

Common Sense, Common Safety – progress report

Government departments' progress on health and safety reforms

March 2011

Contents

Introduction/Background..... 3

Health and Safety Executive..... 4

Ministry of Justice/NHS Litigation Authority 8

Ministry of Justice (Claims Management Regulator and Solicitors Regulation Authority) 9

Department for Education..... 10

Department for Communities and Local Government..... 11

Food Standards Agency 13

Introduction/Background

On 15 October 2010 the Rt Hon Lord Young of Graffham submitted his report, “Common Sense Common Safety”, to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture:

<http://www.cabinetoffice.gov.uk/resource-library/common-sense-common-safety>

The Prime Minister and the Cabinet accepted Lord Young’s report and recommendations in full.

The Department for Work and Pension (DWP)’s Minister for Employment, the Rt Hon Chris Grayling MP, has now assumed overall responsibility for the implementation of Lord Young’s recommendations. DWP has therefore developed this progress report on the recommendations, for the benefit of all those interested in how they are being taken forward.

The progress report lists all the recommendations - according to the Government body which is responsible for implementing them - and will be regularly updated on the DWP website. We hope you find it helpful.

Health and Safety Sponsorship Team
Department for Work and Pensions
March 2011

Health and Safety Executive

Proposal

1. Simplify the risk assessment procedure for low hazard workplaces such as offices, classrooms and shops. The Health and Safety Executive (HSE) should create simpler interactive risk assessments for low hazard workplaces for downloading from their website (in DWP Business Plan, early 2011).

Progress

HSE created four risk assessment tools (offices, classrooms, shops and charity shops) for low hazard premises by end 2010.

Proposal

2. The HSE should create periodic checklists that enable businesses operating in low hazard environments to check and record their compliance with regulations as well as online video demonstrations of best practice on form completion (in DWP Business Plan, early 2011).

Progress

The risk assessment tools outlined above help businesses operating in low hazard environments to comply with their legal obligations. In addition HSE intends to publish revised guidance (see 8 below).

Proposal

3. The HSE should develop similar checklists for use by voluntary organisations (in DWP Business Plan, March 2011).

Progress

An interactive risk assessment tool for charity shops was launched for consultation in December 2010. Checklists are on track for delivery by 31 March 2011.

Proposal

4. Exempt employers from risk assessments for employees working from home in a low hazard environment.

Progress

HSE is reviewing existing homeworker guidance, in consultation with the Federation of Small Businesses and the British Chambers of Commerce, with an intention to republish as part of a wider review of guidance.

Proposal

5. Exempt self-employed people in low hazard businesses from risk assessments.

Progress

HSE is reviewing existing guidance for the self-employed and analysing where legal obligations can be more clearly defined, for example to make clear that currently a self-employed person with no staff (or fewer than five) does not have to write down their risk assessment.

Proposal

6. Professionalise health and safety consultants with a qualification requirement that all should be accredited to professional bodies. Initially the HSE could take the lead in establishing the validation body for qualifications working with the relevant sector and professional bodies. However this function should be run by the professional bodies as soon as possible (in DWP Business Plan, from January 2011).

Progress

An Occupational Safety and Health Consultants Register (OSHCR) – assembly of which began on 31 January – was formally launched on 21 March. There has already been a very good response with over 1,400 consultants now on the register. HSE has supported a number of participating professional bodies in establishing OSHCR as a not-for-profit company.

Proposal

7. Establish a web based directory of accredited health and safety consultants (in DWP Business Plan, January 2011).

Progress

As above.

Proposal

8. The HSE should produce clear separate guidance under the Code of Practice focussed on small and medium businesses engaged in lower risk activities (in DWP Business Plan, June 2011).

Progress

HSE is addressing this recommendation through publication of 'Health and Safety Made Simple', online tools, and revision of existing guidance.

Proposal

9. The current raft of health and safety regulations should be consolidated into a single set of accessible regulations (in DWP Business Plan, consultation July 2011).

Progress

HSE has undertaken initial consultation with stakeholders on this proposal. It will now be considered as part of the Independent Review of Health and Safety Regulation, announced by the Government on 21 March.

Proposal

10. The UK should take the lead in co-operating with other members states to ensure that EU health and safety rules for low risk businesses are not overly prescriptive, are proportionate and do not attempt to achieve the elimination of all risk.

Progress

The European Commission (EC) is analysing a recommendation from its High Level Group of Independent Stakeholders on Administrative Burdens that low risk small firms be exempted from certain risk assessment requirements. EC action will be informed by its Advisory Committee on Safety and Health, on which UK (HSE) is represented. Impact assessment work is ongoing.

Proposal

11. Amend the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), through which businesses record workplace accidents and send returns to a centralised body, extending the period before an injury or accident needs to be reported to seven days (in DWP Business Plan, consultation April 2011).

