



Royal Society for the Prevention of Accidents
National Occupational Safety and Health Committee
Response to Health and Safety Executive's Strategy Consultation

Roger Bibbings, Occupational Safety Adviser, RoSPA

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A. General comments

RoSPA welcomes HSE's decision to consult on new directions for its strategy for improving health and safety (H&S) at work in the UK. As a high level exercise it provides a much needed opportunity to consider the bigger picture and encourage fresh and creative thinking about new ways of working (especially between the regulator and key stakeholders) to improve standards of health and safety management and thus save lives, reduce injuries and safeguard health. In particular RoSPA firmly welcomes the wider vision of a comprehensive strategy involving the whole H&S system and not just regulatory agencies. This broader approach, linking the efforts of all bodies concerned with H&S, is one for which RoSPA has argued consistently for over ten years, for example, in its past submissions to the Health and Safety Commission and Parliamentary Select Committees.

HSE faces sharper challenges in delivering its mission with fewer resources. RoSPA argues consistently that the Government must continue to address the question of HSE funding. On the other hand, even with additional resources it is clear that HSE cannot deliver sustainable improvement acting in isolation. The 'HSE-centric' view of the H&S system which has been prevalent in the past must now be abandoned for good. Business and people in the workplace - rather than the regulator - need to be placed at the heart of the 'system'. HSE need to make it clear that they see H&S professionals as key allies and equals in the struggle to get casualty figures down and not mere auxiliaries. Indeed, the title of the consultation document, '*Be part of the solution*' might be seen as undervaluing the substantial contribution of the tens of thousands of H&S activists outside HSE who have been working on this important agenda, many of them for decades. And it might also be seen as ignoring the fact that millions of workers, together with their line managers, safety reps and directors, especially in better performing businesses, are already well and truly 'on the case' when it comes to tackling H&S.

In RoSPA's view while the broad goals of the strategy are to be supported, a still more radical vision is required if HSE is to be able to play a fully effective leadership role in energising the entire system. In particular HSE and their Local Authority (LA) partners need to develop **a 'new dynamic'** between their work and the work of other stakeholders, including bodies and individual professionals in the wider H&S market - who actually outnumber HSE several times over and without whose patient and dedicated work there would be many more fatal and serious injuries, many more major incidents and much more ill-health caused or made worse by work. In RoSPA's view a lot more work is needed to enable HSE to understand fully **the health safety delivery landscape**, including all the manifold influences in the H&S market which actually help to deliver safe and healthy working, including: training, advice and information, technical standards, auditing and assurance, pre-qualification, certification, professional development and so on. In RoSPA's view a 'new dynamic' needs to include:

- Firstly, knowledge and recognition by HSE of what is going on out in the wider H&S system and a commitment to avoid duplication.

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- Secondly, a commitment to determine ‘what works’ and what is appropriate, furnishing research evidence on the efficacy of what is on offer.
- Thirdly, encouragement and facilitation to enable businesses to be matched with the services and support they need.
- Fourthly, a much stronger focus on standards of corporate health and safety performance, with open reporting so that not only HSE and LAs but all other stakeholders can assess an organisation’s approach to H&S and can prioritise their efforts accordingly.
- Fifthly, greater use by HSE of non HSE H&S professionals in raising awareness, following up accidents and incidents, supervising remedial programmes and so on, with the cost borne in the main by failing businesses (akin to the ‘polluter pays’ principle).

While notifiable injuries, incidents etc have reduced in recent years, this should not be seen as the sole measure of the size of the H&S problem in the UK. Quite clearly ill health caused or made worse by work – most of which is not notifiable - remains a much bigger problem than accidental injury. To put the UK H&S challenge in context assessment of the extent of harms to be addressed needs to go wider than RIDDOR data and encompass all forms of work related death, injury and health damage experienced by workers – as well as by the public affected by work activity – in all spheres, including while travelling on the road for work purposes. (This presents the biggest work related safety risk for most organisations in an increasingly road mobile, service based economy.)

