

A progress report on implementation of health and safety reforms

June 2012

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Foreword

In March 2011 I asked Professor Ragnar Löfstedt, Director of the King's Centre Risk Management, Kings College, London to conduct an independent review of health and safety regulations to look at the scope for reducing the burden of health and safety regulation on business. The Professor's Report '*Reclaiming health and safety for all: An independent Review of health and safety legislation*', was published on the 28 November 2011 and can be found at <http://www.dwp.gov.uk/docs/lofstedt-report.pdf> .

The Government response to Professor Löfstedt's report included a commitment to the publication of regular updates on progress against the Professor's recommendations. There was also an ongoing commitment to publish updates on the implementation of the 'Common Sense Common Safety' recommendations.

This report contains information on progress with implementation of the Löfstedt recommendations, as well as those contained within Common Sense, Common Safety. As such it provides a comprehensive overview of the government's progress with its wider health and safety reform agenda. By the end of this process in 2014 , 50% of health and safety regulations will either have been reviewed, revoked or improved leaving Great Britain with a simpler, more effective regulatory framework – easing burdens on business and encouraging growth whilst at the same time maintaining the progress that has been made in health and safety outcomes.

Action to implement the Löfstedt recommendations, and the wider Red Tape Challenge commitments announced in the Budget, is progressing well. HSE has already relaxed the requirements for reporting accidents at work, issued new guidance making clear that businesses do not need to test all portable appliances on an annual basis, consulted on the removal of the first 21 redundant or outdated statutory instruments, and launched the highly successful Myth Busters Challenge Panel to challenge daft decisions made in the name of health and safety. Further details are included later in this report.

To ensure we remain on track, I have asked Professor Löfstedt to undertake an independent review of how well the recommendations in his report have been implemented so far and how those still to be delivered are progressing, one year on from the publication of the original report. I expect the Professor to report back to me in January next year and my letter to him can be found on the DWP health and safety reform page at <http://www.dwp.gov.uk/policy/health-and-safety/> .

I hope you will find this report on the progress so far useful, further reports will be made as major milestones are reached

Rt Hon Chris Grayling MP
Minister for Employment

Background

In June 2010 the Prime Minister asked Lord Young of Graffham to “investigate and report back on the rise of the compensation culture over the last decade coupled with the current low standing that health and safety legislation now enjoys and to suggest solutions”¹. Lord Young’s findings, and his recommendations for change, were published in October 2010 in his report *Common Sense, Common Safety*.

The recommendations covered a wide range of issues including legislation, enforcement, the role of insurers and compensation claims procedures. The review recommended a general consolidation of health and safety regulations, which formed part of the remit of Professor Löfstedt’s review.

The Government accepted Lord Young’s report and recommendations in full. At the Prime Minister’s request, in February 2011 the Minister for Employment took overall lead on implementation, ensuring robust plans for delivery are in place, and overseeing progress. Since March DWP has published regular updates detailing the progress that has been made in delivering Lord Young’s recommendations, and one year on from publication 18 of 35 of those recommendations have been implemented, with most outstanding recommendations requiring primary legislation due in the next session.

Further significant reforms were announced by the Minister for Employment on 21 March 2011, with the publication of *Good Health and Safety, Good for Everyone*².

The announcement took forward some of Lord Young’s recommendations, notably launching the Occupational Safety and Health Consultants Register (OSCHR), providing access to good quality, sensible and proportionate health and safety advice for employers who need external help. It also set out major changes to the enforcement regime, refocusing inspection activity on higher risk areas and away from lower risk businesses who manage their responsibilities effectively.

On the 28th November the Department of Work and Pensions (DWP) published a report by Professor Ragnar Löfstedt, *‘Reclaiming health and safety for all: An independent Review of health and safety legislation’*, which made recommendations for the fundamental overhaul of the UK health and

¹ Common Sense Common Safety. Annex A: Terms of reference.

