



Department
for Work &
Pensions

Tailored Review of the Health and Safety Executive

November 2018

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Foreword

In November 2017 I was asked to lead the Tailored Review of the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions (DWP). A number of reviews have considered the work of HSE in the past few years, not least the Triennial Review undertaken in 2014¹. This review consequently adopted a 'light-touch' approach, focusing on areas that had not been closely examined in previous reviews, or areas where there had been notable changes.

This review found that HSE is a well-respected and well-structured organisation that fulfils its statutory objectives effectively. Much work has been done within HSE to consider the recommendations from the Triennial and other reviews and to implement change where required. HSE has also made considerable efforts to meet the efficiency challenge imposed by the 2015 Spending Review. This has been supplemented by the successful roll out of Fee for Intervention (FFI) and the generation of commercial revenue from its world-leading scientific activity.

Whilst HSE has embraced the challenge of the cost recovery model for regulatory activities promoted in the 2017 Regulatory Futures Review², the uncertain nature of the income that is derived from HSE's FFI and commercial activities does create something of a challenge for budgeting purposes. There is a danger for a risk-based regulator that the cost recovery model creates perverse incentives that could undermine the achievement of the core regulatory objectives. This review found no evidence of those incentives operating within HSE, but I do recommend that Cabinet Office and HM Treasury consider the potential impact of uncertain cost recovery on an organisation's budgets.

There are, of course, areas for improvement and the recommendations of this report highlight those areas. This review found that HSE is aware of the areas where improvement is required and is, in many cases, already working on implementing those improvements.

It is well known that the world of work is changing, and those changes may have a fundamental impact on how HSE regulates in the future. This review is very supportive of the insight work being undertaken by HSE which will be critical in helping it to plan how to organise its interventions most effectively into the future. This is against a background of HSE being asked to extend its remit while continuing to deliver improved spending efficiencies. There may come a point at which achieving the full extent of HSE's remit within a reduced cost envelope will require a more wholesale review of what HSE does and how it operates.

¹ M. Temple, (2014), *Triennial Review Report: Health and Safety Executive*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/275233/hse-function-form-governance-triennial-review.pdf

² Cabinet Office, (2017), *Regulatory Futures Review*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/582283/Regulatory_Futures_Review.pdf

I would like to thank HSE for their full co-operation with the review and for their openness in considering areas for improvement. I would also like to thank those individuals more familiar with the process of conducting Tailored Reviews who have provided me with succinct and timely support, assistance and constructive challenge.

Finally, I would like to thank my Review Team who have provided invaluable support at all stages of the review and the completion of this report.

Sarah Smart

Lead Reviewer

1. Introduction

Aims of the Tailored Review

Tailored Reviews are periodic reviews that provide assurance and challenge about the continuing need, efficiency, effectiveness and good governance of public bodies.

The Health and Safety Executive (HSE) was subject to a previous triennial review in 2014³, and a number of reviews have considered aspects of HSE's work since then, including the 2017 Regulatory Futures Review⁴. Therefore, this review has taken a proportionate approach, focusing on areas that have not been examined as closely or where there have been notable changes since previous reviews.

Overview of the Health and Safety Executive

HSE is Great Britain's independent regulator for work-related safety and health. Its mission is to prevent death, injury and ill-health in Great Britain's workplaces, through research, information and regulation. Health and safety regulation in Northern Ireland is the responsibility of the Health and Safety Executive Northern Ireland (HSE NI) and HSE liaises with HSE NI as necessary.

HSE is a Crown Non-Departmental Public Body (NDPB), sponsored by the Department for Work and Pensions (DWP) and reporting to the Minister for Disabled People, Health and Work, on behalf of the Secretary of State for Work and Pensions. HSE has around 2,500 permanent staff, including over 1,050 inspectors and visiting health and safety staff, with total operating expenditure in 2017/18 of £221 million.

HSE was established by the Health and Safety at Work etc. Act 1974 with primary duties, as follows⁵:

- Propose and set necessary standards for health and safety performance, including submitting proposals for regulations and codes of practice.
- Secure compliance with these standards, including making appropriate arrangements for enforcement and assisting those concerned.
- Carry out research, publish the results of research and encourage research by others.
- Provide information and advice, ensuring relevant groups are kept informed of and adequately advised on matters related to health and safety.
- Provide Ministers with information and expert advice.

³ Temple, (2014), *Triennial Review Report*

⁴ Cabinet Office, (2017), *Regulatory Futures Review*

⁵ Health and Safety at Work etc. Act 1974, <http://www.legislation.gov.uk/ukpga/1974/37/contents>

Recommendations

Below is a thematic summary of the recommendations of this review.

Partnership Recommendations

The Department and HSE should work together to review their partnership arrangements and other collaboration:

- **Recommendation 1:** HSE and the joint DWP and DHSC (Department of Health and Social Care) Work and Health Unit should review their collaboration and agree a Memorandum of Understanding.
- **Recommendation 2:** In line with the Cabinet Office's 'Partnerships with arm's length bodies: code of good practice'⁶, the Department should review its partnership arrangements with HSE to provide greater clarity, ensure that they are proportionate and provide direct engagement between the centre of DWP and HSE. The Department should work with HSE to update the Framework Document to reflect this.
- **Recommendation 3:** The Department's Permanent Secretary and the HSE Chair should meet three or four times per year, and the Department and the HSE Chief Executive should maintain regular engagement.
- **Recommendation 4:** The Department should review HSE's budget delegations to ensure that the requirements for departmental approval are proportionate and recognise HSE's size and maturity.
- **Recommendation 15:** HSE and the Department should work together to clarify responsibilities for horizon-scanning and increase the prominence of this work.

Governance Recommendations

The HSE Board should ensure that it continues to have the necessary structure, skills and oversight:

- **Recommendation 5:** The tripartite structure of the HSE Board should be retained. The Department should lead in exploring collaborative solutions to avoid a recurrence of the recent delays in filling vacancies for certain non-executive director roles.
- **Recommendation 6:** The HSE and ONR Boards should agree when it is appropriate to end the reciprocal board membership arrangement.

⁶ Cabinet Office, (2017), *Partnerships with arm's length bodies: code of good practice*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf

- **Recommendation 7:** The HSE Board should consider whether there are opportunities to reduce the number of attendees at HSE Board meetings, in line with best practice, while maintaining the necessary skills and effectiveness of the Board.
- **Recommendation 8:** HSE should develop a skills matrix for the HSE Board and conduct an annual skills review to identify any gaps against this.
- **Recommendation 9:** The Department should ensure that future appointments to the HSE Board aim to fill any identified skills gaps and increase diversity on the Board, and continue to aim to stagger appointment terms.
- **Recommendation 10:** The HSE Board should continue to review open Board meetings, to ensure that each meeting has clear objectives and an appropriate format to support this.
- **Recommendation 11:** The HSE Management Board should conduct a review of its own effectiveness, as well as the structure of the Management Board and Extended Management Board, to ensure that these are as effective and efficient as possible.

Operational Recommendations

HSE should develop its regulatory assurance and performance information to further build its effectiveness:

- **Recommendation 12:** The HSE Board should examine how it receives assurance over the quality of HSE's regulatory activity, including through the establishment of a dedicated team, and consider how it oversees the quality of local authority health and safety regulatory activity.
- **Recommendation 13:** HSE should ensure that both externally and internally-facing objectives are published, publicly reported against and included in performance tracking, as well as considering the benefit of a multi-year corporate plan.
- **Recommendation 14:** Using the insight work and building on the successful Business Intelligence tool, HSE should refresh its performance information, with appropriately challenging targets, and a focus on outcomes. HSE should discuss with other regulators to share best practice on effective outcome-based measurements of regulatory performance.
- **Recommendation 16:** HSE should continue to develop and enhance its interventions to maximise its impact on work-related ill-health.
- **Recommendation 17:** HSE should review its risk appetite in prosecutions and consider taking on more challenging prosecutions, in line with existing prosecution and enforcement guidance, when there is benefit in doing so.
- **Recommendation 18:** HSE should continue to develop ways to facilitate local authority input into the development of relevant policy and regulation.

Organisational Recommendations

HSE should ensure that its internal objectives are challenging and performance against these is scrutinised:

- **Recommendation 20:** HSE should set a stretching target to drive improvement in staff engagement, including Annual Working Days Lost and reports of bullying and harassment, and report on progress to the HSE Board regularly.
- **Recommendation 21:** HSE should review its approach to, and communication around, change management to aid staff engagement.
- **Recommendation 22:** HSE should continue to work to increase diversity and inclusion throughout the organisation, including at senior levels, and identify key performance indicators for this work, reporting to the HSE Board regularly.