Progress

A consultation document was published on the HSE website on 31 January 2011.

Proposal

12. The HSE should also re-examine the operation of RIDDOR to determine whether this is the best approach to providing an accurate national picture of workplace accidents.

Progress

Once the consultation responses for the proposed first amendment to RIDDOR have been evaluated, HSE plan to take forward the second proposal to re examine the operation of RIDDOR as a whole.

Proposal

13. Undertake a consultation with the intention of having an improved system with an enhanced role for the HSE in place for a large multi-site retail business as soon as practicable.

Progress

An Enforcement White Paper, for publication in the spring, will set out the Government's proposals for better co-ordinated inspection of multi-site businesses. HSE is developing its approach to form part of these proposals.

Proposal

14. Police officers and firefighters should not be at risk of investigation or prosecution under health and safety legislation when engaged in the course of their duties if they have put themselves at risk as a result of committing a heroic act. The HSE, Association of Chief Police Officers and Crown Prosecution Service should consider further guidance to put this into effect.

Progress

This recommendation is jointly owned by Home Office, Department for Communities and Local Government, and HSE who are working with the Crown Prosecution Service and others to develop revised guidance.

Proposal

15. Abolish the Adventure Activities Licensing Authority and replace with a code of practice (in DWP Business Plan, primary legislation needed).

Progress

Consultation on a proposed replacement Code is scheduled for May 2011.

Ministry of Justice

Proposal

16. Introduce a simplified claims procedure for personal injury claims similar to that for road traffic accidents under £10,000 on a fixed costs basis. Explore the possibility of extending the framework of such a scheme to cover low value clinical negligence claims (in MoJ Business Plan, consultation response by October 2011).
and

Proposal

17. Examine the option of extending the upper limit for personal injury claims to £25,000.

Progress

Ministry of Justice consultation to be launched spring 2011, including proposals to extend the Road Traffic Accident scheme both outwards (to include other personal injury and low value clinical negligence schemes) and upwards (by increasing the upper limit).

Proposal

18. Introduce the recommendations in the Jackson report (in MoJ Business Plan, consultation by February 2011).

Progress

Ministry of Justice consultation (Proposals for Reform of Civil Litigation Funding and Costs in England and Wales - Implementation of Lord Justice Jackson's recommendations) closed on 14 February 2011. Consultation responses are being analysed, and next steps will be set out in a Government Response, to be published later this spring.

Proposal

19. Clarify (through legislation if necessary) that people will not be held liable for any consequences due to well-intentioned voluntary acts on their part.

Progress

The Department for Transport (assisted by the Ministry of Justice) published guidance in October 2010 clarifying the position on snow clearance. The Ministry of Justice has committed to work with relevant Government Departments to provide further advice to the public when appropriate, for example in response to extreme weather conditions. Other than responding to such issues as they arise, no further work is planned in this area.

Ministry of Justice (Claims Management Regulator and Solicitors Regulation Authority)

Proposal

20. Restrict the operation of referral agencies and personal injury lawyers and control the volume and type of advertising.

Progress

Claims Management Companies

The Ministry of Justice has completed a consultation on the changes required to prohibit the marketing of cash or other financial inducements for making a claim.

Personal Injury Lawyers

The Solicitors Regulation Authority (SRA) is engaging with stakeholders, including the Government, the Legal Services Board, the Ministry of Justice/Claims Management Regulator and the Advertising Standards Authority. The SRA is discussing its regulatory approach in the light of its move towards outcomes-focused regulation.

Department for Education

Proposal

21. Simplify the process that schools and similar organisations undertake before taking children on trips.

Progress

The Department for Education (DfE) is preparing revised guidance on health and safety law for schools, to clarify understanding around the duty of care both in-school and during off-site visits. DfE expects to publish the revised advice in late spring, following consultation with a range of organisations engaged in accident prevention.

Proposal

22. Introduce a single consent form that covers all the activities a child may undertake during his or her time at a school.

Progress

DfE will remind schools that, as stated in Common Sense, Common Safety, parental consent is not necessary for most off-site educational visits, such as those that occur during the school day and for which information will suffice. It is currently considering what practical actions will best take forward the recommendation that a generic consent form be prepared for every pupil during his or her school career for those activities on which consent is advised – such as residential trips in the UK or abroad, adventure activities and activities for Years 1-3. DfE will be consulting on this work.

Proposal

23. Shift from a system of risk assessment to a system of risk-benefit assessment and consider reviewing the Health and Safety at Work etc Act to separate out play and leisure from workplace contexts.

Progress

HSE is consulting with Play Safety Forum members, DfE and Department for Culture, Media and Sport to consider whether a review of the Health and Safety at Work etc Act 1974 is necessary and what new guidance may be required.

