and, consequently, the construction related health and safety issues.

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<sup>4</sup> The Construction Industry Council is the representative forum for the professional bodies, research organisations and business associations in the construction industry.

## Worker Participation

**Recommendation 13 - I recommend that the industry should renew its efforts to establish genuine consultative frameworks to encourage greater worker participation.**

The Government supports this recommendation. A key tenet of HSE's strategy for the health and safety of Great Britain<sup>5</sup> is to reinforce the promotion of worker involvement and consultation in unionised and non-unionised workplaces of all sizes. To help industry improve worker consultation HSE is undertaking the following activities:

- A campaign to emphasise the place of worker involvement and the benefits of a co-operative approach;
- providing part-funded basic training for health and safety representatives in non-unionised workplaces in target sectors including construction;
- piloting joint training for health and safety representatives and first line managers, to facilitate better joint decision making and co-operation.

HSE recently launched its 'Do Your Bit' campaign aimed at employers in non-unionised construction SMEs, as well as other sectors, to encourage more involvement of employees in health and safety. Through a third party training provider, HSE will provide subsidised training to help workers develop a basic knowledge of health and safety management, including negotiating and persuasion skills to effect changes in their workplaces. This training has been tested via two HSE funded pilots in the North West and South East of England with assistance from ConstructionSkills and UCATT. In addition, the campaign offers a fully-funded joint training course for managers and representatives from any organisation, aimed at removing barriers to effective management of health and safety.

Worker engagement forms a key element in the delivery of HSE's Construction Division's Workplan. An existing 'worker engagement decision tool' on the HSE website is currently being used by inspectors during operational visits. Meanwhile, the construction industry's Leadership and Worker Engagement Forum (LWE, formerly the Behavioural Change and Worker Engagement Forum) is developing an evidence based framework of guidance for industry in the form of a web toolkit. This new toolkit is currently being piloted via the HSE website as part of the development process. A further research project is underway, building on the work of the LWE Forum, ongoing HSE initiatives and previous research.

Through engaging with major contractors in the industry, HSE has identified the value of initiatives which integrate the bottom up approach of consultation into the more traditional top down functions of leadership in health and safety. For example, one major contractor reports that since making Worker Engagement a foundation element of their safety management system, 85% of their current projects were running at a performance level of zero reportable accidents or incidents. In another

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<sup>5</sup> The Health and Safety of Great Britain//Be part of the solution was published by HSE in June 2009 and is available online at <http://www.hse.gov.uk/strategy/document.htm>

example, a major contractor substantially revised its advice on selection of work equipment for accessing heights up to 4.5 metres following consultation. Evidence suggests that public sector clients can also benefit from improved worker engagement, by setting targets for consultation, setting expectations of outcomes and monitoring the quality of communication on projects.

HSE has supported the Strategic Forum for Construction's (SFfC) Worker Involvement Working Group in creating and publishing a new guidance booklet aimed at encouraging SMEs to improve the quality of worker involvement on their sites. HSE will continue to support this group on future initiatives.

**Recommendation 14 - I recommend that support should be given to those organisations working on developing the worker safety advisor scheme. Any initiatives arising from Dame Carol Black's recent report (Working for a Healthier Tomorrow) which included a possible expanded role for trade union safety representatives to promote the benefits of employer investment in health and well being, should include some funding for a project in the construction industry.**

The Government supports the recommendation in principle.

DWP has jointly funded a project with the Institution of Occupational Safety and Health (IOSH) to pilot a new training programme for health and safety practitioners. The training, which was available to practitioners working within the construction industry and elsewhere, was aimed at improving their understanding of workplace health and well-being issues. The pilot training courses have now been delivered and will be fully reviewed before considering any further roll out or expansion.

**Recommendation 15 - The positive role that trade unions can play in health and safety is not fully appreciated by the construction industry and I recommend that more should be done, particularly by the larger companies to encourage joint working with the unions.**

The Government recognises the longstanding and very positive role that trade unions have in bringing about improvements to health and safety in construction. BIS supports and promotes the SFfC construction commitments, which highlight the role of the unions, and the importance of good employment practice, including health and safety aspects. An example of this is the recently established Innovation and Growth Team for Low Carbon Construction which has trade union representation on the Steering Group.