Financial Recommendations

HSE should continue to seek efficiency and opportunities to increase its self-sufficiency:

- **Recommendation 19:** HSE should continue to work with the Cabinet Office, in line with the recommendations of the Regulatory Futures Review, to consider enabling local authorities to recover the costs of some of their enforcement activities⁷.
- **Recommendation 23:** HSE should explore opportunities for expansion of the use of cost recovery in certain sectors, building on the lessons learned from Fee for Intervention to ensure clear objectives.
- **Recommendation 24:** HSE should clarify the purpose of its commercial strategy and ambitions, to ensure that projects undertaken align with, and complement, HSE's core business.
- **Recommendation 25:** HSE should ensure that the success of commercial activity is measured by its contribution, rather than by income.
- **Recommendation 26:** Cabinet Office and HM Treasury should consider the potential impact of uncertain cost recovery income on budgets and HSE should work with the Department, HM Treasury and Cabinet Office to clarify the position of commercial and Fee for Intervention income in the budgeting process
- **Recommendation 27:** HSE should consider how best to achieve further efficiencies over the next five years, with a particular focus on continuing to drive down estates costs, targeting regulatory activity and the use of digital services.

⁷ Cabinet Office, (2017), *Regulatory Futures Review*

2. Form and Functions

Are the functions of the Health and Safety Executive still needed?

This review concluded that all of the functions of HSE are required to contribute to the central aim of preventing death, injury and ill-health in Britain's workplaces. HSE's functions are mutually reinforcing and it is sensible for HSE's functions to be carried out by one body. The expertise that HSE requires for each of its functions supports the delivery of the others and consolidating these allows HSE to maintain its expertise and strong relationships with the sectors that it regulates.

HSE is the designated Adventure Activities Licensing Authority (AALA) in Great Britain. AALA is currently subject to a review, to ensure that it remains effective, proportionate and efficient. Consequently, this review has not considered this aspect of HSE's role.

Does each function of The Health and Safety Executive contribute to the Department and to government?

HSE contributes to a range of objectives across government, including the growth of the economy through proportionate, risk-based regulation, safety in key industries and the UK's exit from the European Union.

How does HSE contribute to the work of DWP?

The remit of HSE is not central to most of the Department's main deliverables but there are key links to the Department's strategic objectives on health and work and this review considered these. HSE is focused on preventing damage to health arising from workplace activity, while the Work and Health Unit (a joint team across the DWP and DHSC) considers how to enable those with health conditions to enter and remain in work. These links are reflected in the Department's Single Departmental Plan⁸ and HSE's Health and Work Strategy⁹.

⁸ Department for Work and Pensions, (2018), *Single Departmental Plan*, <https://www.gov.uk/government/publications/department-for-work-and-pensions-single-departmental-plan/department-for-work-and-pensions-single-departmental-plan-2018>

⁹ HSE, (2017), *HSE's Health and Work strategy*, <http://www.hse.gov.uk/aboutus/strategiesandplans/health-and-work-strategy/health-and-work-strategy.pdf>

Currently, HSE and the Work and Health Unit have a flexible model of collaboration, with HSE providing expert advice and joint working on specific projects, including learning through their links with the Scottish Government and NHS Scotland, where future opportunities to increase employer engagement are being explored. This review recommends that the relationship between HSE and the Work and Health Unit is structured more clearly, with a Memorandum of Understanding to set out the remit of each organisation, to avoid unnecessary duplication and to coordinate priorities. This should enable HSE and the Work and Health Unit to work together more effectively and with greater understanding of each other's objectives, as well as aiding coordination between the Work and Health Unit and the Department's Arm's Length Body (ALB) Partnership team, through clear understanding of their respective interests.

The links to the Department's corporate objectives, around efficiency, diversity and staff engagement are also important and HSE should ensure that its business plans reflect these.

How does HSE work with other government departments and Arm's-Length Bodies?

HSE works with other government departments to fulfil its regulatory purpose and coordinate policy. HSE also works with other regulators, including the Office for Nuclear Regulation (ONR) and these relationships are governed by Memoranda of Understanding, setting out respective responsibilities and liaison processes.

Is HSE's current form the most appropriate for its functions?

There are three 'tests' which must be considered when establishing an Arm's Length Body and HSE passes all three:

- Is this a technical function (which needs external expertise to deliver)?
Yes – advising on and enforcing health and safety legislation requires technical expertise.
- Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions)?
Yes – HSE's role as a regulator in technical standard setting, casework and enforcement action must be conducted impartially and be seen to be free from any political interference.

- Is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

Yes – collecting evidence for enforcement and prosecutions, and carrying out research must be independent in order to ensure the credibility of HSE and the wider legal system.

Public Body Classification

HSE is a Crown NDPB. Other potential delivery models for HSE were considered in-depth in the 2014 Triennial Review, including delivery by local government, the private sector, the Department or a new executive agency. The Triennial Review found that none of these models were appropriate and this review has found that this conclusion remains valid¹⁰. The Triennial Review did not consider the potential for establishing HSE as a Non-Ministerial Department (NMD) and so this review has considered this.

NDPBs have a separate legal personality and are independent of government in their day-to-day operations. However, NDPBs are accountable to Parliament through their sponsor department and tend to deliver policy set by the department. NDPBs also tend to rely on funding from the department and are staffed by public servants. Classification as an NDPB means that HSE has a close relationship with the Department, with particular oversight from the ALB Partnership team and a designated Finance Business Partner. Unusually, however, HSE staff are civil servants as a result of HSE's Crown status. This originates from the Health and Safety at Work etc. Act 1974¹¹ which states that HSE acts on behalf of the Crown.

NMDs are usually responsible for issues where political oversight is judged to be unnecessary and are responsible for more specialised policy areas. They are therefore subject to light-touch oversight of strategic priorities and governance from the government department responsible, while their funding is allocated directly from Parliament. Health and safety at work is a specialised policy area and HSE develops its own policy within the strategic framework set in legislation, with the HSE Board responsible for setting strategic priorities.

While a future classification as an NMD may not be entirely inappropriate, this review found that HSE's current classification is enabling it to deliver its functions effectively and there would be little benefit from a change at this point. Additionally, the guidance in Managing Public Money does not usually support the creation of new NMDs, as the greater independence can be seen to lessen accountability¹². As discussed further in chapter three, this review recommends that HSE and the Department work together to ensure that partnership arrangements between them

¹⁰ Temple, (2014), *Triennial Review Report*, p. 36-38.

¹¹ Health and Safety at Work etc. Act 1974, s 10(3)

¹² HM Treasury, (2018) *Managing Public Money*, A.7.1.3, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/686462/MPM_2018.pdf

are proportionate and reflect HSE's needs. HSE's classification should be considered further in the future.

Devolution

HSE is the regulator for the whole of Great Britain and liaises with and supports the Northern Ireland Executive and HSE Northern Ireland on occupational health and safety. HSE works closely with the devolved administrations in Scotland and Wales, with concordats between HSE and both the National Assembly of Wales and the Scottish Government^{13,14}. The HSE Board holds regular open Board meetings in both Scotland and Wales, and there is statutory provision allowing the Secretary of State to consult Scottish and Welsh Ministers on a number of appointments to the HSE Board, if appropriate. A HSE Board member chairs the Partnership on Health and Safety in Scotland which brings together key stakeholders to co-ordinate efforts and target resources.

The UK's exit from the European Union

HSE represents the UK Government in Europe on occupational health and safety and is involved in relevant preparations for the UK's exit from the EU. HSE has set up an internal EU Exit Programme, governed by a programme board with oversight of the implementation work. The programme works with the Regulation Committee which has responsibility for oversight of relevant legislative changes. The Director of Engagement and Policy is the Senior Responsible Owner (SRO) of the EU Exit Programme. A sub-HSE Board EU exit steering group is kept informed of key issues, with periodic updates to the HSE Board. HSE's internal audit process has provided assurance over the governance in place and this continues to be monitored by the HSE Board.

Recommendation 1: HSE and the joint DWP and DHSC (Department of Health and Social Care) Work and Health Unit should review their collaboration and agree a Memorandum of Understanding.

¹³ *Concordat between the Health and Safety Executive and the National Assembly of Wales*, (2000), <http://www.hse.gov.uk/aboutus/howwework/framework/wales-concordat.htm>;
<http://www.hse.gov.uk/scotland/scordat.htm>

¹⁴ *Concordat between the Health and Safety Executive and the Scottish Executive*, (1999)

3. Arrangements between HSE and the Department

Roles and Responsibilities

The relationship between HSE and the Department, including roles and responsibilities, is set out in a published Framework Document¹⁵. The Department's Permanent Secretary is the Principal Accounting Officer for HSE and has designated the HSE Chief Executive as Accounting Officer. The Permanent Secretary is accountable for HSE's expenditure, performance, and risk management, advised by the HSE Accounting Officer. The DWP ALB Partnership Division is responsible for oversight on behalf of Ministers and the Permanent Secretary, with dedicated partners overseeing HSE. These partners often include a secondee from HSE, ensuring a thorough knowledge of the body and strong relationships.

Engagement between HSE and the Department

HSE discusses its business plan with the Department each year before sharing it with the Minister for Disabled People, Health and Work. HSE executives and Departmental partners meet for Quarterly Accountability Reviews, in which HSE's performance against the agreed objectives, funding and risks are considered. HSE also liaises directly with Departmental finance and HR teams as needed.

