

## **HEALTH AND SAFETY COMMISSION AND EXECUTIVE FRAMEWORK OF ACCOUNTABILITIES**

1. This Document and its six Annexes describe the broad policy, management and financial framework within which the Health and Safety Commission (HSC) and Health and Safety Executive (HSE) operate and sets out the relationship between HSC/E and Ministers of the Crown. It also describes the Commission's role in relation to Local Authorities. Taken together with the HSC Strategic Plan 1999/2002 and the HSC Annual Report and HSC/E Accounts, the Document and its Annexes constitute an Executive Non Departmental Public Body (NDPB) Management Statement as required by the Cabinet Office.

### **PURPOSE AND STRUCTURE**

2. The current system of health and safety at work in Great Britain derives from the passage of the Health and Safety at Work etc Act 1974 (the 1974 Act). The main purposes of the 1974 Act and its relevant statutory provisions are

- to secure the health, safety and welfare of people at work
- to protect the public against risks to health and safety arising from work activities
- to control dangerous substances

3. The Act places responsibility for health and safety upon

- employers
- self-employed persons
- employees
- persons in control of premises or plant
- designers, manufacturers, importers and suppliers of materials and substances for use at work

4. Health and safety at work and the provision under the 1974 Act of bodies for its administration are GB-wide matters and have not been devolved to the Scottish Parliament and Welsh Assembly. Concordats with the Scottish Executive and the Cabinet of the Welsh Assembly set out the arrangements for liaison with HSC/E on matters of common and closely related interest.

5. HSC and HSE are statutory NDPBs with Crown status set up under the 1974 Act. They are funded by grant-in-aid and by the levy of fees and charges specified in Regulations; and they carry out executive functions. Their constitutions are governed by the 1974 Act, principally Section 10 and Schedule 2.

6. The Commission's constitution allows for a Chair and between six and nine members (Commissioners). The Chair is appointed by the Secretary of State for Environment, Transport and the Regions after consultation with the other Secretaries of State to whom HSC/E reports (all references in this document to "the" Secretary of State are to the Secretary of State for Environment, Transport and the Regions). The Commissioners are appointed in accordance with the procedures laid down by the Neill Committee on Standards in Public Life by the Secretary of State after consulting organisations representing employers, employees, local authorities and other interests, including those of consumers. Detailed provisions for HSC/E's constitution are in Schedule 2 of the 1974 Act and the Financial Memorandum at Annex 5 gives further details.

7. The statutorily distinct Executive consists of a Director General (DG) and two other members. The DG is appointed by the Commission with the approval of the Secretary of State; the other two members are appointed by the Commission with the approval of the Secretary of State after consulting the DG. The Executive employs a body of staff to undertake its functions and those delegated to it by the Commission (a current HSE organisation chart is included in the HSC Annual Report and HSC/E Accounts).

8. Throughout this document "the Executive" refers to the corporate body of three members and "HSE" refers to the organisation as a whole, including its staff. "HSC/E" refers to the collective entity created by the Commission's appointment and oversight of the Executive.

## **RESPONSIBILITIES**

### Role of Secretary of State for Environment, Transport And The Regions

9. The Secretary of State appoints the Commission and is responsible for it. The appointment and conditions of service of Commissioners are included in their formal letter of appointment from the Secretary of State and in a memorandum issued to them under the Secretary of State's authority. If the Secretary of State is satisfied that a Commissioner is unable or unfit to discharge the functions of a member then they may declare the office of that Commissioner to be vacant.

10. The Secretary of State has a duty to provide the Commission with sums (approved by the Treasury) considered appropriate to perform its functions; and the Commission has an equivalent duty to pay appropriate sums to HSE. The Commission seeks the funds it requires through a submission to the Secretary of State justifying its expenditure needs. Having considered the Commission's requirements and their justification, the Secretary of State allocates funds to it from the Department's total Supply. Views expressed by other Secretaries of State concerned with aspects of the Commission's work are taken into account.

11. The Commission prepares a Strategic Plan of Work, which is submitted to the Secretary of State for approval. The Commission must act in accordance with Plans approved by the Secretary of State and within the resources made available. The

Secretary of State has power to give the Commission directions and may also give guidance clarifying the limits of its activities.

