



Chartered
Institute of
Environmental
Health

Call for evidence A Review of the Health and Safety Executive as a Non-departmental Public Body

Response to the DWP consultation

July 2013

About the Chartered Institute of Environmental Health

As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish guidance notes and magazines; run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,000 members across England, Wales and Northern Ireland.

Any enquiries about this response should be directed in the first instance to:

Jenny Morris
Principal Policy Officer
Chartered Institute of Environmental Health
Chadwick Court
15 Hatfields
London
SE1 8DJ

A Review of the Health and Safety Executive as a Non-departmental Public Body

Question A

Do the functions that the Health and Safety Executive (HSE) performs remain necessary and if so do they need to be done by HSE?

The Chartered Institute of Environmental Health (CIEH) believes that the functions remain necessary and that HSE is best placed to carry them out.

The HSE operations clearly include a significant technical function, both in provision of advice to industry and in compliance checking/enforcement. A significant amount of enforcement is carried out by the HSE's inspectorate and is supported by the science of the Health and Safety Laboratory. Part of the enforcement function is delegated to Local Authorities (LAs), who based on figures in the Call for evidence paper, have regulatory responsibility for a larger number of (generally lower risk) premises and employees than HSE. LAs work particularly with small and medium enterprises (SMEs) and their interventions which apply local knowledge are generally welcomed and valued by the SMEs.

Q1. Do HSE's business aims and objectives as set out in Annex D do the right things to deliver its statutory functions? Has it got the right balance?

The aims and objectives appear appropriate to deliver the statutory functions. How these are balanced is not clear.

Q2. How well do you think the HSE fulfils each of its functions at present?

Significant change is occurring currently driven by the need to reduce costs and to support business success. These are clear needs in times of austerity but ongoing reductions in resource must result in reductions in the level of protection. The central allocation of budget is not within the control of HSE and HSE seeks to make best use of scarce resources. HSE is clear about what it can and can't do but it is not clear that this is in line with public or business expectation. There needs to be a greater public debate on what can be done otherwise HSE and the LA inspectorate are at risk of failing to fulfil expectations.

HSE has previously carried out its functions well and has had an excellent partnership with LAs. The reputation of the United Kingdom in maintaining good standards of health and safety has been excellent. However the rapid rate of current change poses a significant threat to the maintenance of high standards. Change is forcing a move to focus (only) on highest risk activities, leaving a very large number of work activities deemed to be lower risk without systematic oversight. This is particularly an issue at LA level where the recently issued National Local Authority Enforcement Code severely restricts activities. It will be important to assess the impact of change on health and safety standards, though the information and intelligence available as a result of change e.g. amendments to RIDDOR reporting, is likely to make year on year comparisons difficult.

Q3. Is there a need for a body to carry out each of these areas of work? If so is HSE the right body to do this work, in the light of what it is doing now?

All these areas of work are needed. HSE has the necessary expertise, has a good history of delivery and consequently there appears to be no reason for change.

Q4. HSE's functions include policy development, including negotiating on behalf of the UK Government on European Legislation – are they the right people to do this?

Yes. They have the knowledge and the practical expertise. It is important to understand not only the policy implications but also how legislation might be developed into operational practice.

Q5. HSE also carries out research, technical development, provides advice, carries out investigations and enforces health and safety legislation. Are any of these functions no longer required?

They are all required. However the ability to carry out these functions is being impacted by budget cuts. One specific impact that should be anticipated is that the reduction in inspections and almost inevitably other interventions, both at HSE and LA level, will result in a diminution in good intelligence to direct risk based activities. Activities will become more reactive rather than preventive. A consequence of this is likely to be increased costs in terms of mortality and morbidity which will impact on the country's economy.

Q6. Are there parts of HSE's work that could be better done elsewhere in the public, private or not-for-profit sectors?

It might be possible to transfer some activities elsewhere e.g. provision of advice. However this would still require expert input such as that held by HSE and would transfer costs. It seems likely that the costs to business in "buying" this advice would be greater. There are also risks that such advice would not be consistent or objective.

Some elements of HSE's activities are also restricted, rightly, by legislation e.g. enforcement.

In such cases the aim is to ensure that there is an objective delivery body that focuses on employee protection, this is essential.

Past practice shows that splitting up services that operate effectively can be counterproductive resulting in "customer" confusion and opening up gaps that allow problems to develop unchecked. Consequently it does not appear that effectiveness would be improved by dividing up the services.