The Department conducts an Annual Assurance Assessment for each of its Arm's Length Bodies. In 2017 this concluded that HSE had a proven track record and an excellent relationship with the Department and so working arrangements should be light-touch. This review supports this but also identified that more formalised interactions at senior levels could be beneficial in ensuring regular communication. Consequently, this review recommends that the Department reviews its partnership processes with HSE to ensure that they are proportionate and the appropriate people are involved. The Department and HSE should update the Framework Document to reflect this, utilising the guidance provided in the Cabinet Office's 'Partnerships with arm's length bodies: code of good practice'.¹⁶ This review recommends that this includes a quarterly discussion between the DWP Permanent

¹⁵ DWP & HSE, (2016), *Framework Document between The Health and Safety Executive and the Department for Work and Pensions*, http://data.parliament.uk/DepositedPapers/Files/DEP2016-0071/DWP_HSE_FRAMEWORK_DOCUMENT_2016.pdf

¹⁶ Cabinet Office, (2017), *Partnerships with arm's length bodies: code of good practice*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf

Secretary and the HSE Chair and that the Department maintains regular engagement with the HSE Chief Executive.

As outlined in chapter two, HSE has considerable links with the Department's Work and Health Unit. This review recommends that the refreshed partnership arrangements reflect this and ensure that the Work and Health Unit and Departmental partners share information as needed.

As a result of HSE's role in developing policy, there is considerable ministerial engagement, including regular contact with the Ministerial offices. HSE and the Department should ensure that this relationship is maintained and consider how best to utilise meetings and how frequently these are needed. This review also recommends that the Department enables HSE to work directly with corporate functions within the Department (rather than via Policy Group) and explains to other government departments that they should engage directly with HSE, when necessary. The Framework Document between HSE and the Department should be refreshed to ensure that it reflects these changes.

Like other NDPBs, HSE is subject to Cabinet Office and HM Treasury spending controls. For any spend in certain areas, HSE is required to seek authorisation from the Department and, when planned spend exceeds set limits, from Cabinet Office. In line with the light-touch partnership approach, this review recommends that HSE's delegation levels for commercial activity and consultancy are increased, within the Cabinet Office limits, and that the required detail of financial reporting is reviewed, to ensure that these are proportionate.

Recommendation 2: : In line with 'Partnerships with arm's length bodies: code of good practice' The Department should review its partnership arrangements with HSE to provide greater clarity, ensure that they are proportionate and provide direct engagement between the centre of DWP and HSE. The Department should work with HSE to update the Framework Document to reflect this.

Recommendation 3: The Department's Permanent Secretary and the HSE Chair should meet three or four times per year, and the Department and the HSE Chief Executive should maintain regular engagement.

Recommendation 4: The Department should review HSE's budget delegations to ensure that the requirements for departmental approval are proportionate and recognise HSE's size and maturity.

4. HSE Governance

HSE is governed by a non-executive board, which delegates day-to-day management to the Management Board, led by the Chief Executive. The Secretary of State for Work and Pensions has specific responsibilities, as set out in legislation¹⁷. The Secretary of State cannot intervene in individual enforcement cases, nor confer new functions upon HSE without legislation.

HSE Board composition

HSE is led by a board consisting of a Chair and between seven and twelve non-executive members; there are currently eleven board members. The board is responsible for setting strategic objectives for HSE and the health and safety system, and for the effectiveness and efficiency of HSE. The board is also responsible for reviewing risk, budgets, and corporate governance.

The Secretary of State is responsible for the appointment of the Chair and all non-executive members of the board, as well as determining their terms and conditions. The Health and Safety at Work etc. Act 1974 defines the tripartite structure of the board, requiring the Secretary of State to consult organisations representing employers for the appointment of three non-executive positions, organisations representing employees for the appointment of a further three, and organisations representing local authorities for one¹⁸. For the remaining members, the Secretary of State is required to consult, as they consider appropriate, Scottish and Welsh Ministers and other organisations. The Office of the Nuclear Regulator (ONR) is also permitted in legislation to appoint one of the non-executive members of its board to sit on the HSE Board¹⁹. There is reciprocal provision for HSE to appoint a member of the HSE Board to sit on the ONR Board. It is for the HSE and ONR Boards to decide whether to utilise this provision.

This structure ensures that a variety of perspectives are represented in board discussions and decisions and aids HSE's credibility when engaging with stakeholders. Consequently, this review found that the tripartite structure remains valuable, and recommends that it remain in place, with future appointments made to support this. There have, though, been some recent challenges in appointments to the HSE Board. These are not a consequence of the tripartite structure but do need to be resolved in order to ensure HSE retains the tripartite balance and the confidence of its stakeholders. This review recommends that collaborative solutions are explored to avoid a recurrence of the recent delays in appointments to non-executive director roles.

¹⁷ Health and Safety at Work etc. Act 1974, s 12, 15, 50, and sch 2

¹⁸ Health and Safety at Work etc. Act 1974, sch 2

¹⁹ Health and Safety at Work etc. Act 1974, sch 2, para. 2(3a), amended by the Energy Act 2013

Since ONR was established as separate public corporation, independent of HSE, in 2014 the appointment of a member of the ONR Board to the HSE Board aims to ensure that the two organisations work collaboratively. This review found that there is extensive collaboration and liaison between HSE and ONR at a number of levels, and that this is functioning well. Consequently, this review found that reciprocal board membership is no longer necessary and recommends that the HSE and ONR Boards determine when it is appropriate for this arrangement to end.

A unitary board, with both executive and non-executive board members, is considered best practice according to the UK Corporate Governance Code²⁰, as it ensures that decisions are taken with an understanding of operational issues and enables strong relationships between executives and non-executives. The HSE Board is comprised purely of non-executives to ensure independence of board governance and policy from executive enforcement decisions. This differs from the arrangements at other regulators, such as ONR and The Pensions Regulator, where there are executive board members who still retain responsibility for regulatory decisions.

All members of the HSE Management Board attend HSE Board meetings, though they are unable to vote. Their attendance ensures that there is strong coordination between the executives and non-executives and that decisions are taken with an understanding of operational issues. The Chief Executive as Accounting Officer for HSE has a responsibility to safeguard public funds and make clear any reservations that he has about a course of action. This is achieved through the Chief Executive's attendance at HSE Board meetings and other discussions. This review agrees that the involvement of key executives is beneficial but did not find that it was necessary to formalise this by appointing executives to the HSE Board.

However, the attendance of all Management Board members at HSE Board meetings results in a large number of attendees. Smaller board meetings are associated with better and clearer decision-making. Consequently, this review recommends that the HSE Board considers whether there are opportunities to reduce the number of attendees at HSE Board meetings while maintaining the necessary skills and effectiveness of the board.

HSE Board committees

The HSE Board has three sub-committees, as follows:

- Audit and Risk Assurance Committee
- People and Remuneration Committee
- Science, Engineering and Evidence Assurance Committee

These committees provide assurance to the HSE Board in their area of focus and allow more time for consideration of specific issues. The HSE Board also establishes

²⁰ Financial Reporting Council, (2016), *The UK Corporate Governance Code*, <https://www.frc.org.uk/getattachment/ca7e94c4-b9a9-49e2-a824-ad76a322873c/UK-Corporate-Governance-Code-April-2016.pdf>, p.10.

sub-board working groups on issues as needed. The HSE Board has recently reviewed the Audit and Risk Assurance Committee, refreshing its Terms of Reference, and this review supports the implementation of this.

HSE Board effectiveness and diversity

HSE Board effectiveness

The HSE Board undertakes an annual board effectiveness review. The 2018 review concluded that the HSE Board is effective and that recent changes have increased the impact of the committees. It also found potential areas for improvement including a greater focus on horizon-scanning and strategic debate, which this review would support.

In order to assist the HSE Board in furthering its effectiveness, this review recommends that it develops a skills matrix, setting out the experience and competencies that the board needs. In doing so, HSE should remain particularly aware of the need for commercial and financial skills as HSE's commercial work grows. A skills review should then be conducted annually, alongside the board effectiveness review, to assess the HSE Board against this matrix.

Of the Chair and current board members, five appointments are due to end in 2019, one in 2020 and five in 2021. This will offer an opportunity to reflect on the skills that the board requires and to recruit to meet these needs. This review recommends that future appointments continue to aim to ensure staggered terms to help with continuity on both the board and its committees.

HSE Board diversity

Diversity within the board in protected characteristics, experience and expertise is crucial to its effectiveness. The tripartite structure embeds diversity of professional expertise among HSE Board members. However, the HSE Board currently comprises eight male Non-Executive Directors and three female. None of the board members are from a Black, Asian or Minority Ethnic (BAME) background, and none have disclosed a disability. Diversity in age and other characteristics should also be improved, with the aim of achieving improved diversity of background and thought across the Board as a whole. This review recommends that the Department's Public Appointments team work with all its Arm's Length Bodies, including HSE, to deliver a step-change in diversity, aiming to be a leader on this across government.