A vigorous approach to investigation of accidents, incidents and complaints remains critically important to ensure sufficient level of exemplary enforcement but the real challenge facing HSE is ensuring that their overall approach is characterised by proactivity rather than reactivity. There must be a greater role for LAs, closer operational links with other regulators as well as closer working with local and sector networks in the promotion of better health and safety.

The overriding strategic aim must be to ensure that all key players in the wider system have the capacity to motivate and support duty holders so that they in turn can develop their management capacity to address their priority risks, achieving and maintaining satisfactory standards. In meeting this challenge HSE must not act simply as a traditional regulator but as a development agency with a leadership responsibility to ensure that all key elements of ‘the system’ work together to achieve national H&S goals. This is particularly the case meeting the H&S challenge in Small and Medium Size Enterprises (SMEs), many of which need face-to-face help (and not just information) to develop practical approaches to managing their H&S risks.

Winning the case for better occupational health and safety in the context of the developing recession will demand new energy and commitment. HSE must become an ever more vigorous champion of the need for safe and healthy work, challenging trivialisation of H&S in the media and elsewhere and making clear that investment in

necessary H&S measures is not an optional extra. (See RoSPA's arguments set out at Annexe one).

B. Key points

1) Shifting the focus to proactivity

While HSE must react appropriately to accidents, incidents and cases of work-related ill-health - to learn lessons and to ensure that those who fail to meet their duties are held to account – the balance of their strategic focus must be on proactive work, including helping to build the capacity and maximise the input of non HSE health and safety system contributors such as trade associations, unions, voluntary H&S bodies and other networks. Although additional Government funding for health and safety is clearly necessary, HSE must develop more cost effective solutions to its enforcement role through working creatively with other H&S professionals so that it can free up resources for more proactive work and partnership working.

2) Dealing with accidents and incidents

In particular there must be: 1) a fresh review of the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) to make them fit-for-purpose; and 2) a renewed focus on employers' duties to investigate. Unless immediate regulatory intervention is required, for those events which are immediately notifiable, HSE should require competent - and where necessary independently supervised - investigations to be undertaken by employers in conformity with their duties under the Management of Health and Safety at Work (MHSW) Regulations, the results to be made available to HSE (see also appendix two).

3) Remedial programmes

Similarly, where multiple failings are found, HSE must use their notice powers to deal not only with immediate risks but to require employers to put in place remedial programmes delivered or supervised by competent outside bodies which can oversee improvement in H&S management systems, completion reports to be submitted to HSE (see also annexe two).

4) A new H&S services network

HSE must indicate clearly the options for businesses to comply with their duties under the MHSW Regulations to 1) have access to competent advice and 2) to ensure the competence of their staff. HSE must establish a suitable evidence base on the extent of use and the effectiveness of professional H&S advice and related services and use their influence to promote good practice by H&S advisers.

To help businesses to gain access appropriate H&S services HSE should set up a 'clearing house' system or 'gateway', 'Chinese walled' from enforcement, to enable firms to identify the services they need (see also annexe two). This will require the establishment of a 'national health and safety services network' encompassing services in safety and health which meet necessary standards, building on the experience gained in the Workplace Health Connect pilots and successor schemes in Scotland and Wales.

5) Evidence of capability, performance and targets

There must be closer and more creative working between HSE/LAs and other H&S stakeholders to enable enforcement effort to be directed at under-performing

organisations with the most significant risks. To help them prioritise proactive enforcement effort, HSE and LAs must indicate to employers the kinds of evidence which they can put in the public domain (for example via the Internet – see www.gopop.org.uk) which will enable not just inspectors but other important stakeholders to take an informed view about 1) their capacity to manage health and safety and 2) their level of performance achievement. This should not be limited to HSE sponsored systems such as CHASPI but include a wider range of systems and indicators currently in use in the market.

In this context, RoSPA is not advocating that achievement, for example, of OSHAS certification should lead to an ‘inspection holiday’ or that or use of proprietary audit schemes could substitute for inspection by regulators. HSE must remain free to intervene as and when necessary but they and many others on the H&S scene need good intelligence to help them use their limited resources effectively.