12. The Secretary of State may also, on receiving proposals from the Commission or after consulting it and other relevant bodies, make local authorities responsible for enforcement of the relevant statutory provisions of the 1974 Act by means of regulations defining the extent of their responsibility.

#### General role of Secretaries of State

13. The Commission's functions extend beyond the responsibilities of the Secretary of State. Allocation of responsibility is determined by administrative arrangement. The responsibilities of other Secretaries of State are set out in Annex 1.

14. The Commission may submit proposals for regulations or codes of practice, advise, or otherwise support any Secretary of State responsible for the relevant statutory provisions under the 1974 Act. A Secretary of State may

- alter the Commission's proposals for regulations before submitting them to Parliament, although only after consulting the Commission
- give or withhold consent to codes of practice which the Commission proposes to approve and issue (see paragraph 18)
- direct the Commission with respect to its functions. Only those with relevant functions are likely to do so and, in practice, the Secretary of State, having the principal responsibility for HSC/E, would normally exercise this function on behalf of other Secretaries of State
- make regulations under the 1974 Act of their own volition, providing that they first consult the Commission and other relevant bodies

15. It follows that in addition to the Secretary of State, a number of other Secretaries of State are answerable in Parliament for aspects of HSC/E's activity which are the responsibility of their Departments.

#### Role of the Commission

16. The Commission's responsibilities and powers are defined by the 1974 Act and its subordinate instruments. In effect these arrangements make the Commission, subject to the authority of the relevant Secretary of State, the prime mover in relation to the regulation of health and safety at work. This involves proposing and setting necessary standards, on which the Commission is advised by the Executive, and -through HSE - securing compliance with those standards and undertaking other forms of activity designed to stimulate or support necessary action on the part of people and organisations who create potential harm.

17. The Commission's statutory duties include

- submitting proposals for regulations to Ministers after consultation with appropriate government departments and other bodies
- arranging for the provision of information and advice to Ministers amongst others
- arranging for the operation of an information and advisory service
- arranging for research to be carried out and published and encouraging research by others
- arranging for the provision of training and information and encouraging their provision by others
- paying to the Executive sums considered appropriate for it to perform its functions

18. The Commission's powers of action include

- approving and issuing codes of practice, with the consent of the relevant Secretary of State, subject to consultation with appropriate government departments and other bodies. These are known as "Approved Codes of Practice" (ACoPs)
- making Agency Agreements with government departments or others for them to perform functions on HSC/E's behalf; and with any Minister, Department or other public authority for HSC/E to perform functions on their behalf (subject to those functions being appropriate to the Commission's responsibilities in the opinion of the Secretary of State). A list of functions covered by Agency Agreements is given in Annex 2
- giving guidance to Local Authorities on enforcement
- directing HSE, or authorising any other person, to investigate and report on accidents or other matters and, subject to regulations being made by the relevant Minister, directing inquiries to be held
- appointing committees. The main committees which the Commission has set up are "Subject Advisory Committees" or "Industry Advisory Committees", which advise the Commission respectively on particular kinds of hazard and on health and safety in particular industrial sectors (see Annex 3). Members are nominated to a committee in accordance with the its agreed constitution, and are appointed subject to the approval of the Commission. The Commission has, endorsed the principles set out in the Government's report 'Quangos - opening the doors' and is extending the membership principles to its advisory committees

- providing any services, facilities or information required by a government Department or public authority even though they are not required for the general purposes of Part I of the 1974 Act.

19. The Commission may delegate to individual members, for example to enable the Chair to act on its behalf in specified matters between meetings. The Commission has general oversight of the work of the Executive and has power to delegate to the Executive as its main operational arm. The Commission has used Section 11(4)(a) of the 1974 Act to direct the Executive to carry out certain functions (see paragraph 25).

20. The Commission has adopted a Code of Practice which the Chair and Commissioners will follow. The CoP conforms with Cabinet Office guidance. It sets out the responsibilities of the Chair, and the corporate and individual responsibilities of Commissioners. The Code of Practice is attached at Annex 6.

#### Role of the Chair

21. The Chair is Accounting Officer for the Commission and is responsible for ensuring the efficient and economical conduct of Commission business as described in paras 16 to 20 above, the propriety of Commission expenditure and that the Executive's expenditure is in accordance with the Commission's Plans and priorities.