² Good health and safety, good for everyone: www.dwp.gov.uk/docs/good-health-and-safety.pdf

safety regulatory system. The Government accepted the recommendations of the report in full and as a result by 2014, 50% of health and safety legislation will have been reviewed, scrapped or improved.

Progress with implementation of Löfstedt Recommendations

The next section of this report records progress with the implementation of recommendations in Professor Löfstedt's report.

It is arranged into six sections to reflect the areas identified by Professor Löfstedt as necessary for the reform of health and safety legislation in Great Britain.

There is summary of progress made in each area including the intended final completion date for the work. For ease of reading some of the recommendations have been abridged

Professor Ragnar Löfstedt's report containing the recommendations in full can be found at <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>.

Löfstedt Progress Report - June 2012

The scope of health and safety legislation

Recommendation	Progress	End Date
Exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others?	Proposals are currently under discussion to determine the best way to achieve the objectives of this recommendation. Consultation is planned between July and November 2012. Changes to the duties placed upon the self-employed within the Health and Safety at Work etc Act 1974 will require primary legislation.	End 2013

The application of health and safety legislation

Recommendation	Progress	End Date
To revoke unnecessary or redundant regulations to produce a simpler regulatory framework.	The report contains recommendations for a number of regulations to be revoked following a suitable consultation process this will contribute towards the overall aim for a 50% reduction in health and safety regulations as set out in the Government response to Professor Lofstedt's report by 2014. Details of planned revocations are set out in the later section of this report entitled 'Simplifying the regulatory framework'.	April 2013
HSE amends the Health and Safety (First Aid) Regulations 1981 to remove the requirement for HSE to approve	HSE published revised guidance on its website at the end of May to clarify for small businesses the requirements relating to first aid provision in the workplace. HSE is aiming to make amendments to the First Aid Regulations as soon as possible, but	October 2012

Recommendation	Progress	End Date
the training and qualifications of appointed first-aid personnel	<p>discussions continue about the most appropriate and available legislative route to achieve this. This will determine the final timetable for removing the particular legal requirement.</p> <p>HSE has been in discussions with key stakeholders and undertaken some informal consultation.</p>	
HSE complete the evaluation of the effectiveness of the Construction (Design & Management) Regulations 2007 & the associated Approved Code of Practice (ACOP) by April 2012 to ensure there is clearer expression of duties, reduction of bureaucracy & appropriate guidance for small projects.	An independent evaluation of the Construction (Design and Management) Regulations 2007 has been published by the HSE. The evidence provided will support policy development in this area. Industry will be fully consulted before any changes are made.	<p>April 2012</p> <p>Met</p>
Reporting of Injuries, Diseases & Dangerous Occurrences Regulations 1995 & its associated guidance should be amended by the end of 2013 to provide clarity for businesses on how to comply with requirements	<p>Legislative change to RIDDOR made on 6 April 2012 to extend to seven days (from three) the period an employee has been unable to carry out normal work duties before an injury or accident at work needs to be reported (a Common Sense Common Safety commitment supported by Löfstedt).</p> <p>Proposals for wider amendments to RIDDOR are currently under development. HSE plans to consult on amending RIDDOR in the summer of 2012, with a view to any amendments coming into force in October 2013.</p>	October 2013

