



Health and safety

Standard Note: SN/SC/4936

Last updated: 22 March 2011

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Section Science and Environment Section

There are two areas of law governing health and safety: firstly there is common law, which covers negligence and compensation claims. Secondly, there is the criminal law, namely the *Health and Safety at Work etc. Act 1974* (HSWA) and various pieces of delegated legislation. This note deals only with the criminal law.

The HSWA, as its name suggests, deals almost exclusively with workplace health and safety, and brought the Health and Safety Commission and the Health and Safety Executive (HSE) into existence (these bodies are now amalgamated as the HSE). When looking at the 'health and safety culture' both criminal and common law are relevant, but should not be confused. For example, to accuse the HSE of promoting a compensation culture would be mistaken, because, broadly speaking, compensation comes under common law, whereas the Health and Safety Executive deals with criminal law.

The HSWA and regulations made under it, set out the general duties which employers have towards employees and members of the public, and which employees have to themselves and to each other. Section 2(1) of the HSWA provides that it is the duty of every employer to "ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees." The main requirement on employers is to have a risk assessment carried out of potential hazards which may cause harm.

Health and safety incidents are often widely reported in the press. Inaccurate reporting can lead to confusion about where there health and safety law expressly prohibits a certain activity or where a risk assessment has revealed an activity to be undesirable. This note looks specifically here at the areas of school trips and police activities. In June 2010 the Prime Minister appointed Lord Young to undertake a review of health and safety laws. [Lord Young reported on 15 October 2010](#) and the conclusions and recommendations from his report are set out in the last section of this note, along with reaction to it. A further review of health and safety rules was announced by the Government on 21 March 2011.

Complaints about workplace health and safety should be addressed either to the local authority or to the Health and Safety Executive. The last section of this note gives further information about who to contact when and how.

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Contents

1	Health and safety law	2
2	The record of the health and safety regime	4
3	School trips	6
4	Police	7
5	Penalties	9
6	Reporting health and safety concerns	9
7	Review of health and safety laws	10
7.1	The Young Review	10
	Reaction to the Young review	13
	Progress report on the Young Review	14
	Next steps	14
7.2	Further review of health and safety rules	15

1 Health and safety law

There are two areas of law governing health and safety: firstly there is common law, which covers negligence and compensation claims. Secondly, there is the criminal law, namely the *Health and Safety at Work etc. Act 1974* (HSWA) and various pieces of delegated legislation.¹

The HSWA, as its name suggests, deals almost exclusively with workplace health and safety, and brought the Health and Safety Commission and the Health and Safety Executive into existence (these bodies are now amalgamated as the Health and Safety Executive). When looking at the ‘health and safety culture’ both criminal and common law are relevant, but should not be confused. For example, to accuse the Health and Safety Executive of promoting a compensation culture would be mistaken, because, broadly speaking, compensation comes under common law, whereas the Health and Safety Executive deals with criminal law.

Most recent health and safety legislation stems from EU directives. In particular, the *EU Framework Directive 1989* made risk assessments compulsory across all occupations.² According to John Shattock, consultant on health and safety at business advisory and support company Croner, EU legislation is not only burdening the system but also changing the nature of health and safety legislation. According to Mr Shattock, the spirit of the 1974 Act is that it was non-prescriptive. Instead of laying down exactly what employers could and could not do, it was based on goal-setting: it gave both employers and, to a certain extent, employees the responsibility to provide a safe environment, providing codes of practice and

¹ [Health and Safety at Work etc. Act 1974](#)

² [Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work](#)

delegated legislation to show how to do that in individual cases. The 'bolting on' of EU legislation has, according to this view, led to a growth of formal risk assessment which is more prescriptive and bureaucratic.³

The *HSWA* and regulations made under it, set out the general duties which employers have towards employees and members of the public, and which employees have to themselves and to each other. Section 2(1) of the *HSWA* provides that it is the duty of every employer to "ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees."

A textbook on workplace health and safety explains further what is meant by "reasonably practicable":

It requires the risk to be weighed against the costs necessary to avert it (including time and trouble as well as financial cost). If compared with the costs involved, the risk is small the precautions need not be taken – it should be noted that such a comparison should be made before any incident has occurred. The burden of proof, however, rests on the person with duty (usually the employer) – they must prove why something was not reasonably practicable at a particular point in time. The duty holder's ability to meet the cost is not a factor to be taken into account.