Since its creation, HSE's Construction Industry Advisory Committee (CONIAC) has worked on a tripartite principle of employers, trade unions and government advising the former HSC and now HSE Board on construction related matters. This principle has been maintained as part of CONIAC's reconstitution and indeed this

reconstitution has broadened trade union representation at CONIAC. HSE will continue to work with trades unions and the construction industry as part of its strategy to promote worker engagement.

**Recommendation 16 - Where there is no trade union presence, I recommend that renewed efforts should be made to encourage genuine worker involvement so that workers are alert to risk and can speak out without unfair consequences about unsafe practices. This would involve the Strategic Forum for Construction, the Health and Safety Executive and any other organisation currently involved in worker engagement.**

The Government supports this recommendation. Effective worker involvement needs to be an essential component of the industry's approach to ensuring effective health and safety management. We recognise that there is scope for more to be done in this area and BIS will continue to work with HSE, the SFfC and others on activities to address this matter. The issue of worker involvement is also covered in the response to Recommendation 13.

Workers who have concerns on health and safety, despite any arrangements set up on site for worker engagement, can contact HSE in confidence to raise their concerns.

**Recommendation 17 - I recommend that construction workers, as individuals, should consider the impact on their families of unsafe working practices and should accept responsibility for their own safety so far as they are able. I recommend that employees should join a trade union as their families are more likely to receive support and advice in the event of a fatal accident; similarly a self employed worker should have sufficient insurance to enable their families to obtain legal advice should it prove necessary.**

All involved in construction have a role in ensuring that those who work in the industry can do so safely. Rita Donaghy quite rightly highlighted that individual workers have a part to play in the process and sees the taking up by individuals of their personal responsibility in health and safety as essential.

The Government view is that trade unions can play a significant role on behalf of individuals in the workplace, but that individuals should be free to choose whether or not to belong to a union. Union members should not be victimised because of their membership.

**Recommendation 18 - I recommend construction companies should hold the names and contact numbers and addresses of close family members in the event of accidents.**

The Government regards this as an eminently sensible idea recognising that the availability of such information may also help facilitate family liaison during the investigation process. There are clearly some practical considerations though, taking into account the peripatetic nature of many workers in the industry and the need to maintain data protection.

The Government feels this is a matter for the industry to pursue on a voluntary and individual basis. During consultation with stakeholders it was identified that the recent introduction of the CSCS SmartCard may go some way to facilitate making relevant details more readily accessible in the event of an accident.

## Partnership Working

**Recommendation 19 - I recommend that the industry should continue to support partnership working through the supply chain.**

The Government welcomes this recommendation which is fully in line with the 'Rethinking Construction' industry improvement agenda and the work of the SFfC. For a number of years BIS has supported the industry in its moves towards more integrated working practices for a variety of reasons ranging from health and safety through to the delivery of low carbon jobs for the future. Current initiatives include the use of nine public sector projects to demonstrate the business case for more integrated working. These projects are now in their second year and evaluation will be undertaken to inform future initiatives.

This recommendation also reflects the need for joint ownership of health and safety by all parties to a construction project, and this approach is reflected in HSE's published guidance.

## Occupational Health

**Recommendation 20 - While this was outside the scope of this Inquiry, Occupational Health remains a serious problem in the construction industry with thousands of workers dying every year. I recommend that renewed efforts should be made to tackle this issue.**

The Government agrees the need for renewed efforts to tackle health risks in construction and that the industry has a major challenge in managing health risks to workers. This recommendation provides a timely spur to reinvigorate and add to past and on-going efforts involving HSE, the industry and trade unions; to further raise awareness of the importance of tackling health alongside safety; and, importantly, to continue efforts in convincing the industry why it needs to tackle health issues at least as seriously as safety matters.

To this end HSE's current programme of work has health at its core and work will continue on priorities that include asbestos, exposure to other respiratory risks and manual handling.

