

Common sense, common safety – progress report

Government departments' progress on health and safety reforms
July 2011

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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 Pensions (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.

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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 for low hazard premises (offices, classrooms, shops and charity shops) by the end of 2010. A refreshed office risk assessment tool was launched in June 2011 and can be found at: <http://www.hse.gov.uk/risk/office.htm>. The aim is to publish the final version of the shops and charity shops assessment tool in August 2011 following analysis of consultation responses.

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 has published 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. Simple advice for voluntary organisations and a checklist for village

halls were published on 31 March 2011, and are available on HSE's new 'Voluntary Organisations – managing low risk' web pages at www.hse.gov.uk/voluntary.

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 in August 2011 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**).

and

Proposal

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

Progress

The Occupational Safety and Health Consultants Register (OSHCR) was formally launched on 21 March 2011. There has already been a very good response with over 2,400 consultants now on the register. HSE has supported a number of participating professional bodies in establishing OSHCR as a not-for-profit company.

The OSHCR can be accessed at www.oshcr.org .

Proposal

8. The HSE should produce clear separate guidance under the “Management of Health and Safety at Work Regulations Approved Code of Practice” focussed on small and medium businesses engaged in lower risk activities **(in DWP Business Plan, June 2011)**.

Progress

HSE addressed this recommendation through the publication of “Health and Safety Made Simple” on 21 March 2011, online tools, and revision of existing guidance.

“Health and Safety Made Simple” is available on the HSE website at

www.hse.gov.uk/simple-health-safety/ .

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 Legislation being undertaken by Professor Ragnar Löfstedt, announced by the Government on 21 March 2011.

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 at Work, on which the UK Government is represented by HSE. 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**).

and

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

A consultation document was published on the HSE website on 31 January 2011. The consultation has now closed and responses are being evaluated. The HSE Board will consider the outcome of the evaluation in August 2011. The consultation document can be found at <http://www.hse.gov.uk/consult/condocs/cd233.htm>.

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

BIS has launched a consultation, “The future of the Local Better Regulation Office (LBRO) and the extension of the Primary Authority Scheme”, which sets out the Government’s proposals for better co-ordinated inspection of multi-site businesses. HSE will be working with LBRO and Local Authorities to develop a sector intervention strategy for health and safety to inform inspection plans developed as part of this proposal.

The consultation document is available for comment at <http://www.bis.gov.uk/Consultations>, and closes on 15 September 2011.

Proposal

14. Police officers and fire fighters 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 (ACPO) and Crown Prosecution Service (CPS) should consider further guidance to put this into effect.

Progress

This recommendation is jointly owned by Home Office, DCLG, and HSE who are working with the CPS and others. HSE has worked with stakeholders in the fire and rescue service to produce a short statement making it clear that HSE will not investigate or prosecute individual firefighters if they have undertaken a heroic act. This statement extends to individual officers who have undertaken a heroic act in either an individual or team member capacity, and provides illustrative examples; this has now been published on the HSE website at www.hse.gov.uk/services/fire/heroism.htm.

HSE has also worked with ACPO to produce guidance to support the statement “Striking the balance between operational and health and safety duties in the Police Service”. The new explanatory note was published on 7 July 2011 and is available on the HSE website at <http://www.hse.gov.uk/services/police/explanatory-note.pdf>.

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 was launched on 29 June 2011 and will end on 21 September 2011. The consultation document can be found at <http://www.hse.gov.uk/consult/condocs/cd236.htm>

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

On 29 March 2011 the Ministry of Justice published their consultation paper “Solving disputes in the county courts: creating a simpler, quicker and more proportionate system”. As well as proposals to reform the Civil Justice System, the paper also consults on Lord Young’s recommendations in relation to the expansion of the RTA Scheme.

The consultation closed on 30 June 2011 and the target date for full implementation is October 2012. The consultation document can be found at <http://www.justice.gov.uk/consultations/consultation-cp6-2011.htm>.

Proposal

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

Progress

On 29 March 2011, “Reforming Civil Litigation Funding and Costs in England and Wales – Implementation of Lord Justice Jackson’s Recommendations: The Government Response” was published. Following full consultation, the Government will be implementing the primary recommendations contained in the Lord Justice’s report for a fundamental reform of no win no fee conditional fee agreements (CFAs).