Recommendation	Progress	End Date
<p>HSE to clarify the requirement for portable appliance testing (including through changes to the wording of the Electricity at Work Regulations 1989 if necessary) by April 2012 to stop over-compliance and ensure messages on over compliance reach all appropriate stakeholder groups</p>	<p>Discussions with stakeholders indicated that a change to the Electricity at Work Regulations 1989 was not necessary in order to clarify the requirements for portable appliance testing but that new guidance would be welcomed.</p> <p>The new guidance on Portable Appliance Testing was published on 30 April 2012, replacing two previous sets of guidance (www.hse.gov.uk/pubns/indg236.pdf).</p> <p>The new guidance makes it clear that it is a myth that all portable electrical appliances in a low-risk environment, such as an office, need to have a portable appliance test (PAT) every year.</p> <p>There were almost 22,000 downloads of the new guidance, (compared to an average of 4,200 copies per month in the six months prior to this (figures as at 15 May)). Work has started to develop a way of evaluating the impact of this new guidance.</p>	<p>April 2012</p> <p>Met</p>
<p>Work at Height Regulations 2005 and the associated guidance should be reviewed by April 2013 to ensure that they do not lead to people going beyond what is either proportionate or beyond what the legislation was originally intended to cover.</p>	<p>HSE is currently developing its evidence base to determine if and why the regulations cause dutyholders to go above and beyond what the law requires. This will inform consultation with industry stakeholders in the autumn. In addition, HSE is refreshing and simplifying its main work at height publications to help dutyholders, particularly SMEs, know how to comply with the law, and to dispel some of the myths around working at height (eg that use of ladders is banned by law).</p>	<p>April 2013</p>
<p>HSE should</p>	<p>HSE has a major programme underway</p>	<p>Autumn</p>

Recommendation	Progress	End Date
continue to help businesses understand what is reasonably practicable for specific activities where the evidence demonstrates that they need further advice to comply with the law in a proportionate way.	to review and revise most of its guidance. This is intended to help small businesses understand what is "reasonably practicable" for specific activities. Much of this new guidance will be available later this year.	2012
HSE should review all its Approved Codes of Practice (ACoPs). The initial phase of the review should be completed by June 2012 so businesses have certainty about what is planned and when changes can be anticipated.	HSE will launch a consultation on 25 June 2012 on its proposals to update and improve its Approved Codes of Practice (ACoPs)	November 2013

Engaging with the EU

Recommendation	Progress	End Date
That the Government works more closely with the Commission and others, particularly during the planned review in 2013, to ensure that both new and existing EU health and safety legislation is risk-	HSE has been taking forward this recommendation in negotiations on European legislative proposals on health and safety and in influencing before proposals are adopted by the Commission. In addition, HSE will contribute to the Commission's review of EU health and safety law by providing the UK's report on the practical implementation of EU law to the Commission by December 2013.	Ongoing

Recommendation	Progress	End Date
	<p>be found on the HSE website at</p> <p>http://www.hse.gov.uk/consult/live.htm</p>	
<p>That HSE undertakes a programme of sector-specific consolidations.</p>	<p>HSE is currently reviewing existing legislation (for Biocides, Petroleum, Mining, Explosives and Genetically Modified Organisms). HSE is engaging with industry stakeholders, considering options and will develop draft regulatory packages in due course.</p> <p>The earliest consultation on this work will be a Biocides consultation planned for August 2012.</p>	<p>2014</p>
<p>That HSE should redesign the information on its website to distinguish between the regulations that impose specific duties on businesses and those that define administrative requirements or revoke/amend earlier regulations.</p>	<p>Work is underway to review the current website and make clearer where regulations impose specific duties and where they define administrative requirements.</p>	<p>2012</p>
<p>That HSE commissions research to help decide if the core set of health and safety regulations could be consolidated in such a way that would provide clarity and savings for businesses.</p>	<p>Research commissioned and findings are awaited. Once these have been considered HSE will determine how to take this recommendation forward later in the year.</p>	<p>January 2012</p> <p>Met</p>