HSE Board Remuneration

The position of HSE as a public body means that many non-executives are motivated by public duty and the work of HSE, rather than by remuneration. However, it is also important to ensure that remuneration encourages the desired diversity of non-executive board members. In 2017/18, HSE Board members received remuneration of £15,100 for 30 days per year (£131,000 as full time equivalent) and the Chair received £56,000 for two days per week (£140,000 as full

time equivalent). This is in line with the boards of other regulators and appears appropriate.

Transparency and Engagement

The HSE Board meets around eight times per year and in 2017/18 held four open board meetings, including one in Scotland and one in Wales. Agendas, papers and minutes of HSE Board open meetings are available on HSE's website and HSE also publishes regular updates on a range of activities²¹. This review recommends that the HSE Board ensures there are specific objectives for each open meeting, related to a clearly defined target audience, and that the format and location of meetings is appropriate to fulfil these objectives.

HSE Management Board

The day-to-day management and delivery of HSE's objectives is delegated by the HSE Board to the Chief Executive, supported by the Management Board. As the HSE Accounting Officer, the Chief Executive is responsible for ensuring adequate financial systems, business planning, governance, and compliance with Managing Public Money.

The Management Board is accountable to the HSE Board for delivery of HSE's strategy and objectives. The Management Board consists of six executive directors with specific areas of responsibility. The Extended Management Board incorporates the Management Board and divisional directors to discuss issues relating to staffing and operations. The Management Board is also supported by a number of committees, considering areas including regulation, investment, and people and capability.

HSE considered the structure of the Management Board and Extended Management Board in 2017 and proposed a weekly informal Management Board meeting. This review recommends that the Management Board conducts a review of its own effectiveness since these changes. This review particularly recommends that the number of formal meetings is reviewed, with greater opportunity for informal discussion, and the structure of Extended Management Board is considered to ensure the most effective and efficient forum for discussion.

HSE Risk Management and Internal Audit

HSE implemented a refreshed risk management approach in 2017/18 to ensure greater clarity and focus by reporting strategic, external and operational risks separately. The HSE Board agrees the body's risk appetite annually and monitors risks throughout the year. Strategic and external risks are owned by the Management Board, with oversight from the HSE Board every six months. Operational risks are owned by Divisional Directors and escalated to the

²¹ HSE, *Reports produced by the Health and Safety Executive*, <http://www.hse.gov.uk/aboutus/reports/index.htm>

Management Board and HSE Board as appropriate. The new approach has encouraged greater consistency in the risk ratings and has improved discussion of risks.

HSE's internal audit is provided by the Government Internal Audit Agency and HSE's audit strategy, plans and annual audit report are shared with the Department. Key internal audit reports are shared with the Audit and Risk Assurance Committee, with issues escalated to the HSE Board when necessary. In 2017/18, HSE's internal audit function conducted audits of HSE's commercial partnerships, the operation of the Regulation Committee and HSE's EU Exit Programme, among others.

Assurance over the quality of HSE's regulatory decisions is crucial to managing risks and being an effective regulator. HSE has a risk-focused regulatory assurance matrix, with three lines of defence: having a skilled workforce and local monitoring, validation through checks and oversight, and independent internal and external audit. This is led by the Director of Regulation, reporting to the HSE Board, with each division identifying its contribution to the three lines of defence and applying a rating. In order to strengthen this approach and increase the visibility of regulatory assurance activity across the organisation, this review recommends that a separate team is established to oversee all regulatory assurance activity. The remit of this team should include monitoring the quality of health and safety regulatory activity carried out by HSE and by other relevant bodies, such as local authorities.

Recommendation 5: The tripartite structure of the HSE Board should be retained. The Department should lead in exploring collaborative solutions to avoid a recurrence of the recent delays in filling vacancies for certain non-executive director roles.

Recommendation 6: The HSE and ONR Boards should agree when it is appropriate to end the reciprocal board membership arrangement.

Recommendation 7: The HSE Board should consider whether there are opportunities to reduce the number of attendees at HSE Board meetings, in line with best practice, while maintaining the necessary skills and effectiveness of the Board.

Recommendation 8: HSE should develop a skills matrix for the HSE Board and conduct an annual skills review to identify any gaps against this.

Recommendation 9: The Department should ensure that future appointments to the HSE Board aim to fill any identified skills gaps and increase diversity on the Board, and continue to aim to stagger appointment terms.

Recommendation 10: The HSE Board should continue to review open Board meetings, to ensure that each meeting has clear objectives and an appropriate format to support this.

Recommendation 11: The HSE Management Board should conduct a review of its own effectiveness, as well as the structure of the Management Board and

Extended Management Board, to ensure that these are as effective and efficient as possible.

Recommendation 12: The HSE Board should examine how it receives assurance over the quality of HSE's regulatory activity, including through the establishment of a dedicated team, and consider how it oversees the quality of local authority health and safety regulatory activity.

5. Operational Effectiveness

Does The Health and Safety Executive carry out its functions effectively?

HSE's functions span a wide range of activities, interventions and stakeholders. Based on the performance data examined by this review, HSE continues to perform strongly against its external objectives. Work-related fatal and non-fatal injuries have fallen over recent decades, the proportion of fatal accident investigations completed within twelve months of HSE taking primacy has increased, and HSE has started to prioritise improving work-related ill-health. However, HSE's reporting of performance against its internal objectives requires greater clarity to facilitate more effective scrutiny and strengthen its performance. Performance against internally-focused objectives is considered in chapters six and seven.

HSE is preparing to take on the challenges of the future, including the UK's exit from the European Union, its response to the Independent Review of Building Regulations and Fire Safety²² and the implementation of the Network and Information Systems Regulations relating to cyber security and resilience²³, and will need to be adequately resourced in order to meet these additional challenges. HSE works closely with other government departments, including the Department for Business, Energy and Industrial Strategy, and industries including construction and oil and gas to maximise its effectiveness.

HSE Business planning

HSE has a number of long-term strategies which inform the setting of objectives. The Helping Great Britain Work Well strategy concerns the whole health and safety system²⁴; the Health and Work strategy identifies three priority areas of work-related ill-health²⁵; and nineteen sector plans consider specific industries and risks²⁶. HSE's internal unpublished plan 'Five Years Forward' sets out internal ambitions and related objectives.

Objectives are agreed by HSE's senior leadership each year and discussed with the HSE Board. Deliverables and milestones for key activities are then determined and

²² J. Hackitt, (2018), *Building a Safer Future, Independent Review of Building Regulations and Fire Safety: Final Report*, <https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>

²³ The Network and Information Systems Regulations 2018, <http://www.legislation.gov.uk/uksi/2018/506/contents/made>

²⁴ HSE, (2016), *Helping Great Britain Work Well*, <http://www.hse.gov.uk/strategy/>

²⁵ HSE, (2017), *HSE's Health and Work strategy*

²⁶ HSE, (2017), *Sector Plans*, <http://www.hse.gov.uk/aboutus/strategiesandplans/sector-plans/index.htm>

circulated throughout the organisation and fed into divisional plans. The DWP ALB Partnership team also undertakes a light-touch review of the plans, considering cross-cutting issues and consulting departmental finance colleagues. HSE develops an internal Annual Plan, which sets out external and internal objectives with key deliverables. The published HSE Business Plan focuses on the external objectives²⁷. To improve transparency, this review recommends that HSE publishes and reports against all objectives in one plan and considers how a multi-year corporate plan may contribute to this.

Measuring Performance

Performance is tracked against deliverables and milestones which support the achievement of the objectives and HSE's Business Intelligence tool produces real-time information to aid decisions. The Management Board monitors progress against the Annual Plan monthly and the HSE Board reviews progress against strategic objectives quarterly. The HSE Board and the Management Board are provided with data to support this, through a Key Performance Question framework, following a recommendation from the 2014 Triennial Review²⁸.

This framework includes specific sections for all of HSE's external objectives and one of the internal objectives (Driving operational efficiency and effectiveness). Indicators against other internal objectives are included under other headings and so less prominent. All of the internal objectives are important for HSE's overall performance and so clarity in the reporting framework would facilitate greater scrutiny from the HSE Board. Therefore, this review recommends that HSE includes specific sections for each internal objective in the performance monitoring framework.

Performance is evidenced by management information, financial data and survey feedback. These provide a good overview of HSE's regulatory performance. However, some of the information is too detailed for Board level discussions, some focuses on outputs rather than outcomes, and some was out of date at the time of the review. It has also proved challenging to measure HSE's impact in improving health and safety, isolated from other factors. This review recommends that the performance pack is refreshed, streamlined and improved by considering the outcomes to be achieved, providing targets and baselines and by supporting stakeholder feedback with internal validation. HSE Board members should be involved in refreshing the performance pack to ensure that it provides the necessary information to enable the board to provide effective scrutiny and make robust decisions.

Using behavioural science and market research, HSE is developing insight work to enable it to better calibrate and target interventions for the greatest impact in different sectors. This work will enable the performance monitoring framework to include baseline information and quantify the outcomes of interventions. This review

²⁷ HSE, (2018), *HSE Business Plan, 2018/19*, <http://www.hse.gov.uk/aboutus/strategiesandplans/businessplans/plan1819.pdf>

²⁸ Temple, (2014), *Triennial Review Report*, p. 67-68.

supports the insight work and recommends that HSE seeks to integrate this into the refreshed performance framework as soon as possible and fully transition to an insight and outcome based framework within the next five years. The success of the refreshed framework should be considered by the next Tailored Review.

