

Presentation by David Matthey, Regional Director, Midlands Region, Health and Safety Executive.

David introduced his presentation by saying that his role encompassed a very wide range of responsibilities, from Farming, through to Shipbuilding and the Utilities. To carry out these duties he had a staff of 230, in four offices across the Region.

He went on to say that he would make his presentation in four parts, namely:-

1. The UK role in Europe.
2. HSE Role in Great Britain.
3. New Legislation.
4. Strategies and Campaigns.

1. UK role in Europe

The UK continues to play a major role in Europe particularly with the progress of European legislation. Successes of the Presidency included:

- Adoption of the Chemical Agents Directive;
- Adoption of the Biocidal Products Directive;
- Common Position reached on the Dangerous Preparation Directive;
- Conclusions agreed on strengthening protection for work asbestos;
- Work starting on the 2nd amendment to the Carcinogens Directive;
- European initiative - Agriculture 1999

In addition a seminar for Chief Executives of EC Member States Health and Safety at Work Authorities was held in Luxembourg in June. The seminar facilitated high level strategy discussions, looked at ways of getting health and safety established in wider Commission politics; and showed support for an evaluation of existing EC law rather than more new laws.

The UK presidency saw the formal launch of the EU enlargement process in March. Negotiations have now started with six countries - Cyprus, Czech Republic, Estonia, Hungary, Poland and Slovenia. In addition, the accession process has commenced with a further five countries - Bulgaria, Latvia, Lithuania, Romania and Slovakia. HSE is playing an active role in helping the applicant countries put in place the appropriate EC health and safety legislation, and the institutions and systems to ensure that the legislation is effectively enforced.

UKs influence on the progress of European Directives continues. The UK negotiators have built a strong rapport considerable success in persuading other member states to move away from more prescriptive legislation, with detailed guidance, to the UK approach of goal setting.

European Agency for Safety & Health at Work, Bilbao has achieved the following:-

- The second edition of the Agency Newsletter has been published.
- The Agency is preparing to establish two Topic Centres, one for Good Health & Safety Practice and one for Work & Health. Agency plans to publish a call for tender from national organisations in the field.
- Development of the UK Information Network and how it links to the work Health at Work, Bilbao.
- The Agency also has a State of OSH Expert Group, which has developed a manual for use by Member States to collect data on OSH within their own countries. The project is due for completion around the end of the year.

2. The HSE Role in Great Britain

Future challenges

The emerging issues and problems, and the approaches to dealing with them, involve all parties concerned with occupational health and safety and the many intermediary organisations which, directly or indirectly, contribute to raising standards. We must jointly continue to influence the way people act.

Four main areas of the issues, not new, we shall all need to address in the coming years are changes of emphasis, of intensity, of time scale, that we need to respond to.

1. Structure and organisation of industry;
2. Labour market and structure of employment;
3. Expectations affecting health and safety;
4. Nature of hazards themselves.

First, changes in the structures and organisation of industry

The switch for manufacturing to service industries, reduction in the traditional heavy industries, decline in agricultural employment, and so on. In safety and health terms, many of these changes are benign .

But new business activities are far from risk-free. may be more complex and insidious: that itself poses problems. And we cannot afford to forget some substantial chunks of 'old' industry - notably construction and agriculture - cause substantial damage to many people each year. The problems are much the same - but how to tackle them has to be different.

The growth of small -firms. Particular problems here include:-

- lack of management structure sometimes, competence, health and safety matters;

- survival and short life spans. Statistically many small firms will die before they kill someone else. So they don't see health and safety issues as a priority.

Another product of industrial change is to do with closures and decommissioning of Offshore, Nuclear and Chemical plant, or demolition of tall structures and older buildings. In human terms, closures and run-downs may result in a major loss of expertise, as well as experience - at both industry and company level.

Privatisation affects large chunks of public utility and public sector activity. Again there are new risks - loss of expertise, from fragmentation which sets up new interfaces, commercial pressures which can swamp safety considerations, where people are not accustomed to balancing safety and commercial pressures and risks.