Department for Communities and Local Government

Proposal

24. Officials who ban events on health and safety grounds should put their reasons in writing (in Department for Communities and Local Government (DCLG) Business Plan, by May 2012).

and

Proposal

25. Enable citizens to have a route for redress where they want to challenge local officials' decisions. Local authorities will conduct an internal review of all refusals on the grounds of health and safety.

and

Proposal

26. Citizens will be able to refer unfair decisions to the Ombudsman and a fast track process should be implemented to ensure that decisions can be overturned within two weeks. If appropriate, the Ombudsman may award damages where it is not possible to reinstate an event. If the Ombudsman's role requires further strengthening, legislation should be considered (in DCLG Business Plan, by May 2012).

Progress

Action on the above three recommendations has been included in Part 2 – “Reinvigorating local accountability, democracy and participation” – of DCLG's published Business Plan, with any necessary legislation (which would also deal with the wider role of the Ombudsman) scheduled for 2012.

In advance of that, the Local Government Ombudsman has agreed to look at an administrative mechanism for fast-tracking complaints about excessive use of health and safety enforcement powers. This work is underway.

Proposal

27. Insurance companies to cease the current practice that requires businesses operating in low hazard environments to employ health and safety consultants to carry out full health and safety risk assessments.

and

Proposal

28. Where health and safety consultants are employed to carry out full health and safety risk assessments, only qualified consultants who are included in the web based directory should be used.

and

Proposal

29. There should be consultation with the insurance industry to ensure worthwhile activities are not unnecessarily curtailed on health and safety grounds. Insurance companies should draw up a code of practice on health and safety for businesses and the voluntary sector. If the industry is unable to draw up such a code then legislation should be considered.

Progress

DCLG is starting discussions with the insurance industry on the proposed code of practice and a timetable for agreement. Milestones will be included in an update to the DCLG Business Plan.

Food Standards Agency (and relevant departments)

Proposal

30. Combine food safety and health and safety inspections in local authorities. (Guidance, with HSE, by January 2011)

Progress

A joint Food Standards Agency (FSA)/HSE/Local Government Regulation statement on implementing combined inspection programmes from 1 April 2011 has been agreed and was issued to local authorities in England on 4 February. The statement is available on the FSA website at:

<http://www.food.gov.uk/archived/enforcementarchive/enf/e/11>

Proposal

31. Mandatory local authority participation in the Food Hygiene Rating Scheme (FHRS) where businesses serving or selling food to the public will be given a rating of 0 to 5 which will be published in an online database. (Requires primary legislation)

Progress

Local authorities began to roll out the FHRS on a voluntary basis from 1 October 2010 – 40% of authorities in England are expected to adopt the scheme by end June 2011. Food safety is a devolved matter so the recommendations relate to England only. With a view to ensuring the Scheme's adoption by the remaining authorities, before the 2012 Olympics/Paralympics, FSA is actively seeking opportunities to introduce legislative proposals mandating local authority participation in the scheme.

Additionally, DCLG's Secretary of State wrote to the Local Government Association on 26 January 2011 adding his support to that of Lord Young for the FHRS and encouraging local authorities – in advance of any legislation – to ensure information on food hygiene standards features among the data sets made available to local people.

Proposal

32. Promote usage of the scheme by consumers by harnessing the power and influence of local and national media.

Progress

The FHRS attracted extensive media coverage when formally launched at Bluewater Shopping Centre in Kent on 30 November 2010. FSA will build on this excellent start in the coming months and is also working closely with local authorities to promote the scheme in their areas and generate local and regional media interest.

Proposal

33. Encourage voluntary display of ratings, but review after 12 months and if necessary make display compulsory particularly for those businesses that fail to achieve a 'generally satisfactory' rating. (Review by April 2012)

Progress

The FSA is working with local authorities launching the FHRIS to encourage businesses to display their ratings at their premises in places where their customers can easily see them.

The review in April 2012 of the voluntary approach to display of ratings will form part of a wider evaluation of the FHRIS and the FSA is currently preparing to tender for this exercise.

Proposal

34. The results of inspections to be published by local authorities in an online database in an open and standardised way.

Progress

The FHRIS online search facility – food.gov.uk/ratings - went live on 1 October 2010. This provides a single point of access to consumers for ratings of businesses in area where local authorities are running the scheme. To date, information on approximately 29,000 businesses has been published on the site.

Proposal

35. Open delivery of inspections to accredited certification bodies, reducing the burden on local authorities and allowing them to target resources on high risk businesses.

Progress

The FSA will soon conclude research reviewing the range of third party assurance schemes operating within the food sector. There are many schemes already in operation and the FSA will now establish criteria for 'recognising' schemes and scheme membership which enables a reduction in the frequency and or/type of intervention by the regulator. This approach will take into account business' own checks, allow for better targeting of local authority resources to higher risk non-compliant premises and so better protect consumers