All organisations should be urged to have a health and safety improvement plan, developed with employee input and to report publicly about their performance. In this connection organisations should be urged to prioritise action on their key risks, for example, work related road safety which, for most organisations, is their biggest occupational safety issue.

6) New sector action

HSE resources are required to help learn from and extend the many existing, successful sector H&S initiatives and to build the H&S promotion and support role of key trade associations. Adequate HSE resources need to be set aside for such capacity building in partnership with other H&S bodies. (As the next stage in its SME Inquiry - <http://www.rosipa.com/occupationsafety/sme> - RoSPA’s National Occupational Safety and Health Committee will be reviewing a range of sector based initiatives to assess their impact and lessons which can be passed on to other sector bodies that wish to extend their assistance to small and medium size businesses.)

7) Making the market work

HSE must intervene actively to rationalise and extend market led processes such as clients’ H&S pre-qualification and insurers’ requirements to help ensure that in practice these actually help to raise and maintain H&S management standards but without creating unnecessary bureaucracy. There must be a clear focus on ‘core criteria’ for helping to build the H&S management capacity of SMEs (see <http://www.rosipa.com/occupationsafety/sme/initiative.htm>).

8) Capitalising on excellence

There must also be a much stronger HSE led focus on business-to-business H&S learning and mentoring, promotion of awards for H&S achievement and creative use of case studies. ‘Higher performers’ fora need to be established locally and sectorally to extend the influence of businesses that are clearly committed to high standards. (RoSPA’s Scottish Higher Performers Forum provides a useful model here – visit <http://www.rosipa.com/occupationsafety/scottish/>. A further such RoSPA Forum is being established in the North West of England)

9) Local networks

HSE and Local Authorities must extend their support for local networks and groups, including local networks such as Health and Safety Groups which provide general business advice and support to SMEs (Visit www.safetygroupsuk.org.uk for which RoSPA provides the secretariat.) SGUK Management Committee are committed to building a thriving network of groups nationwide, helping to establish new groups and to bring the contribution of ailing or failed groups to the level achieved by winners in the Alan Butler Awards scheme (now in its 14th year).

10) Young people

HSE, with LAs, must take the lead in rationalising a nationwide 'safe learner framework' for all young people at work, including ensuring a safe and supportive work environment for 'permitted employments' (13-16), work experience programmes and funded vocational training placements. (This likely to become more important with restructuring of arrangements for vocational training. It should be noted that the Government has recently given RoSPA the lead in co-ordinating safety and risk education – see information about the Child Safety Education Coalition at <http://www.rospace.com/csec>)

11) Disease reduction priorities

Continued effort is required to ensure occupational disease reduction, including tackling asbestos related disease, occupational cancer, respiratory disease, occupational skin disease, musculo-skeletal disorders (MSDs) and stress. RoSPA agrees that this should remain HSE's main contribution to the 'health and work' agenda addressed in the Black Report, although workplace action to promote health, well-being and 24/7 safety remains extremely important.

12) Strategic liaison

With the demise of the Health and Safety Commission and its replacement by an Executive Board, there also needs to be a revisiting of options for bring key players together at a national level, including, for example, the idea of a high level '**National Implementation Group**' of key organisations, keeping the focus on innovation and partnership working to deliver the strategic objective of higher standards of health and safety management. (This model works well in other areas of government.)

C. Conclusion

RoSPA supports the HSE's wider vision of a strategy for the whole of the H&S system in the UK but further work is needed to ensure closer working between HSE and other parts of the system. Obviously, this is not without its challenges and risks – but in RoSPA's view that is not a reason to hesitate in exploring what could be achieved by such an approach. Indeed, the case for harnessing the energy of the wider H&S community is now so compelling that any attempt by HSE to remain neutral or at best agnostic about the extent and impact of what others are doing could seriously damage their credibility.

