

# Defend health and safety Day of Action, 28 April 2012

## Bulletin 2

### The need for enforcement

#### **What the government is proposing**

The government has said that it wants to drastically cut the number of health and safety inspections that are done by the HSE and local authority inspectors.

In March 2011 it published "Good Health and Safety, Good for Everyone". This said that the HSE and local authorities should cut the number pro-active inspections by a third. Pro-active inspections are those where the inspector visits to check on the workplace as part of a general programme of visits rather than to investigate after a reported injury. Before then the HSE aimed to split its inspection activity so that 60 per cent of its visits were pro-active and 40 per cent were re-active.

Under the new government directive the HSE will no longer be able to inspect a wide range of premises pro-actively. This means that they will only be able to visit after a reported injury or a complaint. Clearly this will mean that many employers will be far less likely to report any injuries in case they are inspected.

The reason that the government has given for this is that the industries are "low-risk" or inspections are ineffective. The areas that the government thinks are "low risk" include not only shops, schools and offices, but textiles, clothing, footwear, light engineering, electrical engineering, the transport sector (e.g. air, road haulage and docks), local authority administered education provision, electricity generation and the postal and courier services.

They have also said that pro-active inspections are ineffective in agriculture, quarries, and health and social care so should not be done there either.

#### **The myth of low risk**

By claiming that these sectors are low risk the government is only looking at injury figures rather than the whole picture. Many of these areas have very high levels of sickness caused by work. For instance postal workers are far more likely to suffer from a back injury because of the loads they have to carry. Supermarkets also have high levels of back pain amongst checkout staff, and injuries from slips. In addition, shop-workers face high levels of violence. Workers in education suffer high levels of stress, as do many other public sector workers including many who work in health and social care.

### **Are businesses over-inspected?**

It is estimated that the actual number of inspectors in the HSE division that deals with all sectors (except specialist sectors such as nuclear, off-shore and chemicals) is around 650 to cover a total of 895,000 premises. There are another 1,010 (full time equivalent) inspectors working for local authorities covering 1,675,000 premises.

Depending on how you define an inspection the number of times the average business covered by the HSE will see an inspector ranges from once every 14 years to once every 38 years. Compare that to the position of premises that handle food, which are visited at least once a year. However, the number of deaths caused by food hygiene failings is far lower than the number of deaths caused by hazards in the workplace.

The International Labour Organisation says that it is a matter of concern if the number of inspectors in an industrialised country is less than 1 per 10,000 workers. In Britain it is one for every 15,615.

### **Prosecutions also falling**

It is not only inspections that are falling. So are prosecutions. The number of prosecutions has fallen from 1,986 in 2001/2 to 912 in 2010/11 - a fall of over 50 per cent. There has been a similar fall in local authority enforcement. The number of improvement notices and prohibition notices has also fallen dramatically. The few prosecutions that are taken are usually a result of an investigation after an injury is reported and the HSE rarely prosecutes for offences that can lead to disease.

Prosecutions are a necessary part of ensuring that the culture within workplaces is changed and also, on occasion, that the injured person or their family get a sense of justice. Unfortunately, even when a prosecution is successful, it does not necessarily lead to justice. The average fine for a health and safety offence is similar to that for "fly-tipping". Last year the average fine was £24,005 for each offence in cases taken by the HSE and £8,154 in local authority cases.

### **Inspections and enforcement work - the evidence**

Good employers have always supported both regulation and enforcement because it means that their competitors cannot take short-cuts with people's safety and undercut them. It is only unscrupulous or incompetent employers who fear consistent and fair regulation of health and safety.

Although evidence on the relationship between regulation and rates of injury and disease can be difficult to analyse the HSE did conduct some research in 2001 which showed that "The evidence in this review suggests that the key to improving occupational health and safety is to ensure maximum compliance with health and safety legislation in terms of implementation of effective control measures both in theory and in practice. The evidence further shows that compliance with the law is generally a bigger motivator for employers than achieving business benefits."

This is borne out in other studies. In the USA a study by the federal enforcement agency OSHA showed that inspections that imposed penalties produced a 22 per cent decline in injuries during the following weeks. A follow up found a 22.5 per cent fall in accident rates

for employers who had received enforcement action against 7 per cent for those who had simply had advice and information.

Within the UK, researchers at Imperial College have developed a mathematical model to ascertain the effects of the levels set in regulation, and their enforcement on lung cancer numbers. In the case of silica, halving the maximum exposure rate would reduce the number of cancers by 202; however the researchers also showed that regulation alone is only of limited value. Were the limit to be reduced and enforcement increased so that 90 per cent of workplaces complied, the number of cancers prevented would be a staggering 745 over the period looked at.

There is also a clear link between inspection and enforcement activity and preventing injury and ill health. If employers know that there is very little chance of them being inspected, they will be far less likely to comply with the regulations on health and safety.

The government's approach sees inspections as being a negative thing. This is not the view of the TUC, or necessarily of employers. Nearly 90 per cent of all employers who have had contact with the HSE have seen it as a helpful organisation.

A recent TUC survey of safety representatives provides further evidence of this. The results suggest that the 61 per cent of employers have made an attempt to make improvements to health and safety ("a little", "somewhat" or "a lot") because of the possibility of an inspection.

### **What it will mean**

If there are less inspections and less enforcement activity it will simply mean more deaths, injuries and illness. The biggest increases will be seen in those sectors where the HSE is withdrawing from pro-active inspections.

The HSE has itself accepted that decreasing resources and enforcement activity. In their consultation on charging they stated "the expected 'lower level of enforcement' would mean a consequent decrease in health and safety standards throughout Great Britain, with ensuing costs to society."

### **What you can do!**

The TUC is organising a Day of Action to defend health and safety. This will be held on 28 April 2012 which is International Workers Memorial Day when we traditionally remember the dead and fight for the living. Never has that message been more important than now. Let's ensure that we make it clear that we want clear commitments and action from those who should be protecting us.

Join any events in your area on that day and demonstrate that we will not give up our right to a safe workplace.

TUC website [www.tuc.org.uk/wmd](http://www.tuc.org.uk/wmd)  
**Workers Memorial Day 28 April 2012**  
Remember the dead - but fight for the living

