



Health and safety responsibilities of Directors

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to reach him by no later than 9 March 2001

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Responses to this consultative document are invited on the basis that anyone submitting them agrees to their being dealt with in this way. Responses, or parts of them, will be withheld from the Information Centres only at the express request of the person making them. In such cases a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

CONSULTATIVE DOCUMENT

Further single copies of this document may be obtained from HSE Books – see back cover

**CONSULTATIVE DOCUMENT ON THE HEALTH AND SAFETY
RESPONSIBILITIES OF DIRECTORS**

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HEALTH AND SAFETY COMMISSION CONSULTATIVE DOCUMENT: HEALTH AND SAFETY RESPONSIBILITIES OF DIRECTORS

Preface

In June last year the Health and Safety Commission and the Government launched the “Revitalising Health and Safety” Strategy Statement. The Statement included a commitment by the Commission to develop a code of practice on Directors’ responsibilities for health and safety, in conjunction with stakeholders.

The attached draft code (comprising a brief introduction, five action points, a reading list and an Annex summarising the legal responsibilities for health and safety) is issued for the consideration of stakeholders in the health and safety system.

The code will be prefaced by the standard introductory paragraph for HSC guidance, as follows:

“This guidance is issued by the Health and Safety Commission. Following the guidance is not compulsory and you are free to take other action. But if you follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance as illustrating good practice.”

The code is not intended to be an Approved Code of Practice under Section 16 of the Health and Safety at Work etc Act 1974.

We would welcome your comments on the draft code. Please e-mail your views to steve.vinton@hse.gsi.gov.uk, or send them by post to Steve Vinton, Health and Safety Executive, Strategy and Analytical Support Directorate, Strategy and Management Branch, 2 Southwark Bridge, London SE1 9HS. Alternatively you can fax them to 020 7717 6417. **We need to receive your comments by 9 March 2001 at the latest**

HEALTH AND SAFETY RESPONSIBILITIES OF DIRECTORS

INTRODUCTION

1 This code is for the members of the board of all types of organisations in both the private and public sectors. It will help them ensure that the health and safety risks arising from their organisation's activities are properly managed.

2 In the context of effective corporate governance, managing corporate risk is a key issue for all directors and senior managers. Such risks take many forms, as the so called "Turnbull Report"¹ makes clear. One key risk area is the health and safety of an organisation's employees, and of others (including members of the public) who may be affected by its activities.

3 Effective management of health and safety risks:

- maximises the well being and productivity of all people working for an organisation;
- stops people getting injured, ill or killed by work activities;
- improves the organisation's reputation in the eyes of customers, competitors, suppliers, other stakeholders and the wider community;
- avoids damaging effects on turnover and profitability;
- encourages better relationships with contractors and more effective contracted activities;
- minimises the likelihood of prosecution and consequent penalties.

4 This Health and Safety Commission (HSC) code explains how directors² can ensure that their organisation has an active, effective approach to managing health and safety risks.

Who should read this code?

5 The code is for the people who provide strategic leadership, direction and oversight and set the policy on health and safety. In incorporated bodies this will be the Board of Directors. In public sector organisations this will be the senior management board.

What the code does

6 The code sets out the HSC's view of the roles and responsibilities of the board and its members in respect of health and safety risks arising from the organisation's activities. It recommends that every board should appoint one of their number to be a health and safety "director".

¹ "Internal Control: Guidance for Directors on the Combined Code" published by the Institute of Chartered Accountants for England and Wales, September 1999

² The code uses the term "director" to indicate a member of a board, and recognises that the code applies much more widely than to companies that are obliged by law to have directors.

Further information

7 The code stands alone, but the HSC and Health and Safety Executive (HSE) publishes a range of guidance that boards and their members may find helpful. A reading list is provided. HSE Books (www.hsebooks.co.uk) provides access to all HSC/E publications.