Whilst in the long term such an approach might reduce costs, short term set up costs for new bodies are likely to be high and costs will need to be borne by someone. In terms of cost saving the HSE initiative in charging a Fee for Fault may well be beneficial not only in making the transgressor pay, thus levelling the playing field, but also as an incentive to maintain good standards. Such initiatives seem a better approach than splitting up an effective delivery function.

Q7. HSE currently regulates health and safety jointly with Local Authorities – is this division of responsibilities between the HSE and Local Authorities correct?

Yes. There are many benefits in maintaining a local delivery service. Whilst national risk assessment is essential to drive focus onto areas of national high risk it is important to recognise that risks can vary at the local level. Using local information LAs are well placed to develop local intervention plans for businesses that are performing poorly. There is also evidence to show that LA officers provide considerable support to businesses in achieving

compliance and this can assist with their growth and success. For SMEs in particular, research shows that inspector visits are generally seen as beneficial. New arrangements such as Local Enterprise Partnerships provide the opportunity to build on such business support and benefit.

Q8. Are there functions carried out by other bodies that you consider would be better done by HSE?

No. Some commentators have suggested that HSE might take up the LA enforcement role. However there is no evidence that such a move would be beneficial. In particular it seems likely that SMEs, who are seen as the driving force for economic recovery, would be disadvantaged through loss of local support. It is also worth noting that LA inspectors often have a wider remit than the focus on health and safety outcomes which can be advantageous to both business and the local community. In general business welcomes the ability of an inspector to carry out more than one function however business expects the inspector to be an expert in their field(s) and to be competent in their activities. However this does not mean that health and safety compliance should be supported or assessed through the use of relatively unskilled inspectors using tick box proformas across multiple regulatory domains. CIEH believes that good health and safety outcomes will only be achieved by the use of knowledgeable and competent inspectors.

In this context the role of professional bodies is key. There are a number of different qualifications that provide LA inspectors with their underpinning knowledge. The Environmental Health degree, developed by CIEH, as the professional body, is one route. The health and safety elements of the degree have been agreed with HSE as providing the necessary technical knowledge.

Beyond knowledge there is a need to develop competence during employment and CIEH has worked with HSE to develop the Common Approach to Competency for Regulators. This involves the use of the Regulators Development Needs Analysis (RDNA) tool and the supporting Guidance for Regulators Information Point (GRIP). The common approach to competency is used by both HSE and LA inspectors to assist in the provision of a skilled workforce and this needs to continue to be supported.

Q9. Are there any lessons to be learnt from other countries about how best to deliver the work that HSE does and how similar bodies in those countries manage their work? Are there any constraints on applying such models in Great Britain?

CIEH does not have sufficient knowledge of overseas practice to comment specifically on this question. It is worth restating that the UK has gained an excellent reputation for its health and safety standards. Change without evidence that systems used in other countries would be effective in the UK context risks damaging the achievement of good standards.

Q10. Would another delivery model offer a more efficient and effective way of delivering HSE's functions? Some alternative delivery options are outlined at Annex C, but you do not need to restrict your suggestions to the options listed.

Abolish

This does not appear to be a realistic option.

Whilst the UK is well recognised for its H&S performance the costs of accident, injury and ill health still remain high. Without an H & S function it should be anticipated that health and

safety failings would increase and that this would impact on the country's economic output through damage to the workforce as well as increase NHS and benefit costs.

Move out of Central Government

No. Part of the service is delivered locally at the present time.

Whilst there is value in this due to the ability to develop local intelligence and develop relationships with business, a complete delegation to local level would lead to considerable variations in service. This would result in inconsistent support and enforcement for business and be subject to variable prioritisation. Such a "post code lottery" would not create a level playing field for business. The current model that maintains an element at national level combined with some delivery at local level appears effective.

Bring in house

The mixture of central and local components appears effective.

Merge with another body

Whilst there might be similar bodies that could be considered e.g. the Food Standards Agency (FSA) the objectives of the two bodies are different. The FSA has a different structure as a Non Ministerial Government Department and a focus on consumer protection. HSE is an NDPB and has a focus on protecting those at work and those affected by work activities. Apart from the different structures and objectives the risks are different and the regulatory links to the European Union are different.

Such a merger would consequently appear fraught with difficulties. Mergers generally involve significant challenges and may well result in unbalanced objectives. CIEH does not see any other body with which HSE might seek to merge that would deliver clear benefits.

New Executive Agency

Costs are likely to be high and benefits unknown. Without good evidence of gains this does not appear an appropriate proposition.

Continue NDPB

The HSE appears to work effectively as an NDPB. There are some flexibilities available as an NDPB. HSE needs political impartiality and must be able to establish facts and figures that can be translated into policy and practice independent of Ministers.