HSE should also ensure that the insight work considers the issues indicated by the Horizon Scanning team and ensures that the HSE Board considers both insight and horizon scanning when determining future strategy. The responsibilities for horizon-scanning within HSE should also be clarified and opportunities to collaborate with the Department should be investigated.

HSE's performance

HSE delivered against all of its milestones for 2017/18, including²⁹:

- launching a comprehensive health and work programme at HSE's first annual conference in September 2017;
- reducing risk at almost half of the workplaces visited and implementing the sector plans to focus on key risks to health and poor safety management;
- improving its performance in completing the investigation of fatal incidents and responding to non-fatal incidents and ill-health, and concerns raised by workers and the public;
- sustaining its effort to reduce the likelihood of catastrophic incidents by working closely with industry bodies;
- maintaining and in some cases improving levels of operational performance, whilst making efficiencies;
- launching a new digital service, allowing duty holders to notify, register and gain consent for the work they do with ionising radiation.

External Objectives

Objective: Lead and engage with others to improve workplace health and safety

A key part of HSE's role is engagement with others and leading best practice. HSE offers independent advice and guidance, runs events and campaigns, and both delivers and supports others to deliver scientific research.

In occupational health particularly, HSE's role is focused on leadership rather than direct interventions, as part of its Health and Work Strategy. HSE has identified three areas of focus for ill-health: stress, musculoskeletal disorders and occupational lung disease.

HSE is working with the Work and Health Unit to fulfil the recommendations of 'Thriving at Work: the Stevenson/Farmer review of mental health and employers'³⁰,

²⁹ HSE, (2018), *Annual Report and Account 2017/18*, <http://www.hse.gov.uk/aboutus/reports/ara-2017-18.pdf>, p. 14-15.

³⁰ P. Farmer & D. Stevenson, (2017), *Thriving at work: The Stevenson / Farmer review of mental health and employers*,

including recommendations 11 and 12 of that review to revise guidance for employers on mental health. HSE should continue to seek opportunities to maximise its impact on work-related ill-health, and work with the Work and Health Unit to ensure that activities are aligned and complementary.

HSE has developed its communications in order to increase its reach, amplify its activities and deliver positive behaviour changes. HSE has developed a good rapport with employers with high levels of engagement and has built strong links with trade unions. HSE is working to extend its reach and engage those who have not previously prioritised health and safety and the insight work will aid this.

Objective: Provide an effective regulatory framework

HSE is responsible for maintaining and updating the regulatory framework for workplace health and safety and collaborating with other government departments and external stakeholders on relevant issues. In policy development, HSE reports to the Minister for Disabled People, Health and Work. The Minister meets quarterly with the HSE Chair and Chief Executive as well as receiving high-quality and relevant briefing which enables informed decision-making.

The 2011 Löfstedt review of health and safety legislation made recommendations to streamline regulations and help businesses to fulfil their duties in a proportionate way³¹. HSE implemented the recommendations of the Löfstedt Review, and as HSE's regulatory framework has been extensively reviewed elsewhere, this has not been a focus of this review.

Objective: Secure effective management and control of risk

HSE takes an evidence and risk-based approach to regulation and enforcement. HSE uses regulated self-assurance, whenever reasonable, as well as formal assurance schemes, such as the Gas Safe Register.

HSE carries out inspections, investigations, and runs licensing regimes for high-risk activities and products. Inspections are focused on businesses identified to pose the greatest risk, with around 20,000 inspections each year. HSE's approach, utilising a range of interventions in different circumstances, was highlighted in the 2017 Regulatory Futures Review as an example of best practice³².

The UK is a leading performer in health and safety in the EU with one of the consistently lowest rates of fatal injury³³. Engagement with businesses, particularly in high-risk sectors, is crucial to HSE's effectiveness. In 2017/18, 91% of respondents

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658145/thriving-at-work-stevenson-farmer-review.pdf

³¹ R. E. Löfstedt, (2011), *Reclaiming health and safety for all: An independent review of health and safety legislation*,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf

³² Cabinet Office, (2017), *Regulatory Futures Review*, p. 28.

³³ In 2014, the standardised rate was 0.55 per 100,000 employees, which compares favourably with other large economies such as France (3.14) and Germany (0.81). (HSE, (2017), *European Comparisons*, <http://www.hse.gov.uk/statistics/european/european-comparisons.pdf>)

stated that they had taken action as a result of a visit from HSE³⁴. The table below shows how HSE has maintained and improved its performance over the last three years.

Table A: HSE Investigation Performance

	Target	15/16	16/17	17/18
Fatal investigations completed within 12 months of primacy	80%	63%	72%	81%
Non-fatal investigations completed within 12 months of incident	90%	90%	90%	90%
Health and safety concerns investigated – percentage completed within agreed timeframe	75%	77%	79%	80%

In 2017/18, HSE secured convictions in 95% of cases taken to court and over 81% of concerns were dealt with within agreed timescales. This review recommends that HSE should consider increasing its risk appetite to take on more challenging prosecutions, in line with existing prosecution and enforcement guidance, where this could be of benefit, for example by setting a precedent. HSE should also review the performance targets in Table A, relating to the timescale for the completion of investigations to ensure that they are appropriately stretching.

Objective: Reduce the likelihood of low-frequency, high-impact catastrophic incidents

HSE is responsible for health and safety in a number of specialised industries, including offshore and onshore oil and gas and mining. HSE's effectiveness in this area is particularly important for its reputation and public trust in the industries. HSE works closely with these industries to encourage engagement and leadership on health and safety, as well as ensuring robust regulation and intervention. When high-impact incidents do occur, HSE's Science Division provides scientific expertise and resources to conduct technical investigations. Science Division also works closely with inspectors to target inspections in areas where incidents would have the greatest impact.

Local authorities

Responsibility for the enforcement of workplace health and safety legislation is divided between HSE and local authorities, with local authorities responsible for generally lower hazard environments. Consequently, the success of health and safety regulation relies on effective local authority performance and HSE has a duty arising from its general statutory obligations to work with and oversee local authorities' performance in this area³⁵. Through the HSE Local Authority and Safety Unit, HSE provides support

³⁴ HSE, (2018), *Annual Report and Account 2017/18*, <http://www.hse.gov.uk/aboutus/reports/ara-2017-18.pdf>, p. 29.

³⁵ Health and Safety at Work etc. Act 1974, s45

and guidance to local authorities, and monitors them to ensure a consistent approach to regulation. Since the 2014 Triennial Review, HSE has reviewed the National Local Authority Enforcement Code, maintained its collaboration in challenging circumstances and is seeking to improve senior level engagement and commitment to working as co-regulatory partners. Local authority input into the development of policy is crucial though finding appropriate vehicles for this can be challenging. HSE is working with local government organisations to facilitate local authority input and this review supports this.

HSE is also aware of the challenges faced by local authorities in resourcing health and safety regulatory activity. HSE is able to recover the costs of some of its regulatory activities through the Fee for Intervention regime (Chapter 7) and, in accordance with the principles of the 2017 Regulatory Futures Review, this review recommends that consideration is given to extending this to enable local authorities to do the same³⁶. In the face of these challenges, it is important that HSE is able to ensure a consistent approach across all local authorities and this review recommends that HSE continues to work to improve its oversight of the quality of local authority activity.

Recommendation 13: HSE should ensure that both externally and internally-facing objectives are published, publicly reported against and included in performance tracking, as well as considering the benefit of a multi-year corporate plan.

Recommendation 14: Using the insight work and building on the successful Business Intelligence tool, HSE should refresh its performance information, with appropriately challenging targets, and a focus on outcomes. HSE should discuss with other regulators to share best practice on effective outcome-based measurements of regulatory performance.

Recommendation 15: HSE and the Department should work together to clarify responsibilities for horizon-scanning and increase the prominence of this work.

Recommendation 16: HSE should continue to develop and enhance its interventions to maximise its impact on work-related ill-health.

Recommendation 17: HSE should review its risk appetite in prosecutions and consider taking on more challenging prosecutions, in line with existing prosecution and enforcement guidance, when there is benefit in doing so.

Recommendation 18: HSE should continue to develop ways to facilitate local authority input into the development of relevant policy and regulation.

Recommendation 19: HSE should continue to work with the Cabinet Office, in line with the recommendations of the Regulatory Futures Review, to consider enabling local authorities to recover the costs of some of their enforcement activities³⁷.

³⁶ Cabinet Office, (2017), *Regulatory Futures Review*, p. 51.

³⁷ Cabinet Office, (2017), *Regulatory Futures Review*

6. Organisational Effectiveness

Is HSE effective in recruiting, retaining and developing its people?

HSE's internal objectives are set out in 'Five Years Forward', a multi-year plan developed with staff involvement, which focuses on engagement and capability. HSE has around 2,500 staff and recruiting, retaining and developing a diverse group of employees is essential. Consequently, delivery against internal objectives is as vital as delivery against the external objectives discussed above. This chapter considers HSE's performance against two of its internal objectives.

