



Chartered  
Institute of  
Environmental  
Health

# Proposals to Revise the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (as amended) (RIDDOR '95)

CIEH's response to Health & Safety Executive's consultation

October 2012

# The Chartered Institute of Environmental Health

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## Summary of the CIEH's response

Reporting of defined injuries, diseases and dangerous occurrences has been a legal requirement for well over 25 years. The three primary purposes for such reporting – promoting investigation, providing intelligence and collecting and reporting statistics – remain as valid today as when the legal requirement was introduced.

The three purposes have value to businesses and citizens alike. Used properly, the information dispels complacency, drives improvement (including through innovation) and underpins desirable behaviour change, which includes preventing recurrence.

A fundamental review in 2005 identified "serious flaws" in the legal framework and made a compelling case for change. However, fundamental action was ducked then.

In summary, the key issues identified in 2005 were around unclear justification for some of the requirements, the uses to which the reported information is put and under-reporting (which in reality should be recognised for what it is: law-breaking).

Two broader issues that arose were around uncertainty of interpretation and an overly enforcement-related emphasis.

The view of the CIEH is that the focus of revised RIDDOR ought to be three-fold:

1. Reporting what is necessary to meet the three primary purposes without unnecessary elaboration
2. Make reporting easier to understand and more convenient
3. Enforcing the law effectively where breaches are serious and/or persistent.

Over-arching all these three aspects, the system in its design, operation and evaluation should be completely open and transparent for businesses, citizens and regulators. It is through this approach that there can be assurance that there is justification for the reporting requirements, that the information is being put to good use and there is a level playing field in reporting.

For these reasons, the CIEH believes that a revision now which addresses the flaws found seven years ago is overdue, necessary and welcome.

We believe that this approach also meets the intent of Professor Lófstedt's recommendation for amendment in order to remove ambiguity and provide clarity.

## Purposes of Reporting and Recording Arrangements

*Q1. How is the information reported and recorded under RIDDOR used to help manage health and safety in your organisation?*

The CIEH has a published health and safety policy and a learning culture that ensures that reporting and recording experiences lead to appropriate assessment, consideration of the need for adjustment/action and internal communication of outcomes.

*Q2. Will the changes under the proposed revised regulations have any impact on how your organisation manages health and safety?*

**No** because the CIEH's systems can be adjusted to take account of the changes, if changes to the reporting requirements are to be made.

## Summary of Current Incident Reporting Arrangements

*Q3. Has your organisation ever experienced difficulty or uncertainty in determining whether incidents must be reported under RIDDOR?*

**No**, not as an employer.

As a professional body advising and representing professional practitioners, the CIEH has often been involved in assisting employees, employers and regulators in such determinations.

## Terminology and General Principles

### **(A) "Accident"**

*Q4. Should the requirement that there must be an "accident" before a death or injury becomes reportable be retained?*

**Yes**

The CIEH has considered whether to recommend that this requirement should be dropped, or some alternative terminology such as "incident" should be used, because of the weaknesses set out in the HSE's consultation. However, the consequential drafting of the regulations, implementation of a different approach and familiarisation of all those affected by RIDDOR would be a major undertaking and, conversely, the word is familiar in this context and its use deeply embedded.

*Q5. Does "accident" need to be defined in guidance?*

**No**

The word "accident" is not the most accurate or useful terminology to use in connection with the requirement for reporting "injuries", "diseases" and "dangerous occurrences". The word has several, diverse meanings ranging from a collision causing damage to an event that happens completely by chance.

The HSE's current formulation in its guidance that

*"an accident is a separate event to a death or injury, and is simply more than an event, it is something harmful that happens unexpectedly."*

is as good as any other and should be retained but it shouldn't be called a "definition".

*Q6. Is the current definition of “accident” sufficient?*

**No** for the reasons stated already – and for the same reasons we do not foresee that a different definition will be an improvement.

### **(B) “Arising out of or in Connection to a Work Activity”**

*Q7. Would it improve clarity to restrict accident reporting to injuries to people engaged in work at any place, and to non-workers only when occurring at “work premises”?*

**Yes** to the first proposition and **No** to the second proposition.

It would be helpful to state as clearly as possible which work-related injuries, diseases and dangerous occurrences - and at which work locations - must be reported.

The proposal here consulted upon has two quite distinct limbs.