HEALTH AND SAFETY RESPONSIBILITIES OF DIRECTORS

ACTION POINT 1

The board needs to accept formally and publicly their collective role in providing health and safety leadership in their organisation

8 Strong leadership is vital in delivering effective health and safety risk control. Everyone should know - and believe - that you are committed to continuous improvement in health and safety performance. You need to explain your expectations, and how your organisation and procedures will deliver them.

9 Your statement of health and safety policy and arrangements³ should be a living document, devised in consultation with your workers, reviewed and revised as situations change, and be brought to the attention of all your workers.

ACTION POINT 2

Each member of the board needs to accept their individual role in providing health and safety leadership for their organisation

10 As a board member you need to ensure that your actions and decisions at work always reinforce the messages in the board's health and safety policy statement. Any mismatch between your individual attitudes, behaviour or decisions and your organisation's health and safety policy will undermine your staff's belief in both your intentions and those of your board and will undermine good health and safety practice.

11 You must recognise your personal responsibilities and liabilities under health and safety law⁴.

ACTION POINT 3

The board needs to ensure that all board decisions reflect their health and safety intentions, as articulated in the health and safety policy statement

12 Many of your business decisions will have health and safety implications. It is particularly important that the health and safety ramifications of investment in new plant, premises, processes or products are taken into account as the decisions are made. For example such changes can introduce new materials (are they toxic?), new work practices (what are the new risks?), or new people (do they need health and safety training?). Too often organisations find that they have to remedy health and safety problems that could have been dealt with more easily and cheaply when the initial investment decisions were made.

13 Doing business with organisations that do not themselves deliver effective health and safety risk management may seriously damage both your corporate reputation and the effective and timely delivery of contracted goods or services. You need to ensure that your purchasing decisions, or decisions to engage contractors to work for you, reinforce rather than damage your health and safety intentions. Similarly, you need to be sure that your customers are alerted to any risks and necessary precautions associated with the products and/or services you supply.

³ See Annex for the statutory basis for the statement of an organisation's health and safety policy and arrangements.

⁴ See Annex

14 It is important for boards to remember that, though health and safety functions can (and should) be delegated, legal responsibility for health and safety rests with the employer.

ACTION POINT 4

The board needs to recognise their role in engaging the active participation of their staff in improving health and safety.

15 Effective health and safety risk management requires the active participation of your staff. There are legal requirements about consulting your employees, via their trades union representatives if appropriate⁵. Many successful organisations go further and actively promote and support employee involvement and consultation. You should encourage employees at all levels to become actively involved in all aspects of your health and safety management system. Employee involvement supports a positive health and safety culture where health and safety is everyone's business. The best form of participation is a partnership for prevention, where employees and their representatives are involved in identifying and tackling potential or actual problems, rather than being consulted only after decisions have already been taken.

ACTION POINT 5

The board needs to ensure that it is kept informed of, and alert to, relevant health and safety risk management issues. The Health and Safety Commission recommends that boards appoint one of their number to be the "health and safety director".

16 You need to be sure that the board's health and safety responsibilities are properly discharged. The board will need to:

- review regularly (at least annually) your health and safety performance;
- ensure that your health and safety policy statement reflects current board priorities. The statement should be considered at the same time as your review of your health and safety performance, or when circumstances (for example your management structures) change;
- ensure that your management systems provide for effective monitoring and reporting of your organisation's health and safety performance. See HSC guidance *Health and Safety in Annual Reports* (currently in draft);
- be kept informed about any significant health and safety failures, and of the outcome of the investigations into their causes;
- ensure that you address the health and safety implications of all your decisions; and
- ensure that health and safety risk management systems are in place and remain effective. Periodic audits can provide information on their operation and effectiveness.

17 Appointing a "health and safety director" ensures there is a board champion for health and safety risk management issues. Some boards may prefer to see such functions assigned to their Chairman and/or Chief Executive. As long as there is clarity about the health and safety responsibilities and functions, and the issues are properly addressed by the board, this is acceptable.

⁵ See Annex for details

18 The health and safety responsibilities of all board members should be clearly articulated in the organisation's statement of health and safety policy and arrangements (see para 9). The intention is that the role of the health and safety director should not detract from the responsibilities of other directors for specific areas of health and safety risk management.