So far experience here is encouraging - those concerned face new situations which have to be managed. Outsourcing, of work, use of contractors, and increasingly complex contractual relationships bring problems of responsibility and control, competence and communications. Finally, in this we should not ignore the health and safety problems arising from new ways of working.

Secondly, changes in the labour market and structure of employment.

There has been a growth in the number of **small firms**, so that now nearly half the UK workforce is in firms with 50 or fewer employees, or self-employed. More people are working in non-conventional working relationships - homeworkers, peripatetic workers and so on.

We also face increasing turnover in employment and changing expectations about career patterns. Many of the issues revolve around competence and keeping skills up to date, or around how to contact people and firms, to convey information and raise awareness.

Thirdly, changes in social and societal expectations of Health and Safety.

Over the last 20 years there have been concerns about the impact of business activity on the public. Government and industry have to respond, without however losing sight of address worker. There is increasing public intolerance of risk, readiness to press both for retribution and for compensation. This has resulted in an increasing public expectation of transparency with full access to information - and a willingness to challenge and complain

And there is pressure for public involvement. We will make no progress if we do not acknowledge and work with these social changes. But we can't do everything! Balance is important in enforcement approach, for example, following up Complaints vs. "cold calling" - Enforcement vs. Advice/Education.

Finally, there are changes in the nature of the hazards we have to deal with.

Foremost I would put hazards to health. Many are not new - but they are better recognised. Others are new - new substances, preparations and materials coming out, where lack of data and uncertainty about the extent of effects, different susceptibilities etc. make it extremely difficult to weigh up the risks and decide what to do about them.

For businesses and the regulator, how far should we tilt towards precaution in the face of uncertainty? There is a big price to pay both ways round, in benefits lost to society if we are too cautious, and for getting it wrong on health effects. Then, there are a number of soft issues stress, hours of work, sick building syndrome, passive smoking - the interface between home and work becomes increasingly complex.

But the major continuing unresolved hazard is the human being, ingenuity in bypassing systems and mechanisms designed to improve health and safety. Tackling the human factor is something which perhaps most lends itself to new approaches.

areas for further development could be -

- management of health and safety.
- the role of the work force and its representatives.
- the role of partnership and intermediary organisations.
- the role of insurance.
- the role of education.
- and what the regulator can (and can't) do.

Proper management of health and safety remains the touchstone of achievement. The key principles in our guidance document 'Successful Health and Safety Management' are that Health and Safety need to be managed as an integral part of the business process, not as an "add-on" feature. The core management activities which have to be undertaken for managing risks to health and safety are no different to those necessary in other areas of business activity. Probably we missed an opportunity for health and safety in letting the main management standards, from BS5750 on, develop without health and safety as an integral part.

The question of integration, of the various management standards is one which industry is beginning to consider more coherence between the various standards - quality, environmental and health and safety. The general view of industry has so far been against a certified standard on health and safety. That debate is valuable in concentrating attention on the relationships between health and safety, costs of failure and benefits of good management.

The second key area is the workforce and safety representatives.

Robens identified involvement of the workforce as a key factor for better 'self-regulation' by industry. There has been less development here than on many other aspects of the UK system. Involving the workforce is vital to the success of a management system and safety representatives have a key role to play in this. They are also essential in explaining and 'selling' safety measures.

Safety representatives' role has too often been undervalued in the past and we are working to make sure that the contribution which representatives can make is more widely recognised by employers.

next main area for development is the role of intermediaries and business partnerships. Managers and the workforce need help in raising awareness and spreading good practice on health and safety. HSE is working with health and safety organisations in harness, for example:-

- ROSPA, and the British Safety Council
- The Engineering Employers' Federation
- Local Safety Groups like Yourselves!

We need to work with others who have power and influence to bring about change. There is a great deal to be done in this area, not least in mapping the organisations - not all of them obvious by any means - who can help to promote occupational health and safety.

The role of insurance.