As a first step therefore in following up the strategy consultation HSE should create a suitably comprehensive (but consensual) map of the wider **H&S delivery landscape**, again seeking views of key players on the space they occupy within it and the role they play. The map obviously needs to include the roles of key actors such as employers' organisations and trades unions but it also needs to cover the roles of clients, insurers, consultants, trainers, standards setters, professional

bodies, local groups and networks, equipment suppliers, campaigners, technical and specialist press and many, many others. This needs to be followed up with independent evaluation of many of the services currently on offer to employers, such as management systems certification, behavioural safety programmes, Elearning, induction training, H&S passporting etc. While the choice about use of such services must remain with duty holders, many employers need help to enable them to make good choices, invest wisely and not waste precious resources on solutions which are inappropriate or disproportionate to their real needs.

In short the **'new dynamic'** between HSE and other key players has to be about **'making the market work'** and creating effective synergies between the work of the regulator and other H&S actors, be they internal like professional H&S advisers and safety reps or external such as consultants, trainers or specialist service providers. With the demise of the Health and Safety Commission and its replacement by an Executive Board, there also needs to be a revisiting of options for bring key players together at a national level, including, for example, the idea of a **'national implementation group'** of key organisations, keeping the focus on innovation and partnership working. (This model works well in other areas of government.)

Finally, closer working with others in the H&S safety field is not a cheap option or a means for HSE to cope with its current shortfall in resources. To deliver their full potential the approaches being advocated in this submission will require significant extra work and additional resources. The prize to be won however is not only a significant reduction in needless harm and easily preventable suffering but significant saving of wasted resources for both businesses, Government and the wider community.

RoSPA remains eager to help deliver the strategy. Annexe two sets out a series of concrete proposals for action.

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23rd February 2009

Annexe one

Note on promoting H&S in the developing recession

With the effects of economic recession now unfolding across the UK economy there is a need to avoid potentially adverse effects on H&S performance such as companies cutting back on investment in health and safety training; and even redundancies for health and safety advisers.

Health and safety is not only facing more media and political scepticism than ever before but there is a real danger that it could be seen as a 'nice-to-have' rather than essential ingredient.

During the current economic downturn RoSPA believes that it will be necessary for HSE and other all other key players in the H&S system to marshal the following arguments in favour of sustaining action on accident and ill-health prevention.

- 1) H&S measures are not optional extras but a legal requirement. Regulators have a key role in signalling their intention to enforce wherever necessary.
- 2) Failure to maintain standards can seriously damage corporate credibility. Organisations' commitments to H&S are likely to be perceived as shallow and purely cosmetic if, during tougher economic times, they renege on earlier promises to keep it at the top of their agendas.
- 3) The consequences of accidents and disasters during a slump - for example, due to cutting corners on H&S - are likely to be no less significant than during boom times; indeed they are likely to be worse.
- 4) Corporate manslaughter and increased attention in the courts on the role of directors will come into sharper focus just at a time when businesses may be tempted to cut back on H&S.
- 5) There is unlikely to be any reduction in the number of those who are entitled to receive compensation for injury due to corporate negligence.
- 6) In a harder market, insurance premia are likely to rise, increasing the importance of being able to show evidence of enhanced H&S risk management.
- 7) When turnover falls, investing in measures to reduce accidents, ill-health and their consequential costs becomes even more important to help defend the bottom line.
- 8) With competition and pre-qualification criteria for contracts and new business likely to become more intense, businesses which seek to trim back on H&S are likely to lose out.
- 9) Avoiding injuries and ill-health early retirements will be vital in preserving key personnel and corporate memories. Investing in employee health and well-being may well prove more affordable in attracting and retaining staff than other forms of reward or remuneration.
- 10) Health and safety skills, especially for managers and team leaders, are a part of the core competence on which business success depends.

Annexe two

Delivering better health and safety Ideas for closer working with HSE

As part of their current consultation on their forward strategy (*'Be part of the solution'*) the Health and Safety Executive (HSE) has challenged other players in the UK Health and Safety System to come forward with ideas on how they can contribute to raising and maintaining standards of health and safety at work.