READING LIST

Successful health and safety management (HSG65)(ISBN 0 7176 1276 7), from HSE Books (www.hsebooks.co.uk), price £12.50

Managing health and safety: five steps to success (INB(G)275), available free from HSE Books (www.hsebooks.co.uk),

Essentials of health and safety at work (ISBN 0 7176 0716), from HSE Books (www.hsebooks.co.uk), price £5.95

Health and safety in annual reports: Guidance from the Health and Safety Commission (Currently in draft)

Internal Control: Guidance for Directors on the Combined Code (the Turnbull Report) from Accountancy Books, P.O. Box 21375, London WC1N 1QP (tel: 01908-248 000; fax: 01908-248 001; www.accountancybooks.co.uk). The guidance is also available on the Institute of Chartered Accountants in England and Wales website, at: www.icaew.co.uk/internalcontrol.

ANNEX

LEGAL RESPONSIBILITIES FOR HEALTH AND SAFETY RISK MANAGEMENT - SUMMARY

The main responsibility for ensuring the health and safety of employees and for reducing risks to others, including members of the public, affected by work activities rests on employers (Sections 2 & 3 of the Health and Safety at Work etc Act 1974). You need to prepare, and make sure your employees know about, a written statement of your health and safety policy and the arrangements in place to carry it into effect.

These general duties on employers are expanded and explained in the Management of Health and Safety at Work Regulations 1999, which include requirements for employers to:

- assess the work related risks faced by employees, and by people not in their employment;
- have effective arrangements in place for planning, organising, controlling, monitoring and reviewing preventive and protective measures;
- appoint one or more competent persons to help in undertaking the measures needed to comply with health and safety law; and
- provide employees with comprehensible and relevant information on the risks they face and the preventive and protective measures that control those risks.

Employers need to consult their employees in good time about any issues that may affect employees' health and safety. Recognised trades unions have the right to appoint health and safety representatives who carry out functions such as workplace inspections. (Health and Safety (Consultation with Employees) Regulations 1996 and the Safety Representatives and Safety Committees Regulations 1977)

Employees at all levels of the organisation need to take reasonable care for their own health and safety, and for the health and safety of persons who may be affected by their acts or omissions at work; and co-operate with their employer. (Section 7, Health and Safety at Work etc Act 1974).

Where a "body corporate" commits a health and safety offence, and the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, then that person (as well as the body corporate) is liable to be proceeded against and punished. (Section 37, Health and Safety at Work etc Act 1974).

Health and Safety Responsibilities of Directors
Consultative Document

We would welcome your comments on the draft code. Please e-mail your views to steve.vinton@hse.gsi.gov.uk, or send them by post to Steve Vinton, Health and Safety Executive, Strategy and Analytical Support Directorate, Strategy and Management Branch, 2 Southwark Bridge, London SE1 9HS. Alternatively you can fax them to 020 7717 6417. **We need to receive your comments by 9 March 2001 at the latest.**

Please give us your contact details. This will allow us to contact you if we need to clarify your views, and to let you know the outcome of this consultation exercise. **We are unable to consider views expressed anonymously.**

Your Details

Name:

Position in company/organisation:

Company/Organisation:

Address:

Postcode:

Telephone:

Fax:

Email:

Which of the following best describes yourself/your organisation?

- | | | | |
|--------------------------------|--------------------------|--|--------------------------|
| employer | <input type="checkbox"/> | trade association/federation | <input type="checkbox"/> |
| trade union | <input type="checkbox"/> | health & safety organisation/publisher | <input type="checkbox"/> |
| charity | <input type="checkbox"/> | MP/MEP | <input type="checkbox"/> |
| consultant | <input type="checkbox"/> | Government department/agency | <input type="checkbox"/> |
| local authority/LA association | <input type="checkbox"/> | individual | <input type="checkbox"/> |
| other | <input type="checkbox"/> | | <input type="checkbox"/> |
-

In what sector does your organisation operate?