Other HSE activity includes:

- Working closely with specialist human factor and social scientists and the Health and Safety Laboratory to design and take forward initiatives to produce a change in behaviour, and so a different culture which integrates health *and* safety management of workplace risk;
- consolidating and expanding existing guidance such as Construction Occupational Health Management Essentials (COHME) and promoting workplace compliance with existing law by providing inspectors with information on benchmark standards which are enforceable across the range of health risks;
- working in partnership with others to achieve delivery of health risk control through the reconvening of the CONIAC Occupational Health Working Group and assisting key stakeholders to raise the standard of occupational health provision in the industry;
- working with industry to showcase innovative and exemplar arrangements for managing health issues, such as those provided at the Olympic Park in Stratford;
- continuing to work with industry in helping them to find practical, effective solutions to construction health risks through the supply chain: and,
- reinforcing the above through the appropriate targeting of advice, inspection and enforcement activity.

As part of its response to Dame Carol Black's Review of the health of Britain's working age population<sup>6</sup>, the Government is piloting an occupational health telephone adviceline service for smaller businesses. This provides small businesses with easy access to professional advice on individual employee occupational health, mental health and well-being issues that cause problems which the manager/owner is unsure how to address. The target audience of the adviceline is managers in

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<sup>6</sup> Working for a Healthier Tomorrow – Dame Carol Black's Review of the health of Britain's working age population was published in 2008 and is available online at <http://www.workingforhealth.gov.uk/Carol-Blacks-Review/>

businesses with up to 49 employees, including those in the construction industry, who are least likely to have access to occupational health advice and most likely to benefit from problem solving support.

Pilots of the adviceline have been launched in nine locations across Great Britain from December 2009 and will run until March 2011. While the adviceline will provide general occupational health advice to small businesses there is a focus on providing advice around mental health; recognising the prevalence and impact of these issues in the workforce.

## Construction Equipment

**Recommendation 21 - I recommend that more work needs to be done by the HSE, the SFfC and other appropriate organisations to tackle the 'legacy' challenge of second hand equipment or machinery still in circulation. Individuals or companies hiring this equipment should also ensure that they are fully aware of the capabilities of such machinery and their possible dangers and that they are sufficiently trained to identify any faults in the equipment.**

The Government agrees with this recommendation. CONIAC is working on equipment safety with the SFfC Plant Safety Group which was established in January 2009. This group represents a broad section of the construction industry including manufacturers, users, trainers, workers, and those who hire out and inspect plant. This group has strong links with all parts of the supply chain and can therefore interact with and guide smaller organisations.

Risks from construction equipment will be further strengthened by the register of tower cranes to be set up in connection with the 'Notification of Conventional Tower Cranes Regulations' which come into force on 6 April 2010. The register will provide an opportunity to collate information collected on individual tower cranes into a national database; the ready availability of this information will help HSE in its regulatory role; provide a further incentive to crane owners/users to ensure that risks from the use of tower cranes are managed effectively; and help to assure the public that the risk from the use of tower cranes is properly controlled by crane owners/users.

HSE routinely issues alerts on emerging information on which people need to act in order to prevent harm. A structured safety bulletin system is now in place to allow dutyholders to easily access relevant information from HSE's website<sup>7</sup> and through other mechanisms.

For both new and used equipment HSE has a product safety investigation system exercising market surveillance on behalf of BIS, to enable the GB to discharge its duties under European law. HSE will continue to review the effectiveness of its arrangements for dealing with equipment safety, and revise as necessary.

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<sup>7</sup> <http://www.hse.gov.uk/safetybulletins/index.htm>

## Health and Safety Awareness

**Recommendation 22 - I recommend an awareness raising campaign so that individual workers and companies take the issue of reporting accidents more seriously.**

The Government supports this recommendation. Evidence shows that businesses improve their performance by learning from minor incidents and examples of unsafe actions, as well as major accidents. Some parts of the construction industry have developed a culture of learning about safety and reporting near misses as part of their behavioural change strategy and this is to be encouraged. HSE's research on leadership and worker engagement and web-based guidance emphasise the benefits of this approach.