HSE is keen to promote closer involvement of the insurance industry in promoting better standards of health and safety at work. Insurance has an impact on health and safety in two main ways:-

- by providing financial incentives for firms to improve health;
- by providing a source of compensation for employees.

The insurance industry can work with its customers

- helping firms to develop tools to measure performance;
- targeting, rather than spreading, risks;
- differentiating premiums sharply;
- requiring, and sharing, health and safety performance information - to pick up trends, particularly on ill-health;
- contributing to thinking about competencies and training as well as standards of machinery and equipment;

- emphasising the business case for health and safety - and the limits on what is insurable.

Maybe we need to reconsider the basis of employers' liability insurance - or even revisit the issue of no-fault liability. But played right, there are powerful pressures here for improvement.

Role of education - an under exploited area.

It is essential that we improve people's understanding of risk, and of health and safety issues, by starting early, maybe on the UK's National Curriculum? But there are also major issues about how health and safety are addressed in tertiary education - in engineering courses, and agricultural colleges and perhaps most important, in management training and development. How much time is devoted to health and safety - in your average MBA course?

3. New legislation

In a review of legislation, a recent report concluded that there was too much legislation. It made 33 recommendations designed to achieve a regulatory system which was simpler, clearer, and therefore more effective. Since 1994, HSE has been involved in a comprehensive programme of work to implement these following important new laws:-

The Control of Major Accident Hazard Regulations (CoMAH) builds on the old CIMAH Regs. and there are common features. A two-tier structure of duties, based on the quantities of dangerous substances present, is retained. The new regulations:-

- are simpler and more flexible to apply
- place greater emphasis on safety management systems
- strengthen the safety report regime
- strengthen emergency planning
- advance the availability of information
- improve the consistency of implementation

The Consultative Document on the COMAH Regulations is due in September 98. Regulations and guidance, hopefully, are due in time for them to come into force in February 1999.

The Amendment to the Use of Work Equipment Directive (AUWED)

Believing many provisions are unjustified by the level of risk, we succeeded in narrowing AUWED's scope considerably, and in getting prescriptive measures re-

drafted as goals to be achieved. Nevertheless, as in any negotiation, the UK could not hope to win every point and it is not therefore a perfect "fit" with existing UK law. Given that UK law is itself inconsistent, particularly on lifting equipment and its use, this outcome is not altogether surprising.

All member states are required to implement its requirements into national law by 5 December 1998 and we intend to do this by introducing two new sets of Regulations :-

- The Provision and use of Work Equipment Regulations (PUWER II)
- The Lifting Operations and Lifting Equipment Regulations (LOLER)

These regulations have general application and apply wherever the Health and Safety at Work etc. Act 1974 applies. The new regulations therefore apply to all industrial sectors, not only factories, offices and shops but also schools, hospitals, hotels, places of entertainment and offshore oil and gas installations.

4 Consultative Documents were issued :-

- PUWERII (5000)
- Power Presses (1000)
- Woodworking Equipment (3000)
- LOLER (5000)

It was envisaged in the 1985 New Approach Resolution that the essential health and safety requirements would be elaborated in European standards that would be developed by the two relevant European standard making bodies CEN and CENELEC. The standards are to tell us what is the "state of the art" and a programme of about 700 standards exists, but so far only about 100 of these have been put through. This leaves manufacturers of whole classes of machinery without any particular guidance.

The position is further complicated by the low quality of some of these standards. HSE, in the case of the UK, has made formal objections under the Machinery Directive to European standards because we have felt that they were seriously defective.

The Working Time Directive

The lead lies with DTI. HSE/LAs will enforce weekly working limits; measures relating to night work (including entitlements to health assessment) and patterns of work. HSE/LAs will continue to enforce health and safety law as it applies to working hours and patterns of work. David added that he has one person working full-time on these regulations, acting as an agent for the DTI on the effects of working hours on health and safety.

The Crime of Manslaughter.