Objective: Investing in people and capability

HSE has a specialised workforce, spread over a number of locations, responding to complex and challenging demands. HSE is investing in its leadership capabilities and promoting a more joined up culture, as well as refreshing its learning and development offer and introducing a new performance management system. However, improving staff engagement is still a significant concern, as is optimising staff resources.

Staff Engagement

The 2017 HSE People Survey³⁸ had a strong response rate of 76%, with an overall engagement score of 51%³⁹. This was noticeably lower than the 61% average score across the Civil Service. Responses in relation to the work, individual teams and work-life balance were strongly positive. Scores were weaker in relation to change. The HSE Efficiency Programme and restructuring of specialist capability, as well as the recent focus on increasing commercial income, are significant changes to the work of HSE in recent years.

In response to this, HSE has appointed a Head of Engagement as well as engagement representatives within each division as part of a Corporate Engagement Group. HSE has planned staff conferences and One HSE awards to build the visibility of leaders and bring teams together. A pulse survey tracks engagement quarterly to see the impact of these changes. This review recommends that HSE sets a clear target for staff engagement, monitored by the HSE Board, and considers refreshing its approach to, and communication around, change management with a more formalised change structure.

³⁸ Cabinet Office, (2017), *Civil Service People Survey 2017*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/659565/Civil_Service_People_Survey_2017_Benchmark_scores.pdf

³⁹ HSE, (2017), *Civil Service People Survey 2017*, <http://www.hse.gov.uk/aboutus/reports/hse-people-survey-2017.pdf>

Annual Working Days Lost

HSE has a higher number of Annual Working Days Lost (AWDL) due to sickness – 7.61 in 2017/18, than the Civil Service average rate of 7.0 days lost in 2016/17⁴⁰. HSE introduced a revised attendance management policy in February 2018, as part of improvements in its approach to wellbeing, and is aiming to reduce long-term absence by 1,500 days in 2018/19 and reduce short-term absence to 2.4. The achievement of both of these targets would reduce HSE's AWDL to 6.9. The HSE Board should closely monitor and assess the success of this policy, as well as whether improvements in staff engagement lead to a reduction in the number of AWDL.

Bullying and Harassment

16% of HSE staff who responded to the 2017 People Survey stated that they had experienced discrimination and 12% had experienced bullying or harassment. Of those who had experienced bullying or harassment, 33% had reported this but only 12% of those who had experienced it felt that it had been resolved. These rates are higher than the Civil Service average and feedback has suggested to HSE that these experiences mostly relate to career progression, pay and inappropriate behaviours.

HSE is working to improve these experiences, with the 'Speak Up' campaign launched in February 2017, including information on the intranet on how to spot and stop inappropriate conduct and training on awareness of inappropriate behaviour. The HSE Board should continue to seek improvements and monitor progress in this area, in conjunction with improvements in staff engagement.

Staff Diversity

HSE has had low levels of declaration of protected characteristics and has worked to increase declaration from between 30-50% in March 2017 to 60-75% in March 2018⁴¹. This review recommends that HSE identifies milestones and key performance indicators for its efforts to increase diversity and inclusion, and reports on these regularly to the HSE Board, as part of the standard performance tracking.

HSE supports four staff diversity networks, each with a sponsor from the Extended Management Board. These are brought together in an Inclusion and Diversity Group, chaired by the Chief Executive. The staff networks work across HSE to influence people policies and support and educate staff and managers.

HSE Gender Diversity

Gender diversity among HSE employees is strong with 49.7% of all staff female as of 31 March 2017⁴². However, only 30% of 27 Senior Civil Servants (SCS) were

⁴⁰ Civil Service Sickness Absence Data for the year ending 31 March 2017, (2017), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/667464/Civil_service_sickness_absence_data_for_the_year_ending_31_March_2017.pdf

⁴¹ HSE, (2018), *HSE Diversity and Inclusion Strategy, 2018-2020*, p. 6.

⁴² HSE, (2018), *HSE Equality Data, 2016/17*, <http://www.hse.gov.uk/equality-duty/data/2016-17.pdf>, p. 2.

female. By comparison, across the Civil Service, 43% of SCS were women in 2017⁴³.

HSE has a mean gender pay gap of 22.93% (as at 31 March 2017), which is largely the result of the fact that the majority of Band 3 staff are male, in roles that require specific technical and engineering skills and therefore attract a pay premium. HSE is taking a number of steps to ensure gender diversity and reduce the gender pay gap, including reviewing the marketing of specialist roles, promoting flexible working and encouraging participation on talent development programmes⁴⁴. This review recommends that HSE continues to work to ensure gender diversity and encourages the development of women at senior levels.

HSE Ethnic Diversity

As at 31 March 2017, 3% of HSE employees who reported their ethnicity were from a Black, Asian or Minority Ethnic (BAME) background⁴⁵. This is considerably lower than the 12% of the whole Civil Service and low levels of declaration in HSE make effective comparison challenging⁴⁶. 4% of HSE SCS were from BAME backgrounds compared to 5% of SCS across the Civil Service.

HSE's efforts to increase diversity include better targeting of recruitment and ensuring that recruitment is more inclusive. HSE's 'You Can' campaign saw an 8.5% increase in BAME applicants for the 2017 trainee inspector programme and anonymous recruitment is aiming to tackle any unconscious bias among recruiters⁴⁷. This review recommends that HSE continues to work closely with MAGNET, HSE's staff network for black and minority ethnic colleagues, to identify ways to improve diversity within HSE and ensure that BAME staff are able to progress to senior positions.

HSE Disability

In 2017, 7.6% of HSE employees reported that they had a disability⁴⁸. This is lower than the 10% of all civil servants declaring a disability⁴⁹. HSE is a Disability Confident Employer, accredited at Level 2, committed to employing and retaining disabled people and plans to reach Level 3, through assessment and improvement of its approach⁵⁰.

Objective: Sustaining regulatory excellence

Building and retaining capability aids staff engagement and the effectiveness of the organisation, as does ensuring HSE's activity is correctly focused. HSE has invested

⁴³ Cabinet Office, (2018), *Civil Service Diversity and Inclusion Dashboard*, <https://www.gov.uk/government/publications/civil-service-diversity-inclusion-dashboard/civil-service-diversity-and-inclusion-dashboard>

⁴⁴ HSE, (2018), *Health and Safety Executive Gender Pay Gap Report 2017*, <http://www.hse.gov.uk/aboutus/reports/gender-pay-gap-2017.pdf>, p. 4.

⁴⁵ HSE, (2018), *HSE Equality Data, 2016/17*, p. 3.

⁴⁶ Cabinet Office, (2018), *Civil Service Diversity and Inclusion Dashboard*

⁴⁷ HSE, (2018), *Diversity and Inclusion Strategy*, p. 5.

⁴⁸ HSE, (2018), *HSE Equality Data, 2016/17*, p. 3.

⁴⁹ Cabinet Office, (2018), *Civil Service Diversity and Inclusion Dashboard*

⁵⁰ HSE, (2018), *Diversity and Inclusion Strategy* p. 13.

in a modernised Regulatory Training Programme, launched a framework for continuous professional development and developed an evidence base to inform regulatory approaches in the future world of work.

HSE has specifically invested in leadership training for all leaders to enhance their skills and build confidence in leading through change. HSE also requires specialist skills in health and safety disciplines including mechanical, electrical and radiation specialists. Maintaining capacity and capability in these specialist areas over time can be challenging, with overall staff turnover around 8% and higher among specialists. HSE is working to reduce turnover and capability and has developed its employer proposition to encourage a wider and more diverse pool of applicants. HSE also offers apprenticeships, with successful apprentices eligible to apply for the Regulatory Training Programme, and HSE is considering opportunities to expand this in the future.

HSE is also working to ensure that it can adapt to the changing regulatory environment, including changes both in industries and the way people work. HSE's insight work contributes to its understanding of the wider health and safety system and the evidence behind its interventions, which will enable it to target its work most effectively. HSE's investment in regulatory intelligence supports this and a greater focus on horizon-scanning will enable HSE to be aware of emerging trends and new areas. HSE is leading on certain recommendations from the cross-government 2017 Regulatory Futures Review, including working with other regulators to explore the potential for a Regulatory Intelligence Hub to share information between regulators⁵¹. HSE is also leading the delivery of pathfinder projects in the use of data as a regulatory tool, to target interventions.

Recommendation 20: HSE should set a stretching target to drive improvement in staff engagement, including Annual Working Days Lost and reports of bullying and harassment, and report on progress to the HSE Board regularly.

Recommendation 21: HSE should review its approach to, and communication around, change management to aid staff engagement.

Recommendation 22: HSE should continue to work to increase diversity and inclusion throughout the organisation, including at senior levels, and identify key performance indicators for this work, reporting to the HSE Board regularly.

⁵¹ Cabinet Office, (2017), *Regulatory Futures Review*, p. 55.