On the one hand it is proposed that the legal reporting requirement in respect of injuries to people engaged at work should relate to any place where that work is carried out. In one sense at least this proposal does not mean what it says because the consultation explicitly rules out requiring the reporting of injuries sustained while driving (or being driven) on the public road network for work. This is an important qualification for the new regulations and guidance to make clear and it begs the question as to its scope in actual fact.

The CIEH does believe that the reporting requirement should apply in respect of people engaged in work at any place (including, we would argue, on public roads).

On the other hand, it is proposed that the reporting requirement in respect of non-workers should only relate to injuries sustained at work premises (if another proposal is implemented the only injuries we are here concerned with are fatal injuries). The CIEH’s main concern about this formulation is that the result would tend to conceal injuries. Moreover to restrict reporting like this would to an extent disconnect these injuries from the wider ambit of the Health and Safety at Work Act 1974.

An additional concern is that it might exclude injuries to people working or living or passing by next to the work premises where the cause arises. To divorce the “injury” from the “accident” on work premises, and not require the injury to be reported, effectively hides a whole set of cases which do fit the three primary purposes of reporting.

## **Specific Categories of Reportable Events**

### **(B) Non Fatal Injuries to People at Work**

*Q8. Do you agree with aligning the major injury categories with those in HSE’s incident selection criteria?*

**Yes**

The consistency, and the greater clarity for those who must comply with the requirement, is welcome.

*Q9. Is the proposed list of major injuries clear and unambiguous?*

**Yes**, or at any rate, clearer and less ambiguous.

*Q10. Are there any other types of injury that you feel should be included in the list of major injuries? If so, please describe and explain why they require inclusion.*

**No.**

The CIEH does not think that adding to the list is the right way forward to address the limitations which have been identified.

### **(C) Non Fatal Injuries to People Not at Work**

*Q11. Do you agree with removing the requirement to report non-fatal injuries to persons not at work? (i.e. non-workers who sustain injuries as a consequence of a work activity, such as members of the public and customers in retail premises.)*

**No**, not without further work

This meets the Lófstedt point about incidents involving members of the public. However, it relies on the information of more serious injuries coming to the attention of the HSE and local authorities through other channels, but the fact is that these channels are not consistently effective in bringing this about. In consequence, the removal of the RIDDOR reporting requirement altogether would undermine the three primary purposes, in particular the receipt and application of useful intelligence. A lack of knowledge on the part of the regulatory authorities and absence of action to remedy failings would undermine public confidence in the whole system.

It is also questionable that we should be shifting the responsibility (and cost) of gathering and reporting the information to ambulance trusts, A&E Departments and the police.

It is beyond the HSE's scope to do much about the shortcomings in alternative information channels. In the context of England's new public health arrangements from April 2013 it may become possible over time to ensure that health information about workplace injuries and diseases is routinely gathered and shared with those who need to have the information – which includes the HSE and Environmental Health Practitioners in local authorities. However, this is something that requires more detailed consideration and further work outside this consultation and the current revision of RIDDOR.

*Q12. Do you agree that removing the requirement to report non-fatal injuries to persons not at work makes it easier to comply with the requirements?*

**Yes** for employers. Scrapping RIDDOR entirely would do this, too, but somewhat misses the point.

*Q13. Are there any potential negative consequences of not recording/reporting this information?*

**Yes**

The main danger is that data relied upon to make proportionate, risk-based judgements about enforcement and ensuring compliance which is already flawed (because of the limitations already referred to, including under-reporting and lack of understanding) will actually become even less useful for the intended purposes. "Hushing up" the consequences of careless work practices is only likely to lead to more "accidents".

## **(D) Occupational Diseases**

*Q14. Do you agree with the proposal to remove the reporting requirement for cases of occupational disease, other than those resulting from a work-related exposure to a biological agent?*

**No**

This represents a significant worsening of an already bad situation. The emphasis in the consultation document on alternative sources of potentially more complete data creates a loss of focus on the other primary purposes of the reporting requirement, namely investigation to support regulatory functions, providing intelligence and enabling employers, citizens and regulators to learn from the information and improve employees' health and wellbeing going forward.

There may be occasions when, as the consultation document states, the report of an occupational disease may not be a reliable trigger for an investigation by the regulator. However, this may depend on what has changed since the disease in question was caused and whether the same risk is still in place regarding today's workers, and this is itself a matter for the regulator to assess. In any event, this point alone does not meet the CIEH's concern in respect of the focus on the other purposes we set out above.

On other occasions, the link between the risk and the harm is much more immediate, for example some instances of dermatitis.