HSE inspectors always consider whether any evidence points to a possible manslaughter offence. The decision whether or not to pursue possible manslaughter charges is one for the police and the CPS. Evidence points to a possible corporate manslaughter offence, as well as manslaughter by an individual. A company can be convicted of manslaughter only if a "controlling mind" is first found guilty of the offence. This is more difficult in a large company and individual is not often to blame to a degree that would support a manslaughter conviction. Law Commission recommendations on involuntary manslaughter, including a proposed new "corporate killing" offence.

4. Strategies and Campaigns.

The Good Health is Good Business campaign was launched in May 1995 and is now entering its Third Phase, looking at use of solvents, hand-arm vibration problems.

The Good Neighbour Scheme continues to be one of the HSC/E's major themes for the next European Week. The scheme is entirely voluntary. It invites firms to demonstrate their commitment to health and safety by extending their expertise to neighbouring companies, customers and suppliers.

You (BHSA) were a 'Good Neighbour' in the last year, when you organised the Euro Week workshop at Aston University with a good response from companies. Many other employers invited their contractors and suppliers to attend health and safety training events, while some large firms offered places on their in-house training courses to small businesses.

Training contributes significantly to the improvement of health and safety at work. The Director General has written to over 600 training organisations to encourage them to participate for example, by offering Training Needs Analysis or training courses at discounts to small neighbouring firms, or firms on their industry sector.

We have had a good response from training organisations, sector specific and generic, offering free training needs assessment for small firms; free health and safety workshops on risk assessment; free training courses on how Health and Safety can improve business. There were also roadshows on the Good Neighbour scheme by British Safety Council.

Unfortunately there is no European Commission funding this year to support initiatives. However, RoSPA has indicated support for the Week and has said that

the local health and safety groups will be mounting various events during the week.

A new strategy for Occupational Health

Work to develop a new strategy for occupational health was initiated by HSC/E with the issue of a discussion document. It does not outline a strategy, but raises a "Number of important issues that need to be considered before a strategy can be developed". They recognised that the following points need to be addressed:

- Occupational health in the future - HSC/E must understand its own future role, and the future role that other key players will have in occupational health.
- It was clear from the current occupational health data, that people are still being made-ill by work. A new strategy could contribute to reducing the-number of people being made ill by work.
- That the world is changing, that a new occupational strategy would put us in a strong position to deal with changes.
- A new strategy would help us to ensure that the profile of occupational health continues to increase.
- There should be no preconceived ideas of what the final strategy would look like.
- There should be no hidden agenda.
- Developing the strategy involves asking interested parties for their views.
- Shared goals, aims and objectives will be based on consensus.

Members' Questions

Pete Condron of Castle Transmission stated that the PUWER II and LOLER were now enacted and asked if an ACOP was available. David Matthey replied that seven industry sectors were producing the guidance and added that the definitions of "a machine" could be different in each.

Mike Wilkinson of Marsh & McLennan asked if the HSE were talking to Insurers about these regulations. David said that HSE was selecting individual companies for 'partnerships' but that comparisons on matters such as accident statistics were difficult because the figures from different sources could not be reconciled.

George Allcock from GKN then asked about common reporting standards across the EU. David answered by outlining the difference in codes of law and the differences in the range of responsibilities of the 'Enforcers'. He also said that self-employed person were not covered in some countries. He also indicated that liaison with other

EU Safety agencies was a source of frustration, although it had been easier since the Machinery Directive was enacted.

Ken Talbot raised the subject of the Robens Re-visited report and asked what had been the value of the Health and Safety at Work Act. David said that it was a good basis for adopting EU Directives with 'goals'. He drew a comparison with the French who work to specific standards and said that some employers prefer this approach because it provides more 'black-and-white' guidance on how to comply with duties. By contrast, the Risk Assessment approach appears to be too onerous with regard to safety expertise.

Tony Corfield mentioned the recommendation, 25 years ago, to include Health and Safety reports in the Annual Reports of Companies. David explained that new legislation called for the naming of the person responsible for safety, instead.

As there were no further questions, the chairman closed the meeting and the members thanked David Matthey for his very comprehensive explanation of current developments in the usual manner.