The enforcement of health and safety regulations

Recommendation	Progress	End Date
<p>That HSE :</p> <p>be given the authority to direct all local authority health and safety inspection and enforcement activity, in order to ensure that it is consistent and targeted towards the most risky workplaces.</p> <p>should also be the Primary Authority for multi-site national organisations</p>	<p>HSE is working closely with local authorities and development work on the National Code has commenced. Formal consultation will run from September 2012 and launch of the Code is currently planned for April 2013.</p> <p>Legislation to strengthen the Primary Authority (PA) scheme is being progressed by BIS and HSE is working with Better Regulation Delivery Office (BRDO) to ensure the scheme delivers the reductions in burdens and increased consistency in line with HSE policy.</p>	<p>April 2013</p>
<p>That all those involved should work together with the aim of commencing health and safety prosecutions within three years of an incident occurring.</p>	<p>This recommendation goes wider than just HSE and it involves multiple agencies such as the police, Crown Prosecution Service, local authorities and coroners. It will primarily be taken forward through the National Liaison Committee (NLC) for the Work-related Deaths Protocol. A scoping document is being prepared for consultation with NLC organisations.</p> <p>Work is underway to establish an HSE baseline for current achievement against the three year target.</p>	<p>April 2013</p>

The wider perspective

Recommendation	Progress	End Date
<p>That the intention of the pre-action protocols standard disclosure list is clarified and restated</p> <p>(This work is being taken forward by the Ministry of Justice)</p>	<p>The Pre-action protocol working group of the Civil Justice Council (CJC), (an independent judicial body with responsibility for the Pre-Action Protocols and Practice Directions which provide guidance to the civil courts in this area), is considering how best to take forward this recommendation and will be providing advice to the Master of the Rolls, who is responsible for the protocol.</p>	<p>2014</p>
<p>That regulatory provisions that impose strict liability should be reviewed and either qualified with 'reasonably practicable' where strict liability is not absolutely necessary or amended to prevent civil liability from attaching to a breach of those provisions.</p>	<p>HSE is currently considering how best to take this recommendation forward. The current drafting of the Health and Safety at Work etc Act may mean changes to primary legislation are required.</p>	<p>To complete review by June 2013</p>
<p>That the House of Lords be invited to consider discussing how to engage society on risk.</p>	<p>Meeting have taken place with members of the House of Lords to discuss how to take this recommendation forward.</p>	<p>2014</p>
<p>That the Government asks the Chief Scientific Advisor to convene an expert group aimed at</p>	<p>This recommendation, along with the need for any further initiatives, is currently being considered by the Government Chief Scientific Adviser, who will also review the other recent, current and upcoming activity in this</p>	<p>2014</p>

Recommendation	Progress	End Date
addressing the same challenge of engaging society in a discussion about risk.	field.	

Additional measures - these were a number of additional measures included in the report which were not formal recommendations but contribute towards the proposed outcome of the reform agenda

Recommendation	Progress	End Date
Challenge panels- that the Government looks at introducing a challenge mechanism that allows for cases of incorrect, over-application of health and safety legislation to be addressed.	<p>Two independent challenge panels have been established:</p> <p>The Independent Regulatory Challenge Panel looks at complaints from businesses about decisions made by HSE or local authority inspectors. No cases have been considered so far, as cases are expected to go through the usual complaints procedures before they are referred to this panel.</p> <p>The Myth Busters Challenge Panel looks at complaints regarding advice from non-regulators such as insurance companies, health and safety consultants and employers. Over 30 cases have already been considered and responses published on the HSE website at: http://www.hse.gov.uk/myth/myth-busting/index.htm</p>	<p>January 2012 for the Independent Regulatory Challenge Panel.</p> <p>Met</p>

The wider health and safety reform agenda

Common Sense, Common Safety

In June 2010 the Prime Minister asked Lord Young of Graffham to “investigate and report back on the rise of the compensation culture over the last decade coupled with the current low standing that health and safety legislation now enjoys and to suggest solutions”³. Lord Young’s findings, and his recommendations for change, were published in October 2010 in his report *Common Sense, Common Safety*.

The recommendations covered a wide range of issues including legislation, enforcement, the role of insurers and compensation claims procedures. The review recommended a general consolidation of health and safety regulations, which formed part of the remit of Professor Löfstedt’s review.

