

more haste, less speed?

In brief: IOSH's response to the Löffstedt Review

the heart of
health and safety



UK government review of health and safety

In late 2011, Professor Ragnar Löfstedt's review of health and safety law in the UK, 'Reclaiming health and safety for all', was published, along with the government's response.

IOSH, the Chartered body for health and safety, made a submission to the review, as well as meeting Professor Löfstedt to discuss our thinking. Here, we give a brief summary of our views of the review itself and the government's response to it. We have also published a fuller response to the documents – you can find it at www.iosh.co.uk/news.

January 2012

More haste, less speed?

The Löfstedt Review looked at 200 pieces of health and safety law, excluding the Health and Safety at Work Act 1974. We generally welcome the findings of the review, which reports that the health and safety system is broadly “fit for purpose” and says that there is “no case for radically altering current health and safety legislation” as the problem “lies less with the regulations themselves and more with the way they are applied”.

Our response to the recommendations in brief

- We think **exempting from health and safety law self-employed people whose jobs don't pose a risk to others** is unnecessary and unhelpful – it's a backward step and sends out the wrong message. Defining work in this way would be difficult, and could cause confusion to self-employed people and micro businesses.

The government's claim that this would exempt one million people from so-called red tape is misleading – right now, people who have fewer than five employees have to keep very limited paperwork.

- We support the idea of the **Health and Safety Executive reviewing its Approved Codes of Practice**, but with a first stage deadline of June 2012, fear that the government is trying to do too much, too soon.

The HSE's budget has been slashed by 35 per cent, and adding this piece of work could mean important functions – from investigating serious accidents to advising and helping businesses – could suffer as a result.

- We back the recommendation for the **HSE to consolidate sector-specific laws**, believing it will simplify what businesses need to do. We are concerned that standards that protect people don't get diluted in the process – and again that the deadline of 2014 could be too tight.
- We welcome the move to ask the **HSE to direct all local authority inspection and enforcement to make sure it targets the most risky businesses** – we've said for some years that businesses will find greater consistency helpful. We are, however, cautioning that it places more demands on the already stretched HSE.
- We support **restating and clarifying the original 'Woolf lists'**, to help avoid confusion. But we are concerned that standards could drop and fair access to justice could be jeopardised if **regulations imposing 'strict liability' are watered down**

- IOSH fully supports the recommendation that the **government should work more closely with the European Commission to make sure that EU law is risk- and evidence-based.** And we believe that professional bodies such as IOSH, with strong links to the business sector and research community, and vast experience in sensible health and safety management, can make a real difference. The EU review in 2013 gives us a timely opportunity to influence this critical area.

We welcome Professor Löfstedt's recognition that the 'gold plating problem' is more myth than reality.

- We agree with introducing a '**cost trigger point**' for automatic regulatory impact assessments for EU laws, and that **clarifying and raising awareness around social partner agreements** would make decision-making more transparent, and improve awareness and buy-in.
- The proposals to make sure that **impact assessments are developed by different people to those who draft legislation** make sense, and we welcome the move to improve scrutiny and appraisal with a **more powerful independent impact assessment function.**

- We support the suggestion to set up a **European Parliamentary committee to look at risk- and science-based policy-making** – it's in line with our own thinking on evidence-based policy, and balanced, proportionate practice.

In its response to the Löfstedt Review, the government outlines its timetable and next steps for the full programme of health and safety reform it first launched with the Young Report in 2010. Here, we give a brief summary of our views.

Since the publication of its official response to the Löfstedt Review, the government has made it clear that it wants the timetable for change to be shorter still. IOSH agrees that improvements can and should be made. But we believe that in the rush to complete the significant programme of work the government has set out, the results could be dangerously flawed – and that could have serious consequences for both the businesses it is trying to benefit and the millions of people who work for them.

Timeline: by the summer of 2012

Health and safety guidance for small businesses will be much simpler

We support moves to make guidance easier to understand and put into practice. We caution the government to make sure that what is useful and helpful to business dictates the changes, not just the drive to cut materials down.

Businesses will get simple, consistent guidance from the HSE, professional bodies and insurers on when to bring in expert health and safety advice

Some of our own members work as consultants and we played a leading role in the new Occupational Safety and Health Consultants Register, which aims to make it easier for businesses to find high quality external health and safety help.

Low risk businesses that manage their responsibilities properly won't be inspected

We've long advocated a proportionate approach in enforcement. But we're keen to make sure that businesses don't miss out on the free, practical advice they can get from inspectors making proactive visits. And publicising inspection cuts could give a 'green light' to unscrupulous employers prepared to gamble with people's health and safety.

The Adventure Activities Licensing Authority will be abolished

This could deliver a drop in standards, undermine public confidence and encourage poor suppliers to come into the market unchecked.

Overseeing a new voluntary Code on this will again be down to the HSE, despite the budget cuts the enforcer is facing.

Timeline: by 2013

Self-employed people whose work doesn't pose a threat to others will be exempt from health and safety law

We believe this is unnecessary and sends an unhelpful message to the self-employed – sensible health and safety is good for all businesses, whatever their size, and whatever they do.

Approved Codes of Practice will give businesses clear, practical examples of how to comply with the law
IOSH, of course, welcomes better guidance and business-focused case studies. We are concerned about the resources needed to do this properly in such a short time.

Unnecessary regulations will be revoked

We support streamlining and consolidations that help businesses understand what they need to do, but call for essential protection standards to be maintained.

Timeline: by 2014

A simpler accident reporting regime will be in place

We welcome new measures that make reporting easier and more accurate, and once more urge the government to include the hundreds of accidents to people working on our roads or driving for work that are currently missing from the national work accident picture.

If the government is successful in influencing the planned legal review, EU health and safety law will in future be risk- and evidence-based

This coincides with our own thinking, so we support these plans. We sound a note of caution, however, about new and emerging technologies where evidence will naturally be thin on the ground – we want to make sure that we don't see another devastating 'asbestos legacy'.

The nuclear industry will have an independent regulator

Reminding the government of the recent incident in Japan, we advise it to make sure that this stand-alone, independent regulator maintains high standards.

The HSE's enhanced powers will drive consistent enforcement for all businesses

We've called for a single, unified enforcement agency for many years, so are pleased with this development. Businesses need consistency and clarity – and the HSE needs the resources to deliver it.

Regulations will be consolidated by sector

We have already proposed some consolidations along these lines, where this is helpful to business and doesn't undermine protection standards.

The total number of regulations businesses have to comply with will be cut by 50 per cent

The Löfstedt Review gives a reduction figure of 35 per cent – we are concerned that the government's new 50 per cent target is arbitrary and isn't backed by evidence.

It's vital to make sure that businesses understand that their legal responsibilities to protect people will remain, however they're presented.

“I have concluded that, in general, there is no case for radically altering current health and safety legislation. ... There is a view across the board that the existing regulatory requirements are broadly right, and that regulation has a role to play in preventing injury and ill health in the workplace. Indeed, there is evidence to suggest that proportionate risk management can make good business sense” Professor Ragnar Löfstedt, author of the Department for Work and Pensions health and safety law review

“We hope that the government will treat the Löfstedt Review as an opportunity to streamline the law and help businesses understand what they need to do to manage health and safety better – and save lives as well as protect their bottom line. It shouldn't be seen as a green light to cut corners. At the end of the day, it's about protecting the people who make our economy tick” Rob Strange OBE, Chief Executive, IOSH

