

BHSEA Meeting 9 January 2012

HSE –The Year Ahead Rosie Edwards, HSE Regional Director, Wales, Midlands and South West



A copy of a handout of the presentation is available at bhsea.org.uk/2012HSEupdatehandout.pdf and a copy of this document at bhsea.org.uk/2012HSEupdate.pdf

Rosie started by paying a tribute to Andy and Liz Chappell and thanking them for all they had done in support of health and safety in the West Midlands over many years and wished Andy a full and speedy recovery. [Andy and Liz are retiring from their role as the 'BHSEA Secretariat Team'. Unfortunately Andy was unable to be at the meeting due to illness.]

Rosie then split her address into the following sections:

- The merging of the HSE Field Operations areas
- Charging (cost recovery) and its impact
- The Lofstedt Review, Red Tape Challenge and reducing burdens
- Statistics –what do they tell us
- What the HSE did 2011/12 and priorities for 2012/13

The merging of the HSE Field Operations Divisions

The HSE Field Operations Directorate faces a funding reduction of 20% by 2014. To achieve this a number of actions have been taken including reducing the number of Field Operations Divisions from seven to three. As a result the Midlands region has merged with Wales and the South West, resulting in a reduction of posts at the top level of the organisation and is part of a plan to reduce posts in a controlled way at all levels.

Charging (cost recovery) and its impact

The consultation on charging ended in October 2011. HSE has been doing 'dry runs' to test procedures. This will continue until 6 April 2012 when charging will start.

What will be charged for?

The Government has been decided that HSE will charge if an inspector finds a 'material breach' of the regulations. There will be no charge if no breach is found, eg for an inspection resulting in verbal advice. However if the inspector writes a letter notifying the duty holder of a matter which requires them to take action to put right or issues a notice then a charge will be made. This will be at an hourly rate of about £124 and will be for the time the inspector spends dealing with the breach at the work place and the associated administrative work with issuing the documentation. Any subsequent return visits to ensure that the breach is put right will also be charged for. The hourly rate includes an element for the time spent by administrative staff and managers.

From now until April, HSE inspectors will be briefed and trained on the charging arrangements. It is not the intention to use the system as a means of generating money for the HSE. Inspectors will not be changing their behaviour and issuing more letter or notices to make money. Inspectors will focus on high-risk industries and poor performers in any industry, and if their targeting is successful it will inevitably result in inspectors finding material breaches and hence charging for their time.

More information about charging will be published shortly by the HSE.

Appeals

If an employer does not agree with an improvement or prohibition notice there is already an official mechanism for appealing to an Industrial Tribunal and this will continue. In the case of letters, there will be a simple two-stage appeal system for those firms who contend that there was no material breach or consider the time charged for is excessive.

Lofstedt Review, Red Tape Challenge and reducing burdens

The review and challenge found no case for radically altering health and safety legislation but there a need to tackle things that cause business to go beyond what is proportionate. (For a list of report recommendations see handout.)

The key message is for employers to focus on health and safety issues that really matter and take action that is proportionate to any risk.

Some points to note:

- The Government response notes the proposal for HSE to direct all Local Authority health and safety inspections and for HSE to be the primary authority for multi-site firms but points out the importance of local knowledge and experience. HSE will work with local government to secure a more consistent and proportionate approach to enforcement. The government will be giving more thought to the way the Primary Authority Scheme should work.
- The government will review all regulatory provisions that impose strict liability and look for ways to address what could be a significant driver of over-compliance with health and safety law, eg if employers and insurers fear that just because an accident has occurred in association with work it may automatically make the employer liable for a civil claim.
- An Independent panel (bhsea.org.uk/whatsnew2012.htm#2) has now been established for duty holders who consider they have been asked to do something unreasonable. In the case of notices, the appeal will continue to be heard by the Industrial Tribunal. Matters will only be referable to the panel once the employer has exhausted the normal routes, eg discussed the matter with the inspector and his/her line manager.

Inspections

The ministerial statement in March 2011, "Good Health and Safety, Good for Everyone" made it clear that HSE would only make pro-active inspections in high risk industries or poor performers and that the number of proactive inspections would be reduced by a third (to 22000 nationally per year). Investigations of complaints and incidents will continue as before, with HSE using existing criteria to select only the more serious incidents and complaints for investigation. To identify poor performers, HSE will use a range of intelligence sources: RIDDOR reports, complaints, claims (from accidents not notified to HSE), previous HSE intelligence, intelligence from other regulators about serious failures to comply with their legislation which may indicate wider failures.

Statistics 2010/11 –what do they tell us

(See handout for figures)

Accidents and ill health

Fatal accidents rose but the rate is still below the five year average. There is a downward trend in ill health and +3 day accidents and the number of days lost due to injury and ill health was two million less than last year. The number of deaths from mesothelioma continued to rise. The majority of these were people who had worked with asbestos in the past (before control measures were introduced). Rosi pointed out that there are some very moving personal case stories on the HSE website about tradesmen suffering from or who have died as a result of asbestos-related diseases which may help those providing asbestos awareness briefings (bhsea.org.uk/whatsnew2011.htm#77).

Prosecutions and Notices

9% more cases were prosecuted and 13% more notices were issued by the HSE compared to last year. This is not an indication that things are getting worse but the HSE were targeting their resources better.

What the HSE did 2011/12 and priorities 2012/13

(See handout)

2011/12

One area the HSE was keen on was worker involvement. For little outlay significant improvements can be made. The waste industry was also a target for the HSE as there have been some nasty incidents and there is exposure to unusual health risks. It is a new and emerging industry with a variety of potentially dangerous plant and machinery which people have to work with. Another area is vulnerable workers in farming and food processing where through working with other agencies including the Gangmaster Licensing Authority, HSE were able to target pockets of very poor compliance and very poor working conditions.

In February/March 2012 the HSE will be carrying out an intensive inspection campaign on refurbishment of building.

2012/13

The HSE wants to make cost recovery work in a fair and open way. It will continue to focus on promoting leadership and will focus on this during inspections. HSE will continue to focus on construction, asbestos, the waste and food processing industries and the higher risk parts of manufacturing industry.

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