This note sets out a series of proposals for closer working between HSE and RoSPA in this context. Many of these ideas build on suggestions which RoSPA has been putting to (the then) HSC and Parliamentary Select Committees for over ten years.

A. Supporting enforcement

Supervision of investigation

HSE needs help to enable it to respond appropriately to accidents and incidents, while retaining sufficient field staff resources to engage in proactive work. RoSPA has argued that, unless immediate regulatory intervention is required, for those events which are immediately notifiable, HSE should require competent - and where necessary independently supervised - investigations to be undertaken by employers in conformity with their duties under the Management of Health and Safety at Work (MHSW) Regulations, the results to be made available to HSE. **RoSPA would like to establish a system of accredited professional investigation supervisors, developing necessary protocols and standards to ensure the integrity of this approach.** (Annexe three is the text of an article on this proposal to appear in the March edition of RoSPA's monthly magazine 'OS&H'.)

Remedial auditing

Similarly, where HSE might not have the resources to follow through an in depth review health and safety management systems, they should be able to use their enforcement powers (if necessary) to require duty holders to engage independent professional auditors to do this work so that results can be discussed with HSE and necessary actions then closed out. **RoSPA would like to pilot and run such a system, rolling it out across particular sectors and eventually the whole of the UK.**

Verifying H&S management performance standards

RoSPA proposes that to help them prioritise proactive enforcement effort, HSE and LAs must indicate to employers the kinds of evidence which they can put in the public domain (for example via the Internet – see www.gopop.org.uk) which will enable inspectors (and other stakeholders) to take an informed view about 1) their capacity to manage health and safety and 2) their level of performance achievement. This should not be limited to HSE sponsored systems such as CHASPI but include a wider range of systems and indicators currently in use in the market. **RoSPA would like to develop an oversight system for HSE on the standards and benchmarks which are currently in use in the UK.**

Training inspectors in the Management of Occupational Road Risk (MORR)

All organisations are being urged to have a health and safety improvement plan, developed with employee input, prioritising action on their key risks. For most

organisations, work related road safety is likely to be their biggest occupational risk. While the police will remain in the lead at the scene of road crashes and liaise with HSE as appropriate, HSE and LA inspectors will need to be promoting and reviewing MORR with employers during inspection visits etc. RoSPA has been the topic leader on MORR since 1997. ***RoSPA would like to deliver a series of training events for HSE and LA inspectors on this subject and develop a support network to help them engage with employers and other stakeholders around this issue.***

Advice about advice and services

To help them meet their duty under the MHSW Regulations to have access to competent advice, many businesses need professional guidance on the help and services which they need as well as advice on how and where to access them.

Working with HSE, RoSPA would like to set up a 'clearing house' system or 'gateway', 'Chinese walled' from enforcement, to enable firms to identify the services they need. This will require the establishment of a 'national health and safety services network' encompassing services in safety and health which meet necessary standards, building on the experience gained in the Workplace Health Connect pilots and their successor schemes in Scotland and Wales. This would include developing a suitable evidence base on the extent of use and the effectiveness of professional H&S advice and related services and promoting good practice by professional H&S advisers

B. Promotional activities

SHADS

RoSPA would like to work with HSE to deliver a wider series of 'Safety and Health Awareness Days', building on both HSE and RoSPA experience in the delivery of such events, including in key sectors (see below).

Sector development

RoSPA would like to work with HSE to help raise awareness of key health and safety issues in specific sectors. Some of the themes to be developed in this context include:

- Helping to build the H&S capacity of trade associations;
- Providing focussed H&S content for key trade magazines and Ebulletins;
- Establishing new alliances and initiatives (building on lessons learned elsewhere);
- Developing sector specific awards schemes;
- Establishing further 'Higher Performers' Fora; and
- Establishing and promoting online accident and incident information sharing systems (like SADIE in the Offshore Sector)

Champions programmes

RoSPA would like to build on experience in other areas of safety in delivering 'Safety Champions' programmes in order to apply this technique both nationally, sectorally and locally to HSE campaigning.

Local liaison

Building on its experience in working with local Groups and HP Fora, RoSPA would also be keen to work with HSE to develop and extend local networks of key H&S players.