Changes to the CFA regime requiring primary legislation will follow as soon as Parliamentary time allows. The Legal Aid, Sentencing and Punishment of Offenders Bill was introduced to Parliament on 21 June 2011, and includes provisions to:

- abolish the general recoverability of CFA success fee from the losing side
- abolish the general recoverability of ATE insurance from the losing side, except for expert reports in clinical negligence cases
- permit damages-based agreements in civil litigation
- allow for Part 36 of the Civil Procedure Rules (offers to settle) to be amended to equalise the incentives between claimants and defendants to make and accept reasonable offers

Other changes will require changes to the Civil Procedure Rules or other secondary legislation. The target date (subject to Parliamentary time) for full implementation is October 2012.

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 Regulator has consulted on proposals to amend the rules governing claims management businesses conduct to ban any form of cash or similar marketing inducements used to attract people to bring a claim. The consultation closed in February and a summary of responses was published on 17 March 2011. The proposed ban will now be put through the Government's reducing regulation processes including scrutiny by the Regulatory Policy Committee.

As a government regulator there is a requirement to submit proposed rule changes to additional scrutiny under the Government's reducing regulation processes, including by the independent Regulatory Policy Committee and an application now also has to be made for a waiver from application of the recently introduced micro business exemption on new regulation. Subject to the relevant approvals the earliest these proposals could be implemented is October 2011.

Separate work is in progress to the claims management regulation conduct rules to address Lord Young's and others' general concerns over the conduct of claims management businesses. Informal consultation is underway with primary stakeholders, and a full consultation on the claims management conduct rules is planned following subject to scrutiny and relevant clearance of the reducing regulation process mentioned above including the approval of a micro businesses waiver for July.

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) has prepared revised advice on health and safety law for schools, to clarify understanding around the duty of care both in-school and during off-site visits. DfE published the advice on 2 July 2011.

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. DfE has prepared a generic consent form to be made available to schools for them to give to the parents of every pupil to be valid for 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 nursery schools. DfE published the consent form on 2 July 2011, alongside the guidance.

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. A workshop was held with Play Safety Forum representatives and other stakeholders, in June, to

consider the proposal further and discuss development of a high level statement on this area. It is anticipated this work will be completed by September 2011.

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 implemented a pilot of internal process changes to enable relevant complaints to be rapidly identified and then fast-tracked through their investigation systems. The success of the pilot will be reviewed in due course.

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 OSHCR 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

Initial meetings have been held with the insurance industry on the proposed voluntary code of practice and a timetable for agreement. The Association of British Insurers (ABI) provided a first draft to DCLG and HSE at the end of May 2011. Further work will be undertaken to finalise the code, with a publication target of autumn 2011.

The code will deal with concerns that businesses operating in low hazard environments can be required by insurers to employ consultants to carry out full health and safety risk assessments; and, in environments where such assessments are necessary, will help ensure that only qualified consultants are used.

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 2011. 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

Food safety is a devolved matter so the recommendations relate to England only.

Local authorities began to roll out the FHRS on a voluntary basis from 1 October 2010. The total number of authorities operating the scheme is steadily rising with a total of 151 now publishing ratings at - www.food.gov.uk/ratings – this includes 112 authorities in England, all 22 authorities in Wales and 17 of the 26 authorities in Northern Ireland. A further 23 authorities in England are preparing to launch in the next few weeks and months which will bring the uptake figure to approximately 40%.

Looking ahead, there has been an encouraging level of interest in a further round of FSA grant funding for local authorities to cover the costs of the preparatory activities needed to operate the scheme. On the basis of this, it is anticipated that by the end of March 2012, around 60% of local authorities in England will be operating the scheme or preparing to launch it

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. In the meantime, the FSA is continuing to encourage and support these local authorities to adopt the scheme voluntarily in advance of legislation.

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 is building on this excellent start as the scheme is rolled out 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 FHRS 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 FHRS. The FSA is in the process of commissioning the work to support this and is aiming to appoint a contractor(s) before September 2011.

Proposal

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

Progress

The FHRS online search facility (<http://ratings.food.gov.uk/>) went live on 1 October 2010. This provides a single point of access to consumers for ratings of businesses in areas where local authorities are running the scheme. To date, information on approximately 73,000 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

A presentation of proposals for opening delivery of food safety inspections to accredited certification bodies will be given at the open meeting of the FSA Board in July when the Board will also receive an update on the FSA review of front-line delivery of official controls for food and feed. The FSA has been conducting a series of regional workshops with local authorities on opening up inspections to accredited bodies in addition to parallel ongoing discussions with certification and accreditation bodies.