The Government accepted Lord Young’s report and recommendations in full. At the Prime Minister’s request, in February 2011 the Minister for Employment took overall lead on implementation, ensuring robust plans for delivery are in place, and overseeing progress

Since March 2010 DWP has published regular updates detailing the progress that has been made in delivering Lord Young’s recommendations, and one year on from publication 18 of 35 of those recommendations have been implemented, with most outstanding recommendations requiring primary legislation due in the next session of Parliament.

The attached table summaries the progress with implementation of these recommendations.

Good Health and Safety, Good for Everyone

Further significant reforms were announced by the Minister for Employment on 21 March 2011, with the publication of *Good Health and Safety, Good for Everyone*⁴.

The announcement took forward some of Lord Young’s recommendations, notably launching the Occupational Safety and Health Consultants Register

³ Common Sense Common Safety. <http://www.cabinetoffice.gov.uk/resource-library/common-sense-common-safety>

⁴ Good health and safety, good for everyone: www.dwp.gov.uk/docs/good-health-and-safety.pdf

(OSCHR), providing access to good quality, sensible and proportionate health and safety advice for employers who need external help. It also set out major changes to the enforcement regime, refocusing inspection activity on higher risk areas and away from lower risk businesses who manage their responsibilities effectively.

Update on progress in implementing recommendations in

Common sense, common safety

The ‘Common Sense Common Safety’ recommendations are progressing rapidly with contributing departments supplying clear timescales for completion. The report made a total of 35 recommendations of which 18 have already been fully implemented (12 of these directly impacted on small businesses).

RECOMMENDATION	Low hazard workplaces
<ol style="list-style-type: none"> 1. Simplify risk assessment procedures 2. Develop periodic checklists 3. Develop voluntary organisation checklists 4. Risk assessment exemptions for low hazard homeworking 5. Risk assessment exemptions for low hazard self – employed working 6. Professionalise health and safety consultants 7. Health & safety consultants’ register 8. Health & safety guidance for lower risk SMEs 	<p>HSE has published a number of web based tools to assist low hazard workplaces to check their compliance with health and safety legislation. In March 2011 ‘Health and Safety Made Simple was published, to make it easier for small businesses to understand their responsibilities. At the end of August 2011 guidance was published on the application of health and safety legislation to homeworkers which was produced jointly with the British Chamber of Commerce.</p> <p>The Occupational Safety and Health Consultants Register was launched on 21 March 2011, providing a source of qualified health and safety advice for businesses that require external support.</p>

RECOMMENDATION	Low hazard workplaces
9. Consolidate health and safety regulations	In March 2011, Professor Ragnar Löfstedt, Director of the King's Centre for Risk Management at King's College London, conducted an independent review of health and safety regulations to identify opportunities to simplify the rules. His report was published in November 2011 and the Government accepted all of his recommendations.
10. EU health and safety: UK/Member State co-operations (HSE)	<p>A current update on live issues is given below.</p> <p>The European Commission (EC) is analysing a recommendation from its High Level Group of Independent Stakeholders on Administrative Burdens that low risk small firms be exempted from certain risk assessment requirements. Impact assessment work is ongoing.</p> <p>Negotiations have begun on a proposal for a directive on the risks from electromagnetic fields and the UK is arguing for a proportionate approach. A second proposal on ergonomic risks is likely to be adopted in the first half of 2012.</p>
11. Extending the period before an injury or accident needs to be reported to seven days.	Following consultation the HSE Board recommended to the Minister that the changes be made to the regulations (RIDDOR) and the Minister has accepted this. Changes came into effect in April 2012.
12. Review the operation of RIDDOR	Once the first amendment to RIDDOR has become law and has been evaluated, HSE will take forward the second proposal to re-examine the operation of RIDDOR as a whole.

RECOMMENDATION	Low hazard workplaces
13. Improving the health and safety system – multi-site businesses (BIS)	Following a BIS consultation, “The future of the Local Better Regulation Office (LBRO) and the extension of the Primary Authority Scheme”, which set out the Government’s proposals for better co-ordinated inspection of multi-site businesses. HSE is currently working with LBRO and Local Authorities to develop a sector intervention strategy for health and safety to inform inspection plans developed as part of this proposal.