The low reporting levels and barriers described in the consultation document should not be reason to abandon this reporting requirement but to modernise it and fit it to the circumstances described.

There is no support for this proposal to be gained from a reading of the Löffstedt report, indeed, we would refer to paragraph 20 of the first chapter of the report which states:

*"Whilst it is important to ensure regulations are still relevant for the modern workplace, changes should not be undertaken lightly and consideration must be given to the potential unintended consequences. For example, regulation may still be needed to control risks that may arise in a different context or which may re-emerge if the controls are removed."*

In his Foreword, Professor Löffstedt says:

*"These [recommendations] will enable businesses to reclaim ownership of the management of health and safety and see it as a vital part of their operation..."*

Let us not lose sight of the link between the occupational disease itself and its cause, in particular the place where it was caused and the working practices that caused it.

If retained, this requirement does need attention, for the reasons set out in the consultation document, to clarify the reporting lines between medical practitioners and employers – and a form of reporting that prompts employers then to report in turn under RIDDOR. The CIEH would suggest that the first part of this reform should be grounded in the wider public health setting (for example public health intelligence) and the latter is a matter of appropriate templates.

### **(E) Reporting of Gas incidents**

*Q15. Do you agree with the proposed change to the reporting threshold for non-fatal injuries for gas incidents?*

**Yes**

The proposed

*".. loss of consciousness or a person attending hospital after the incident for treatment..."*

should suffice to cover all the non-fatal eventualities that should be of concern to investigators.

### **(F) Dangerous Occurrences (See also Annex 1)**

*Q16. Do you agree with the proposals for the revision of the types of dangerous occurrences that must be reported given in Annex 1 to this consultative document?*

**Yes**

The proposed actions to retain, update, simplify and remove duplication are welcome.

Where removal is proposed, reporting numbers are low and other reporting/recording arrangements exist.

### **Record Keeping**

*Q17. Do you agree that there should be no change to the recording requirements, i.e. records must be kept of all deaths, injuries and dangerous occurrences that must be reported, together with records of O3D injuries to workers?*

**Yes**



The CIEH fully supports the HSE's clear statement of the importance of records and their uses, especially the uses that employers should make of them.

The CIEH supports the "no change" proposal because the existing requirements are certain and well understood.

## The Self-employed

*Q18. Proposals are currently being consulted upon to exempt from health and safety law those self-employed whose work activities pose no potential risk of harm to others (refer to HSE consultative document No. 242.) Do you agree that those self-employed people who will be excluded from the requirements of other health and safety law should no longer be required to report, or make arrangements for another to report, their own injuries, occupational diseases, and dangerous occurrences at their own premises that endanger no-one else – e.g. others working at the premises or neighbours?*

**Yes** in the very narrow category that Professor Löffstedt proposed only.

In considering occurrences which endanger no-one else, there is a distinction to be drawn between those which never could have endangered anyone else and others which might have done so, though in the event did not. It is about potential.

Exempting the self-employed from reporting occurrences which could never have harmed third parties is logical. However, it would be irresponsible to remove the reporting requirement in any wider circumstances just because of their self employment status.

In practice, it will be important to ensure that there will not be inconsistency which might undermine the RIDDOR reporting regime or the protection of workers who are not self employed.

## Appendix A: Impact Assessment

*Q19. Do you agree with the conclusion of the Impact Assessment?*

**Yes**

The cost impacts appear reasonable.

A potential cost that is not captured is the cost of injuries which recur because their like have been taken out of the reporting requirement.

It seems odd to describe an increased compliance rate as a "risk" (the risk described is that the cost savings will be lower than estimated).

The CIEH endorses the preferring of the "do something" option over the "do nothing" option but nevertheless regards the proposals to be sub-optimal because of the risk that

information about non-fatal injuries to non-workers will reduce and occupational health will be ill-served by an even poorer workplace focus.

*Q20. Are there other factors that should be taken into account?*

**No**

None not already identified in answer to Q18.

*Suggestions for additions.*

*Q21. What additional information can you provide on the following:*

- (i) The time required to complete an accident book and submit RIDDOR reports*
- (ii) The costs to businesses associated with RIDDOR reporting (para. 21-23)*
- (iii) The cost of updating IT systems for accident records*
- (iv) The familiarisation costs associated with the introduction of revised RIDDOR regulations (Impact Assessment par. 35-38)*

The CIEH does not have specific data to assist in responding to these additional questions.

## Appendix B: Equality Impact Assessment

*Q22. Do you agree with the Equality Impact Assessment?*

**Yes**