#### Role of the Executive

22. The Executive has specific responsibility under the 1974 Act to make adequate arrangements for enforcement of the relevant statutory provisions of the 1974 Act. The Executive has the power to appoint Inspectors, whose powers are defined by the 1974 Act.

23. The Executive is required to maintain an employment medical advisory service (EMAS) which, under statute, gives advice and information concerning the safeguarding and improvement of health of people at work. This arrangement discharges a responsibility of The Secretary of State under Part II of the 1974 Act, delegated to the Commission.

24. The Executive is statutorily disbarred from advising Ministers on any matter connected with the Commission's discharge of its functions. It is, however, required under Section 11(5) of the 1974 Act to provide information on request to a Minister about HSE's activities in connection with any matter a Minister is concerned with. It is also required on request to provide expert advice to Ministers on matters not relevant to the general provisions of Part I of the 1974 Act.

25. In addition the Executive must exercise any of the Commission's functions the Commission directs it to under the 1974 Act. A direction from the Commission dated 25 November 1976 (reproduced at Annex 4) requires the Executive to

- prepare proposals for the decision of the Commission

- make recommendations to the Commission from time to time
- carry out the Commission's decisions

26. The first two of these requirements give HSE an active policy development role which it exercises in lateral arrangements with a number of Government departments, and by administrative arrangements as required, leading for the UK in international negotiations. The Executive is generally authorised by the Commission to assist Ministers in various ways. The principle is that the Executive advises the Commission and the Commission advises Ministers. When HSE officials give advice to Ministers it is done on the Commission's behalf and with their concurrence.

27. The Executive is a licensing authority under several of the relevant statutory provisions of the 1974 Act, in particular the Nuclear Installations Acts. It is also part of a statutory competent authority, for example for the assessment of toxic chemicals, jointly with the Environment Agency, as part of the Department of Environment, Transport and the Regions (DETR) under the Notification of New Substances Regulations 1993. In these matters it acts on its own volition.

28. In order to carry out its responsibilities, particularly in relation to enforcement and policy proposals, the Executive may agree Memoranda of Understanding (MOUs) with other public bodies. These typically set out liaison arrangements or delineate areas of coverage where responsibilities overlap. A list of MoUs is included in Annex 2.

29. The Executive and staff of HSE are civil servants and subject to the provisions of the Civil Service Code which sets out the role and duties of civil servants and the standards of conduct and propriety expected of them.

#### Role of the Director General

30. The Director General and the Executive manage HSE and, subject to the Crown, employ its staff. In doing so, account is taken of HSE's sponsorship by DETR, and of central initiatives. The Director General is Accounting Officer for HSE and is responsible for the efficient and effective use of resources entrusted to him/her by HSC and for value for money in respect of actions and policies which HSE decide (see also paragraphs 8 and 9 of the Financial Memorandum at Annex 5).

31. The Director General is responsible for ensuring financial propriety and regularity in expenditure by the Executive, and advising the Chair on costs and other financial matters which need to be taken into account by the Commission in considering its policies. The Director General does this by providing the Commission with relevant information in policy papers; and through the Commission's discussion of its Plans and other submissions to the Secretary of State concerning the use of, or application for, resources.

## **ACCOUNTABILITY TO PARLIAMENT**

32. The Secretary of State answers to Parliament on HSC/E's staffing and resources.

33. On behalf of the Commission, the Executive provides, for the consideration of Ministers, draft answers to parliamentary questions and other ministerial correspondence. The Chair and Director General will respond to correspondence received from MPs on matters of detail, and/or constituency concerns.

34. The Commission submits an Annual Report and HSC/E Accounts to the Secretary of State (see paragraph 49) for presentation to Parliament. The role and responsibilities of the Commission and Executive in relation to the Annual Accounts are set out in paragraph 31 of the Financial Memorandum at Annex 5.

35. The Commission and/or Executive may be invited to give evidence before Select Committees of either House of Parliament on matters relating to their activities, or to provide expert advice on health and safety matters. The Commission and Executive would provide evidence in their own right, not through Ministers.