- | | | | |
|--|--------------------------|-------------------------------------|--------------------------|
| agriculture, hunting, forestry & fishing | <input type="checkbox"/> | Utilities (electricity, gas & water | <input type="checkbox"/> |
| extractive (mining, quarrying & offshore exploration | <input type="checkbox"/> | manufacturing | <input type="checkbox"/> |
| construction | <input type="checkbox"/> | banking, finance & insurance | <input type="checkbox"/> |
| wholesale & retail | <input type="checkbox"/> | transport, storage & communication | <input type="checkbox"/> |
| hotels & restaurants | <input type="checkbox"/> | education | <input type="checkbox"/> |
| health and social work | <input type="checkbox"/> | local Government | <input type="checkbox"/> |
| central Government | <input type="checkbox"/> | leisure (sport) | <input type="checkbox"/> |
| voluntary | <input type="checkbox"/> | other (please specify) | <input type="checkbox"/> |

What is its size? i.e. Numbers of people employed

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YOUR COMMENTS:

Though you do not have to do so, it would help our analysis if you structured your comments on the Introduction, the code's 5 Action Points and the Annex by ticking one of the options below, adding any comments you wish to make, and by addressing the additional questions listed.

Introduction

a) Is the Introduction (page 1) sufficiently clear on the purpose of the code and to who it is addressed?

Clear

Not clear

No opinion

If "Not clear" please indicate how you think the information in the Introduction could be made clearer.

b) Is the style and language of the Introduction appropriate to the targeted audience?

Appropriate

Not appropriate

No opinion

If "Not appropriate" please indicate how you think the Introduction could be presented better to its targeted audience.

Action Point 1: The board needs to accept formally and publicly their collective role in providing health and safety leadership in their organisation.

Agree

Disagree

No opinion

Please add any comments:

Action Point 2: Each member of the board needs to accept their individual role in providing health and safety leadership for their organisation.

Agree

Disagree

No opinion

Please add any comments:

Action Point 3: The board needs to ensure that all board decisions reflect their health and safety intentions, as articulated in the health and safety policy statement.

Agree

Disagree

No opinion

Please add any comments:

Action Point 4: The board needs to recognise their role in engaging the active participation of their staff in improving health and safety.

Agree

Disagree

No opinion

Please add any comments:

Action Point 5(a): The board needs to ensure that it is kept informed of, and alerted to, relevant health and safety risk management issues.

Agree

Disagree

No opinion

Please add any comments:

Action Point 5(b): The Health and Safety Commission recommends that boards appoint one of their number to be the “health and safety director”.

Agree

Disagree

No opinion

Please add any comments

Annex

Does the Annex (page 6) clearly explain the main legal responsibilities of employers and what they need to do?

Clearly explained

Not clear

No opinion

If “Not clear” please indicate how you think the information could be made clearer.

Additional questions

1) We want the code to apply to all organisations that have boards. Are there any features of your organisation’s structures or management systems that would create difficulties in complying with the draft code? If so, please give details:

2) We want the code to apply to both the main boards of complex organisations, and any subsidiary’s boards that have a health and safety leadership role. In your view, does the draft code successfully address the health and safety responsibilities of directors in complex organisational structures?

Have you any other comments?

Monitoring the effectiveness of this consultation document

In your view how well does the *Consultative Document on Health and Safety Responsibilities of Directors* represent the different issues involved in this matter?
(tick one box):

- Very Well
- Well
- Not Well
- Poorly

Is there anything you particularly liked or disliked about this consultation exercise?
(Please add extra sheets if you wish)

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CONSULTATIVE DOCUMENT



The full text of this and other Consultative Documents can be viewed
and downloaded from the Health and Safety Executive web site on the internet:

www.hse.gov.uk/condocs/

Consultative Documents are available from:

HSE Books, PO Box 1999
Sudbury, Suffolk CO10 2WA
Tel: 01787 881165
Fax: 01787 313995