RoSPA also wishes to work with HSE at local level to support the development of Local Health and Safety Groups in liaison with Safety Groups UK.

C. Way forward

Through its regular contacts with HSE RoSPA would like to explore these ideas in more details - and, in the light of discussions, develop a number of the above proposals in more depth, looking at costs and benefits and operational challenges.

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15th January 2008

Annexe three

'Parting Shot' in March edition of RoSPA's 'OS&H'

Helping HSE to respond to accidents

One of the major issues raised by the current HSE consultation exercise on their future strategy (<http://www.hse.gov.uk/strategy/index.htm>) is how they should balance their limited field force resources between investigating serious accidents, incidents and complaints – taking subsequent enforcement action where appropriate – and devoting sufficient staff to carry out important proactive work, including proactive inspections and campaigns.

Although they have been given a Treasury settlement which will enable them to start building up their inspector numbers again (the HSE field operations inspector force fell from 916 in April 2003 to 680 in December 2007), HSE are under great operational pressure at present, with many new staff in training and major organisational challenges to cope with. As a consequence of reduced HSE staff resources there has been a reduction in the proportion of accidents and incidents which are investigated by inspectors. A recent report by UNITE (<http://www.amicustheunion.org/pdf/finalreportamic27May%20v1.pdf>) compiled by the Centre for Corporate Accountability, suggests that, during the period 2001/2 to 2006/7, the proportion of notifiable major injuries to workers which were investigated by HSE fell from 18.3 per cent to 10.5 per cent.

The investigation of notifiable Dangerous Occurrences investigated fell by 31 per cent and accidents affecting the public (already at a low level) fell even further (by 68 per cent).

The UNITE report concludes that reduced levels of investigation and subsequent prosecution, quite apart from failing to meet the justice expectations of victims and their families, friends etc, will adversely affect perceptions of the rigour with which H&S law is being enforced and thus lead less committed businesses to ignore compliance with vital standards. During a recession in particular there is bound to be a greater temptation for unscrupulous employers to regard H&S requirements as an optional extra rather than a 'must have'. If the word on the street is that HSE are not investigating this is bound to result in more workers suffering as a result.

UNITE has called for inspection levels to be increased and HSE appear to be responding but unless this is accompanied by increased staff resources the result could also be bad for health and safety, for example, if it meant a cut in proactive work and less working with other stakeholders to raise awareness and spread good practice. To the extent that HSE becomes an overwhelmingly reactive organisation (simply responding to events rather than helping to prevent them) this will mean that they will be unable to play a wider leadership role in the 'health and safety system', particularly in higher hazard sectors where workers are still suffering death, injury and health damage due to ignorance and lack of management competence rather than deliberate disregard of the law. UNITE estimate that, at current staffing levels, if HSE were to do nothing other than investigations, they could still only investigate about 30 per cent of the direct reports they receive (and this does not take account

of course of the extent of under-reporting which, despite useful steps to increase response, is still very substantial).

More inspectors are needed to do more investigations – but is investigation by statutory regulators the only answer?

As part of their current consultation (in which they challenge non-HSE players to ‘*Be part of the solution*’) HSE is challenging others in the UK Health and Safety System to come forward with ideas on how they can contribute to raising and maintaining standards. As one of its possible contributions RoSPA is suggested that, for serious notifiable events where immediate regulatory intervention is not possible, HSE should require competent - and where necessary independently supervised - investigations to be undertaken by employers in conformity with their duties under the Management of Health and Safety at Work (MHSW) Regulations, the results to be made available to HSE. RoSPA, working with other key organisations, would like to help establish a system of accredited professional investigation supervisors, developing necessary protocols and standards to ensure the integrity of this approach.

This would build on HSE’s prime objective in investigation, namely to ensure causes are understood, lessons are learned and acted on and that others working with the same hazards can also learn how to avoid preventable tragedies. This then enables HSE to fulfil its secondary objective which is to consider, in line with the principles in its Enforcement Policy Statement (visit <http://www.hse.gov.uk/pubns/hse41.pdf>) whether other enforcement action is necessary, including prosecution.