7. Operational Efficiency

HSE's effectiveness relies upon efficient management of its resources, ensuring appropriate prioritisation of its work and the greatest value for money for the taxpayer. In recent years, HSE has also sought to grow its external funding, through commercial activities and cost-recovery regimes for its regulatory work. There are two internal objectives relating to this and this chapter considers HSE's performance against these.

HSE funding and financial planning

HSE is primarily funded through grant-in-aid from the Department, with a forecast allocation of £130.6 million in 2018/19. However, the 2015 Spending Review set HSE an efficiency challenge, with a considerable reduction in taxpayer-funded income each year and HSE has worked hard to successfully remain within its 2015 Spending Review funding allocation. In response to this, and in support of the recommendations of the Regulatory Futures Review, HSE has sought to build its income from external sources. In 2017/18, this totalled £93 million as set out in Table C below.

Table B: HSE 2015 Spending Review forecast

£'000	2016/17	2017/18	2018/19	2019/20
2015 Spending Review Funding Allocation⁵² - taxpayer funding for HSE	140,000	135,600	130,600	130,600
Of which capital allocation⁵³	7,700	9,200	7,700	7,700
Of which DEL allocation	132,300	126,400	122,900	122,900

⁵² 2015 Spending Review funding allocation figures are initial budgetary figures, not cash actuals.

⁵³ 2019/20 allocation figures are provisional.

Table C: External HSE funding since the 2015 Spending Review

Sources of funding (£'000):	2016/17	2017/18
Fee for Intervention ⁵⁴	14,925	15,052
Other fees and charges ⁵⁵	46,139	46,028
Commercial income	15,514	16,157
Other operating income ⁵⁶	14,215	15,687
EU income	44	38
Sub-total	90,837	92,962

As HSE is a mature organisation, the Department's finance team has a light touch, proportionate approach to HSE's finances. The Department's ALB team works with HSE to monitor and review performance, risks and opportunities, with Departmental and HSE finance teams meeting monthly, and HSE's Director of Planning, Finance and Procurement meeting with the Department's Finance Director General periodically. The HSE finance team carries out forecasting, budgeting, and financial activity in-house. Forecasts are updated monthly, with challenge from Departmental Finance Business Partners, who also attend HSE's Quarterly Accountability Reviews. This process works well and is supported by strong relationships on both sides. HSE also won a Public Finance Innovation Award in 2017 recognising its digitisation in finance initiative⁵⁷.

ALB budgets are set within DWP as part of the Departmental budgeting process. In line with the Department's partnership arrangements discussed in Chapter 3, there is scope to include HSE in this decision making process to set future budgets. This will complement the finance work that HSE already carry out, and would provide HSE with greater control over how their funding is allocated. This review recommends that HSE are included in the process of setting budgets for the next Spending Review period.

⁵⁴ Includes any return to HMT consolidated fund.

⁵⁵ Biocides and Plant Protection, Control of Major Accident Hazards (COMAH), Enforcement of offshore safety legislation and other fees and charges.

⁵⁶ Prosecutions; Supply of accommodation and core IT to ONR; Provision of REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) services to Defra; Apprenticeship Levy; Other income.

⁵⁷ HSE, (2017), *HSE Annual Report and Accounts 2016/17*, <http://www.hse.gov.uk/aboutus/reports/ara-2016-17.pdf>, p. 15.

Objective: Growing commercial and externally funded activities

HSE aims to continue to increase its external funding and cost recovery to secure its future financial sustainability. External income has increased since 2014 but delivering the externally funded income plan remains challenging.

Cost Recovery

The Health and Safety at Work etc. Act 1974 and subsequent regulations provide the legislative basis for Fee for Intervention (FFI)⁵⁸. The FFI regime was introduced in 2012, under which costs are recovered for HSE interventions which result in a material breach of health and safety law. The Cabinet Office 2017 Regulatory Futures Review cited HSE as an example of best practice, with FFI supporting the principle that the costs of regulation should be borne by those who create them, and HSE was seen as an example of good practice⁵⁹. FFI also acts as an additional incentive for duty holders to fulfil their legal requirements.

There had been some concerns surrounding FFI and the 2014 Triennial Review recommended a review of this area⁶⁰. That review concluded that FFI had been effective in shifting costs to those that infringe health and safety regulation and found no compelling evidence to suggest that HSE was exploiting this form of income. Whilst HSE forecasts income from FFI, the HSE Board focuses on the level of material breaches rather than the financial forecasts. A cap on the amount of FFI income that HSE can use to offset operating expenditure helps to prevent any perverse incentives to find material breaches in order to increase income. Any additional FFI income above this cap is surrendered to the HM Treasury Consolidated Fund, to benefit the taxpayer.

The 2014 Triennial Review also cited concerns around the negative impact that FFI may have on relationships between inspectors and businesses. The subsequent review of FFI found that this was not widespread and that FFI was helpful in increasing clarity around the threshold for intervention. The Triennial Review recommended that should the benefits of FFI not be shown to outweigh any detrimental effects, then FFI should be phased out. Since 2017, FFI disputes have been considered by an independent panel and the evidence seen by this review suggests that the benefits of FFI are outweighing any detrimental effects.

The uncertainty around cost-recovery income presents challenges in forecasting. By 2019/2020, HSE plans a £7 million per annum increase in cost recovery income, through ensuring full cost recovery on existing schemes and implementing new schemes. This forecast is for cost recovery income overall, and is broken down internally to include: £2 million from COMAH (Control of Major Accident Hazards), £2 million from FFI and £3 million from full cost recovery of other activities and new

⁵⁸ The Health and Safety and Nuclear (Fees) Regulations 2016 (SI 2016 No. 253).

⁵⁹ Cabinet Office, (2017), *Regulatory Futures Review*, p. 49.

⁶⁰ Temple, (2014), *Triennial Review Report*, p. 62.

regimes, including ensuring HSE claims all applicable costs in prosecution cases; recovering costs in supporting local authority health and safety investigations; explosives classification/licensing; and permissioning regimes. Over the past two years income from fees and charges has increased by £3 million. This is in line with budgetary plans but there is a challenging increase to deliver by 2020. The ambitious forecast for FFI income, whilst providing stretch, could be unhelpful as this income is reliant on actual levels of material breach. This forecast should be reviewed as part of the next Spending Review in line with current levels, and appropriate forecasts set accordingly, considering whether levels of material breach may fall if compliance with health and safety regulation increases.

HSE is considering opportunities to recover the costs of other regulatory activities, which would support HSE in delivering its cost-recovery ambitions. This review supports the use of cost-recovery where this is applied appropriately and does not interfere with HSE's core functions with clear and consistent aims. This review recommends that HSE reviews its experience and learns lessons from FFI and other regimes when looking to extend cost-recovery, particularly in ensuring the objectives are clear and well-communicated both internally and to the businesses affected.

Commercial income

HSE has worked to increase its commercial business, with a target to increase commercial income by 10% year on year between 2015 and 2020. This comprises income earned from discretionary activity undertaken for any external organisation, sales of publications, HSE external customers, and science and IT support to ONR. In 2017/18, HSE achieved £16.2 million of commercial income, compared to a target of £18 million. Commercial income remains a relatively small proportion of HSE's total income (7% in 2017/18). There has been growth year on year in commercial income however – a 6% growth in 2016/17, and 4% in 2017/18, both short of the 10% target. The success of any commercial activity should be assessed on its overall contribution, rather than by income alone. Commercial income has historically been monitored in terms of revenue, but more recently the HSE Board has moved to monitor commercial projects in terms of contribution. This will provide a clearer articulation of the net benefit of commercial activity.

Commercial projects are run within HSE's existing capacity and capability, and are subject to the volume of core regulatory work required. It is appropriate that commercial activity is secondary to fulfilling HSE's statutory functions, though this can make forecasting income and contribution challenging.

HSE's commercial activities not only provide a source of income, but also offer further development opportunities for HSE staff and promote HSE as an expert in the field. This review found that this can be beneficial and that any potential conflicts of interest are well managed. However, this review also found conflicting impressions within HSE of the purpose of commercial work, and whether HSE's development and reputation, or income generation, was the primary aim. This conflict appears to contribute to concerns among staff and others about HSE's commercial ambitions.

There is potential for further growth of commercial income and HSE has identified areas including training and events, data analytics, international work and shared research. However, this will require clear objectives and shared understanding of the purpose of the work and the potential variability of income. Clear articulation of any targets and measures is crucial to ensure value for money and avoid creating unintended incentives. This review recommends that HSE and the Department look to develop and communicate a consistent language around objectives for generating commercial income and ensure that they remain within appropriate rules.

Objective: Driving operational efficiency and effectiveness

HSE's taxpayer-funded income has decreased significantly since 2015/16 and is forecast to continue to fall. HSE is committed to delivering real terms reductions in funding over the 2015 Spending Review period, which set out budgets between 2016/17 and 2019/20. This is being achieved through HSE's Efficiency Programme, growing commercial income, and moving towards full recovery of HSE's fees and charging regimes. HSE is also committed to wider government efficiencies, such as the Government Hubs Programme.