### Roles of the Department of the Environment Transport and the Regions and of HSC/E Accounting Officers

36. The Permanent Secretary is the Principal Accounting Officer (PAO) for DETR. The Chair of the Commission is the Accounting Officer for the HSC and the Director General is the Accounting Officer for HSE (within HSE, the Chief Executive of the Health and Safety Laboratory is the Accounting Officer for HSL). The Financial Memorandum governing the HSC grant-in-aid (Annex 5 and see paragraph 43) delineates their respective responsibilities in line with the Accounting Officer Memorandum issued by the Treasury Officer of Accounts.

## **OPENNESS AND ACCOUNTABILITY TO THE PUBLIC**

37. The Health and Safety Commission believes that public access to health and safety information improves understanding and helps to strengthen public confidence in the health and safety system. The Commission has published a statement which sets out its policies in making information available under the Code of Practice on Access to Government Information and the Environmental Information Regulations 1992.

38. HSE makes information available in line with these requirements subject to any exemptions. A charge is levied as appropriate although most information is provided free of charge. If HSE refuses to supply all or part of the information requested, or if charges are thought to be unfair, the enquirer has the right to complain. Complaints are considered first by HSE's internal Complaints Panel; if not satisfied by the outcome of this, the complainant may take the case to the Parliamentary Commissioner for Administration (the Ombudsman).

39. HSC/E are committed to "Service First" principles. HSE has a system for handling complaints from people who are dissatisfied with the way they have been dealt with. This is based on the principle that grievances should be addressed as quickly as possible and at the lowest level appropriate to the circumstances. If complaints are not resolved in this way, complainants are advised that they may write to the Director General, who will see that the complaint is followed up promptly and fairly. An e-mail address (director.general@hse.gsi.gov.uk) has been set up specifically for this purpose. Complainants are also advised that they can ask their MP to take up their case with HSE or with Ministers and that their MP may also ask the Parliamentary Commissioner for Administration to review their complaint.

40. HSC/E has adopted the Government's Access Business Enforcement Concordat. The Concordat contains standards for the level of service and performance that the public and businesses can expect to receive from enforcing bodies. HSE's enforcement procedures comply with these standards.

## **MANAGEMENT, FINANCIAL AND PLANNING ARRANGEMENTS**

41. The Health and Safety Commission publishes a Strategic Plan, which is approved by the Secretary of State. The Plan takes account of requirements for NDPB corporate plans. It sets out how the work of the Commission and Executive will contribute to the achievement of Government objectives and targets for health and safety, as set out in Public Service Agreements; the outputs which HSC/E will deliver; and how funds allocated to HSC/E will be spent.

42. The Executive has a separate Strategic Management Plan to set out how the Executive will deliver the Commission's Strategic Plan. This also sets out how the Executive will implement "Modernising Government" requirements. Both the Strategic Plan and Management Plan are updated annually. These Plans provide the basis for HSE Directorates and Divisions to draw up operational plans which in turn provide the framework for unit and individual work plans throughout the organisation.

### Financial Memorandum and conditions attached to Grant-in-Aid

43. Funding is provided to HSC/E through a grant-in-aid subject to conditions set out in a Financial Memorandum agreed between the Secretary of State (with the consent of the Treasury), the Commission and the Executive (the Memorandum is reproduced at Annex 5). The Memorandum sets out the status of the HSC and HSE, the responsibilities and relationships of the relevant Accounting Officers and the rules within which the two bodies operate.

44. The Executive follows the principles of government financial management by setting Directorate and Divisional budgets and requiring budget holders to use resources effectively and efficiently within the relevant budgetary ceiling and delegated authorities.



### Monitoring and control

45. HSE's Director of Resources and Planning, who is also HSE's Principal Finance Officer, acts on behalf of the Director General to keep under review expenditure and relevant output and performance measures, including Government targets for efficiency gains.

### Principal Accountings Officer

46. The Principal Accounting Officer for DETR (the Permanent Secretary) is responsible for advising Ministers on the allocation of resources and ensuring a proper standard of financial management across the Department.

### Other Accounting Officers

47. As Accounting Officers, the Chair of the Commission and the Director General have to satisfy themselves that the financial and other management controls applied are appropriate and sufficient to safeguard public funds and, more generally, that those being applied conform with the requirements of regularity, propriety and good financial management.