The Government acknowledges the need to raise awareness among workers and employers of the importance of accident reporting. To highlight this issue HSE is planning a targeted campaign in the construction sector in 2010-11. HSE will work with industry stakeholders on building support for improved reporting of accidents and understanding of how learning from accidents and near misses can play an important part in future risk reduction. HSE is also highlighting the issue of accident reporting and worker rights with vulnerable groups through a worker outreach project (see Recommendation 23)

**Recommendation 23 - I recommend that there should be targeted safety campaigns for specific groups of workers who are regarded as vulnerable e.g. migrants, young people, the 55-60 age group.**

The Government supports this recommendation and agrees with the principle of targeting vulnerable workers.

During consultation with stakeholders, the Government discussed a number of ways in which campaigns could be funded and organised by the industry to target key groups of employees. This is linked to the issue of better targeting via increased intelligence provided by improved reporting and in-depth analysis of fatal accidents (Recommendation 28).

HSE's policy is to ensure that all construction workers benefit from the protection of existing health and safety law. 'Vulnerable' workers include some, but by no means all, migrant workers, young people (including 14 – 16 year olds on work experience) and ageing workers.

HSE's research indicates that communication issues play a significant role in health and safety vulnerability. HSE is addressing this by, for example, using outreach workers who can give advice to workers in their first language and producing guidance for employers in construction who may wish to take young persons on work experience.

HSE launched an outreach project in September 2009 which includes information campaigns aimed at Romanian, Polish and Indian construction workers in London. The campaigns provide workers with basic information about their rights to work on safe and healthy construction sites, explains GB health and safety law and the role of the HSE. HSE has published key guidance in the main languages spoken on construction sites and has plans to expand the range of information available. The campaigns are being promoted through community intermediaries, community newspapers, radio and websites and a number of public events.

The findings of the outreach project and other vulnerable worker workstreams will be considered in identifying the most effective means of targeting health and safety messages to vulnerable workers and their employers and prioritise areas where further research may be required.

The issue of vulnerability is also covered in the response to Recommendation 2.

## Health and Safety Executive Resources

**Recommendation 24 - There are insufficient HSE resources in London to carry out even the existing workload; this has been a problem for some years. I recommend that HSE should take steps to improve this situation.**

The Government recognises the importance of ensuring that resources are distributed to where there is the greatest need and they will have the greatest impact. It accepts London presents a particular challenge to sustaining appropriate resource. HSE has taken active steps to strengthen the resource available to its Construction Division in London.

HSE's financial settlement for 2008-09 to 2010-11 included a commitment to rebuild and maintain frontline inspector numbers. The settlement and a recruitment programme has allowed HSE's Field Operations Directorate (FOD) to help meet this recommendation by increasing front line construction inspector numbers in London to what is currently an all time high, rising from 17 full time equivalents in April 2008 to 33 in March 2010.

London has a higher turnover of inspectors than other parts of the country because of local labour market conditions and therefore 'staff in post' numbers can fluctuate in the short term due to unforeseeable resignations. HSE expects the increased numbers of construction inspectors in London to be sustainable, short term fluctuations aside. HSE also uses flexible deployment of resources across its Construction Division; inspectors based in the East and South East are involved in regulating Olympic projects, investigatory work and inspection initiatives in London.

HSE also has 13 non-inspector staff in London who carry out a range of front line work including complaint investigations, provision of advice and information to small businesses, support to inspectors on investigations and outreach work with migrant workers.

HSE will keep the staffing position under careful review in light of the demands on inspectors in London and will review whether any further action is required once the current increase has bedded in.

## Prosecutions

**Recommendation 25 - I recommend that there should be a pilot study by the HSE to determine the impact of more non-accident prosecutions.**

The Government supports the principle of evaluating the impact of HSE's work but does not see the need for the pilot study suggested. HSE's Construction Division has undertaken enforcement-led inspection initiatives in the past and it will now re-examine the lessons learned from those initiatives and how they can be applied to future work. In line with HSE's enforcement policy, prosecution action is already taken without an accident where there is sufficient evidence of a significant breach.