The Efficiency Programme aims to deliver cumulative savings of between £11 million and £15 million and has sought savings on estates, IT infrastructure, procurement and contract management, and staff costs. At the end of 2017/18, savings were on track and overall total expenditure decreased by £2.5 million between 2015/16 and 2017/18, as shown in Table D below. Efficiency measures have so far been more effective in reducing the cost base than increasing commercial income or cost-recovery.

Table D: Annual Operating Expenditure since 2015

£'000	2015/16	2016/17	2017/18
Staff costs	141,120	142,041	139,182
Shared Services costs	2,132	1,971	1,846
Accommodation	31,218	31,858	30,590
Professional Services	8,099	7,675	8,386
IT and telecoms	10,783	10,779	12,008
Research and development	1,414	1,184	897
Scientific costs	4,559	4,741	4,034
Publications	1,541	1,073	876
Chemicals Regulation testing and pesticides	2,977	2,256	2,112
Travel and subsistence	7,244	7,451	7,115
Other expenditure	12,782	13,067	14,336
Total expenditure	223,869	224,096	221,382

Staff Costs

In 2017/18, HSE spent £137.8 million in staff costs and a further £1.3 million on staff development and training. There has been a drive to make efficiencies, with a target of £5-7 million savings in payroll over the 2015 Spending Review period. These reductions are linked to restructuring of resources and a number of voluntary exits. HSE is continuing to work to increase efficiency in this area, with a review of administrative functions that will include the simplification and centralisation of tasks. HSE's continued commitment to staff development will support efforts to increase staff engagement and organisational capability.

HSE staff are civil servants and so are paid in line with Civil Service pay policy. HSE also carries out salary benchmarking of disciplines against industry and other government departments' data, carried out both internally and through an external partner, to ensure greater validity and reliability of the benchmarking data.

Shared Services

HSE has moved several of its core support functions to Shared Services Connected Ltd, as part of a wider service to government, including HR, payroll and financial accounting. The main value for HSE has been from savings in capital outlay for new systems, which would have otherwise involved significant costs.

Accommodation

In 2017/18, 14% of HSE's total expenditure was on accommodation and estates costs. HSE requires a presence across Great Britain in order to deliver its regulatory activity but is making efforts to rationalise its estate, by moving to six principal sites, supported by field offices. Reviews of the entire estate have now been carried out, and overall space occupied by HSE has reduced by approximately 23% since 2015/16, with savings of £1.3 million in rentals under operating leases having been achieved over the past two years. HSE has made good progress and is continuing to rationalise its estate, aiming for the government benchmark ratio of 8m² per FTE, against an occupancy of 13.5m² in 2016. HSE has worked with the Office of Government Property and has brought its Bootle headquarters into the Government Hubs programme, to facilitate sharing space with seven other government bodies. There is further potential to rationalise the estate and generate rental income at its headquarters.

The total of £30.5 million in 2017/18 expenditure consisted of rentals under operating leases (£2.3 million), Private Finance Initiative (PFI) service charges (£10.2 million), PFI interest & finance lease charges (£8.2 million), and accommodation costs, including service charges and investment (£9.9 million).

PFI service and interest charges relate to HSE's Bootle headquarters and the Science Division in Buxton, while finance charges relate to the long-term lease of the Basingstoke office. The latest current market valuation of the Bootle site is £12.1 million, which is much lower than the outstanding repayment of £51.1 million for the remainder of the 30-year PFI contract, which ends in 2035. Consideration should be

given to the potential for the site valuation to vary over time, though there is no break clause within this contract.

However, HSE's efforts to increase efficiency through sharing space in their headquarters has improved the effectiveness of this site. Greater efficiencies at this site could be offset against the high repayment costs.

Professional Services

Almost all of this expenditure relates to legal costs which have been broadly consistent over the past five years, however there was a 9% increase in 2017/18 on the previous year due to one-off costs for specific cases. Auditor's fees have been consistent for the past two years at £85,000, and there have been no consultants' fees since 2015/16.

IT and Telecoms

Expenditure on IT and telecoms has decreased in recent years, but there was an 11% increase in 2017/18 on the previous year, as HSE modernised its IT infrastructure. HSE identified that it had been slow to improve its IT provision but this work is now progressing and will increase HSE's effectiveness and efficiency overall, with recurring savings from IT equating to £1.7 million in 2017/18. Further savings were also made in procurement of mobile phone contracts.

Research and Development

Research and development expenditure has decreased by 37% since 2015/16. This covers surveys, and research to support future regulatory work, primarily within the Science Division. Savings have been made through greater use of internal capability and working in partnership with others on research, sharing costs and expertise. Shared research is an area of forecasted commercial income growth for HSE, with an increase of £750,000 in income in 2017/18.

Scientific costs

Scientific costs have decreased by 12% since 2015/16. These costs cover scientific sub-contract technical support and scientific equipment, which are necessary for HSE's Science Division's core work. Many of these costs are under commercial contracts and HSE has sought to increase value for money in procurement to achieve efficiencies.

Publications

Expenditure on producing publications has decreased year-on-year, falling by 42% between 2015/16 and 2017/18. This is largely the result of outsourcing, while retaining an income-stream through a royalty agreement. This income stream is a relatively small part of HSE's commercial strategy, with a 33% decrease in this income stream in 2017/18 on the previous year to £876,000, with a lower baseline target of £700,000 set for both 2019/20 and 2020/21.

Chemicals Regulation testing and pesticides

As the Competent Authority for the regulation of plant protection products, biocides and other chemicals, HSE recovers some of the expenditure in this area, through fees to customers, and charges to the Department for the Environment, Food and Rural Affairs.

Travel and Subsistence

Travel and subsistence spending was £7.1 million in 2017/18, a reduction of 5% on 2016/17.

Other expenditure

Other expenditure increased by 10% in 2017/18 on the previous year, with non-cash items included in this category accounting for 61% of all other expenditure. This included: depreciation and amortisation; impairments and loss on disposal of non-current assets; movement in provisions; and movement in impairment of receivables. Publicity and subscriptions each accounted for 4% of other expenditure in 2017/18.

Scope for further efficiencies

HSE has made considerable efforts to meet the efficiency challenge imposed by the 2015 Spending Review, through a series of efficiency measures. In light of these savings, there will be fewer immediately obvious opportunities for further savings should these be required in the next Spending Review, without an impact on output, which may risk compromising outcomes.

However, HSE is continuing to work to deliver efficiencies and there are areas where further progress can be made. HSE has identified that there are further savings that can be made in estate costs through rationalisation, and also through letting further space in its headquarters. The estates programme is also working to create modern workplaces, equipped with the latest technology, which will enable inspectors to work more flexibly. This should enable HSE to target greater efficiencies in its overall estates portfolio in the future.

There are also opportunities for further efficiency through adaptations in HSE's approach. The insight work that is currently being developed will aid HSE in targeting its interventions for different sectors and audiences, and this will ensure resources are used efficiently. As HSE develops its staff engagement and leadership capabilities, this will also increase productivity and help teams to drive efficiencies in their own areas. This may include working more flexibly, or increasing teams' capacity to undertake commercial projects, which will contribute to an increase in commercial income.

Additionally, alternative delivery models for some of HSE's activities and increased use of digital services should be explored. HSE successfully introduced online applications for its Digital Ionising Radiation Service in January 2018 which was used by 4,200 customers in the first 8 days. This is an example of innovative

implementation, with a payment system that provides full cost recovery. This review recommends that HSE continues to look for innovative delivery models and opportunities in digital services.

HSE could explore further means to increase income to ensure a greater level of self-sufficiency. HSE has identified scope for increasing cost recovery income, particularly in new sectors. This review supports this and while HSE has not achieved its target, income has consistently increased. HSE should explore the scope for increasing this. HSE has also identified scope to increase its commercial income. In this, consideration should be given to ensuring that the overall contribution of this work is sufficient to deliver value for money. HSE should also ensure that forecasts for commercial work take into account the potential variability of this.

Recommendation 23: HSE should explore opportunities for expansion of the use of cost recovery in certain sectors, building on the lessons learned from Fee for Intervention to ensure clear objectives.

Recommendation 24: HSE should clarify the purpose of its commercial strategy and ambitions, to ensure that projects undertaken align with, and complement, HSE's core business.

Recommendation 25: HSE should ensure that the success of commercial activity is measured by its contribution, rather than by income.

Recommendation 26: Cabinet Office and HM Treasury should consider the potential impact of uncertain cost recovery income on budgets and HSE should work with the Department, HM Treasury and Cabinet Office to clarify the position of commercial and Fee for Intervention income in the budgeting process

Recommendation 27: HSE should consider how best to achieve further efficiencies over the next five years, with a particular focus on continuing to drive down estates costs, targeting regulatory activity and the use of digital services.

8. Next Steps

The Tailored Review has worked very closely with HSE, the Department for Work and Pensions and the Cabinet Office. All of the recommendations of this review have been accepted by HSE, the Department and Cabinet Office and approved by the Minister for Disabled People, Health and Work.

The next Tailored Review of HSE should take place in around five years' time and should consider the progress made against the recommendations of this review.