RECOMMENDATIONS	Police and Fire Services
14. Police officers/fire fighters guidance	Building on the statement issued by HSE that they will not investigate or prosecute individual firefighters who undertake a heroic act, new guidance jointly produced by HSE and the Association of Chief Police Officers (ACPO) has also been published. The guidance makes it clear that, whilst HSE inspectors may need to investigate serious accidents, they will not collect evidence to use against individual police officers who have undertaken a heroic act. The Crown Prosecution Service (CPS) has already issued its own guidance to their lawyers in support of this position.
RECOMMENDATIONS	
15. Abolition of the AALA`	Having listened to industry concerns the HSE now intends to consult on the decision to abolish AALA which will take place later in the year

RECOMMENDATIONS	Civil compensation claims
16. Personal injury claims – introduce simplified procedure	In its response to the consultation <i>Solving disputes in the county courts</i> (published on 9 February 2012), the Government announced that the Road Traffic Accident Personal Injury Protocol would be extended by April 2013 to include cases up to £25,000 (currently £10,000) and also employer’s and public liability accident claims up to £25,000. The Ministry of Justice is currently evaluating responses to an evidence gathering exercise to
17. Personal injury claims – options for extending upper claims limit to £25k	
18. Introduce Jackson	

RECOMMENDATIONS	Civil compensation claims
recommendations	<p>inform implementation of the extension.</p> <p>Following consultation the Government is implementing the primary recommendations contained in Lord Justice Jackson's Review of Civil Litigation Costs, including in particular a fundamental reform of no win no fee conditional fee agreements (CFAs) and a ban on the payment and receipt of referral fees in personal injury cases. Implementation will be through provisions in part two of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012</p>

RECOMMENDATIONS	Compensation culture
19. Clarify liability consequences of well-intentioned voluntary acts	The Department for Transport (assisted by the Ministry of Justice) published guidance in October 2010 clarifying the position on snow clearance. The Ministry of Justice has committed to work with relevant Government Departments to provide further advice to the public when appropriate, for example in response to extreme weather conditions
20. Restrict operation of referral agencies/ personal injury lawyers	The Ministry of Justice has introduced proposals to Parliament for reform of 'no win, no fee' arrangements, the revision of civil procedure rules to encourage early and fair settlement of negligence claims and the banning of referral fees. These measures are intended to curtail frivolous health and safety negligence claims against employers which is an issue raised by many small businesses and a main source of 'compensation culture' complaints. The target date for full implementation is April 2012 (now before Parliament) .

RECOMMENDATIONS	Health and safety consultants
27. Insurance companies to stop requiring low hazard companies to employ h & s consultants	<p>The Association of British Insurers (ABI) published guidance '<i>Health & Safety for Business and the Voluntary Sector</i>' which deals with concerns that businesses operating in low hazard environments can be required by insurers to employ consultants to carry out full health and safety risk assessment and will help ensure that only qualified consultants are used.</p> <p>The guidance can be found at on the ABI website at http://www.abi.org.uk/ .</p>
28. Only qualified consultants to be employed	
29. Insurance companies to draw up h&s code of practice	

RECOMMENDATIONS	Food Safety
<p>30. Combine food safety/h&s inspections in local authorities</p> <p>31. Mandatory local authority participation in Food Hygiene Rating Scheme</p> <p>32. Promote usage of Food Hygiene Rating Scheme</p> <p>33. Encourage voluntary display of food hygiene ratings (but review after 12 months)</p>	<p>A joint Food Standards Agency (FSA)/HSE/Local Government Regulation statement on implementing combined inspection programmes from 1 April 2011 has been agreed and was issued to local authorities in England on 4 February 2011.</p> <p>The FSA is continuing to work closely with local authorities to promote the rating scheme in their areas and this is still generating much local and regional media interest. To date, information on approximately 126, 000 businesses has been published on the FSA site</p>