## Communications

**Recommendation 26 - I recommend that there should be a review in the HSE of the communications strategy about fatal accidents to ensure a more co-ordinated and easily absorbable presentation.**

The Government accepts the recommendation and is now actively considering new approaches to communicating the release of information on fatal accidents. This will include going beyond simple presentation of statistical facts by developing a more compelling and engaging account of the impact of serious safety failings and the channels to deliver such messages.

HSE has recently developed hard-hitting campaigns on construction-related long-latency diseases and deaths (such as “Asbestos - the Hidden Killer” and “Shattered Lives”), which are helping to raise awareness and improve safety on-site. HSE is committed to reaching construction workers with its messages in order to promote safety and health improvements, building upon evidence of what works.

**Recommendation 27 - I recommend that HSE should encourage its inspectors to promote the principles of the joint Institute of Directors / Health and Safety Executive guidelines for Directors and leaders of companies by the use of more easily absorbable presentation material.**

The Government agrees that effective leadership for health and safety within the industry and by directors and other senior managers is a key factor to deliver improved health and safety standards. The actions taken by senior industry leaders following their engagement at the Health and Safety Summit in 2001, hosted by the then Deputy Prime Minister, demonstrates the changes that can be delivered when there is commitment and action from the senior levels of the industry.

Leadership will form a key part of HSE’s interventions with the industry through its plan of work for 2010-11 and beyond. This will include delivery of a programme of events and publicity to promulgate leadership particularly in SMEs. HSE routinely uses the current IoD/HSE guidance in its interactions with larger dutyholders in the industry. In responding to ‘the use of more easily accessible presentational material’, HSE will work to support industry stakeholders in producing leadership guidance targeted at smaller organisations working in the construction industry.

The Government is also aware of guidance produced by industry such as the 2008 leaflet produced by ConstructionSkills which outlines the duties for directors of SME construction companies. This was based upon the IoD/HSE guidelines and was produced and distributed free of charge to employers. In line with the outcome of the Steering Group review ConstructionSkills are planning to review this guidance in partnership with HSE, and make it available to front line inspectors.

**Recommendation 28 - The review of recent construction fatal accidents represents an important contribution to this Inquiry. I recommend that work should continue in this area on a regular basis as it will further illuminate the underlying causes of fatalities.**

The Government recognises the value of the work undertaken to analyse the underlying causes of specific fatal construction accidents as part of the inquiry. Consultation with stakeholders highlighted their desire to have access to this degree of analysis to facilitate targeting of the higher risk activities in the industry and inform industry led awareness campaigns.

HSE intends to review the work carried out as part of the inquiry to inform the future development of its Construction Programme. HSE will also develop this work and extend the coverage to all construction related fatal accidents on an ongoing basis to enable comparison over time and will consider a corresponding approach for analysing non-fatal incidents.

## GLOSSARY

BIS	Department for Business, Innovation and Skills
BSI	British Standards Institute
CCA	Chief Construction Adviser
CDM	Construction (Design and Management) Regulations 2007
CITB	Construction Industry Training Board, now known as CITB-ConstructionSkills
CLG	Department for Communities and Local Government
CMS	Common Minimum Standards (from OGC)
COHME	Construction Occupational Health Management Essentials
CONIAC	Construction Industry Advisory Committee
CPS	Crown Prosecution Service
CPCS	Construction Plant Competence Scheme
CSCS	Construction Skills Certification Scheme
DWP	Department for Work and Pensions
EAS	Employment Agency Standards Inspectorate
GLA	Gangmaster Licensing Authority
HMCS	Her Majesty's Court Service
HMRC	Her Majesty's Revenue & Customs
HSE	Health and Safety Executive
HSWA	Health and Safety at Work etc Act 1974
IoD	Institute of Directors
IOSH	Institution of Occupational Safety and Health
OGC	Office of Government Commerce
SFfC	The Strategic Forum for Construction
SGC	Sentencing Guidelines Council
SME	Small and Medium-sized Enterprises
SSIP	Safety Schemes in Procurement Forum
UCATT	Union of Construction, Allied Trades and Technicians
VWEF	Vulnerable Workers Enforcement Forum



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