So the prime objective post incident must always be to gather the facts, understand, learn and remediate before considering how justice needs can be met. Indeed it can be argued forcefully there can be no real justice without remediation! How can it be just, for example, if nothing is done to put things right and the same accident happens again to someone else before a case gets into court (often several years later)?

What RoSPA is arguing is that this approach of requiring externally supervised investigation in certain cases might run alongside a wider re-engagement by HSE with the whole question of investigation which, as readers of ‘OS&H’ will know, has been a RoSPA ‘key issue’ for nearly ten years. Progress has been painfully slow. Proposals for a clearer (but inappropriately prescriptive) duty to investigate did not make it past the Cabinet Office and instead new guidance was published by HSE (INDG245) which has only been moderately useful. The extent and general standard of investigation of accidents and incidents by employers remains low.

Similarly this wider re-engagement should also include an extended review of employers’ duties to report accidents, incidents and cases of work related ill-health. The last major review of RIDDOR (the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations), which went on for over two years, led in the end to the staggering decision by the then Health and Safety Commission to do nothing. Quite apart from the problem of tackling under-reporting, many parts of the Regulations, such as those relating to work related ill-health and dangerous occurrences (DOs) need major revision. The DO list in particular is a strange and

incomplete list of events. RIDDOR needs to be made fit-for-purpose and linked more closely to the implied duty in the MHSW Regulations to report, investigate and record internally - with a much stronger emphasis on pulling out the stops to investigate near-misses rather than waiting for the same events lead to major injury.

There are also huge opportunities to promote H&S learning from interactive web-based case studies of accidents and incidents.

Of course using enforcement to require employers to investigate properly is not without its challenges.

Post accident, could HSE actually serve a notice to require adequate and suitable investigation under independent external supervision? This needs testing. Enforcement notices are often issued in the immediate aftermath of incidents, usually to deal with immediate risk issues, but why not in relation to the way the employer responds to their MHSW duties to investigate and learn from an accident or incident? Those employers who thought this approach was unfair of course could always appeal to an Employment Tribunal. They would still have to prove that their in-house approach to investigation was adequate and suitable. In practice how many would feel that confident?

In contrast to HSE inspectors who have statutory powers to seize evidence and interview under caution if necessary, external investigators or supervisors would have no such rights, for example, to demand documents or to compel witnesses to reveal key facts. Nevertheless, because the investigation was being carried out in the context of an enforcement notice all involved would be aware of the serious consequences that might follow if the external expert experienced non co-operation or detected any attempt to dissemble.

Employers too (and their insurers) might also feel that, in carrying out a root-and-branch investigation they would in effect be weaving a noose to be placed around their neck by prosecutors. But equally, demonstrating an honest and open approach to learning from safety failure might be just as influential in causing HSE to decide not to prosecute or, if a prosecution did still follow, in causing the judge to bear this in mind in mitigation of sentence imposed.

And then there is the charge that, by requiring the employer to bear the costs of an externally supervised investigation (after 'the polluter pays' principle perhaps), the HSE would in effect be privatising a key HSE function. If such an approach to investigation was used in cases when HSE would otherwise have been involved, then such a charge would be quite valid. The truth is that there are more than enough serious cases where HSE need to be in the lead to keep them busy - and in any case, more HSE resources will be needed - both to address these cases and to follow through on reports received via the additional approach being suggested here. But it would be important nevertheless to ensure that external supervision would only be used in support of - and not in substitution for - HSE or Local Authority led investigations.

This is only one a number of ideas being put forward by RoSPA. In general we welcome the acceptance by HSE that they cannot 'do it all themselves' and that

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better health and safety can only be realised by HSE and non-HSE H&S professionals working much closer together than in the past. There are obviously challenges and risks involved but these need to be confronted and overcome if we are to find new ways to raise standards, save lives and reduce injuries. As ever, readers' views are welcome. Please send these to me at rbibbings@rospa.com .

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