### Accounts

48. The Commission and the Executive have to keep proper accounts and related records; and prepare an annual statement of accounts in a form directed by the Secretary of State with Treasury approval. The Comptroller and Auditor General is required to examine, certify, report on and lay the accounts before Parliament.

### Reporting Arrangements

49. The Commission must also submit an Annual Report and Accounts to the Secretary of State, which is laid before Parliament and published. The Annual Report and Accounts mirror the Plan of Work for the relevant year and are used as a basis for reporting

- achievements against Continuing Aims, Strategic Themes and Key Programmes
- specific output and performance targets for the year within financial provision
- statistics and analyses of health and safety outcomes

The Annual Report and Accounts includes information on the progress of central initiatives, efficiency savings and value for money.

## **PAY AND PERSONNEL MATTERS.**

50. The pay and conditions of service of the Chair and Commissioners are determined by the Secretary of State with the approval of the Minister for the Civil Service. Pay for the Director General is determined by the Secretary of State with the

approval of the Minister for the Civil Service. Pay for the other two members of the Executive is set with like approval. See para 5 of Schedule 2, as applied by para 20(1) of Schedule 2, of the 1974 Act. For both the Director General and the two members of the Executive pay is determined within the framework established for the senior civil service and in line with the recommendations of the Senior Salaries Review Board (SSRB).

51. The Executive have been delegated the authority to create new posts below the level of the Senior Civil Service. Proposals for more senior posts are covered by the rules laid down for the Senior Civil Service. This delegated authority may only be exercised when it is clear that funds from the grant-in-aid will be available to meet the cost of any such new appointments and provided that appointments are made in accordance with the 1974 Act, Schedule 2, paragraphs 10 and 11.

52. HSE has delegated authority to determine the terms and conditions of service of its SCS staff subject to the condition that it will comply with the provisions of the Civil Service Management Code as amended from time to time.

53. HSE has delegated authority to recruit staff subject to the principles laid down by the Civil Service Commissioners to ensure fair and open competition.

54. Subject to arrangements reached with HM Treasury, HSE is responsible for determining the pay, terms and conditions of service of staff below the Senior Civil Service, including the arrangements for performance pay. HSE will submit pay remits for clearance with DETR and HM Treasury in accordance with Treasury requirements.

55. The Executive develops and implements personnel policies and practices which are appropriate to the operational needs of HSE and in line with equal opportunities practice. It trains and develops its staff and is committed to the principles of the "Investors in People" standard. It is responsible for the health and safety of HSE staff in accordance with the Executive's safety policy statement dated June 1999.

56. The Executive is responsible for ensuring a framework for employee relations in HSE. The Director General will ensure that staff and their representatives will be consulted and collective agreements reached on appropriate matters, including pay, terms and conditions of service.

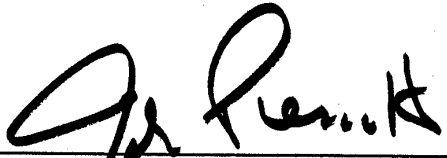
## **REVIEW OF THE FRAMEWORK OF ACCOUNTABILITIES**

57. The Framework of Accountabilities will be formally reviewed after 5 years. The Financial Memorandum at Annex 5 is free-standing and may be updated more frequently. Other Annexes contain information which is either wholly within the power of HSC/E to vary (Annexes 2, 3 and 6); or which may be varied in accordance

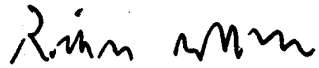
With appropriate procedures (Annexes 1 and 4). These are also free standing and may be updated more frequently.

58. The Secretary of State and the Chair of the Commission in consultation with the Director General of HSE, may propose modifications to the Framework of Accountabilities from time to time in the light of changing circumstances. Any changes will be subject to agreement by the Secretary of State, the Commission and the Executive following consultation as appropriate with other government departments, including the Treasury and Cabinet Office. Treasury approval is required for revisions that have financial or resource implications or affect significantly the policy structure.


Signed

  
Date: 24 April 2001


Secretary of State for the Environment,  
Transport and the Regions

  
Date: 10 April 2001

Permanent Secretary; Department of the  
Environment, Transport and the Regions

  
Date: 28.02.01

Chair of the Health and Safety  
Commission

  
Date: 28/2/01

Director General of the Health and  
Safety Executive