In effect what is 'reasonably practicable' requires that a risk assessment be carried out.⁴

The main requirement on employers therefore is to have a risk assessment carried out of potential hazards which may cause harm. Employers with five or more employees need to record the significant findings of the risk assessment. A risk assessment must be carried out by a "competent person". The competent person does not have to be the employer themselves. The Health and Safety Executive (HSE) explains:

A competent person is someone who has sufficient training and experience or knowledge and other qualities that allow them to assist you properly. The level of competence required will depend on the complexity of the situation and the particular help you need.

When getting help, you should give preference to those in your own organisation who have the appropriate level of competence (which can include the employer themselves) before looking for help from outside. You must consult health and safety representatives in good time on the arrangements for competent help.⁵

Further guidance on these requirements is available from the HSE website, [Health and safety regulation: a short guide](#).

A list compiled by the HSE gives some examples of other workplace health and safety legislation:

- *Workplace (Health, Safety and Welfare) Regulations 1992*: cover a wide range of basic health, safety and welfare issues such as ventilation, heating, lighting, workstations, seating and welfare facilities.

³ 'Red tape threatens to undo the good work', *Daily Telegraph*, 18 October 2004

⁴ LexisNexis, *Tolley's Health and Safety at Work Handbook 2010*, 22nd Edition, page int 12-13

⁵ Health and Safety Executive website, [A competent person](#) [on 18 December 2009]

- *Health and Safety (Display Screen Equipment) Regulations 1992*: set out requirements for work with Visual Display Units (VDUs).
- *Personal Protective Equipment at Work Regulations 1992*: require employers to provide appropriate protective clothing and equipment for their employees.
- *Provision and Use of Work Equipment Regulations 1998*: require that equipment provided for use at work, including machinery, is safe.
- *Manual Handling Operations Regulations 1992*: cover the moving of objects by hand or bodily force.
- *Health and Safety (First Aid) Regulations 1981*: cover requirements for first aid.
- *The Health and Safety Information for Employees Regulations 1989*: require employers to display a poster telling employees what they need to know about health and safety.
- *Employers' Liability (Compulsory Insurance) Act 1969*: require employers to take out insurance against accidents and ill health to their employees.
- *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)*: require employers to notify certain occupational injuries, diseases and dangerous events.
- *Noise at Work Regulations 1989*: require employers to take action to protect employees from hearing damage.
- *Electricity at Work Regulations 1989*: require people in control of electrical systems to ensure they are safe to use and maintained in a safe condition.⁶

2 The record of the health and safety regime

It is difficult to compare the world of work today with more than 30 years ago when the HSWA was passed. It is possible, however, to say that there is less injury, illness and death at work than there used to be; the number of fatal injuries at work has fallen by about 75%. The following table, prepared by the HSE, provides some comparisons between the situation in 1974 and today:

⁶ Health and Safety Executive, *Health and Safety Regulation: A short guide*, 2003

Workplace health and safety since 1974

Workplace injury	Earliest	Latest
Fatal injuries	1974	2007/08
Fatal injuries to employees (excluding health, education and public administration) ¹	651	166
Rate of fatal injury per 100 000 employees	2.9	0.7
Number of non-fatal injuries (excluding health, education and public administration) ²	336 701	100 315
Occupational diseases	1974	2006
Deaths from pneumoconiosis ³	453	182
Deaths from asbestosis	25	393
Deaths from mesothelioma ⁴	243	2 056
Rate of self-reported work-related illness ⁵ (prevalence per 100 000 employed in the last 12 months)	1990	2007/08
Overall	5940	4 170
Musculoskeletal disorders	2750	1 810
Stress and related conditions ⁶	820	1 620

1. In 1974 the injuries figures were limited to production and some service sectors.

2. Since 1974 three changes of reporting regulations have occurred, each of which changed the definitions of the serious/major injury category. Earlier figures suffer from under-reporting as today's figures do, but to an unknown extent.

3. Excluding asbestosis.

4. An asbestos-related cancer. The rise was driven by increasing asbestos usage up to the mid 1960s; the effect of subsequent reductions in asbestos usage are starting to be seen the fall in the numbers of male deaths from this cancer in younger age groups.

5. Estimates of self-reported work-related illness are based on results from the Labour Force Survey. They have been adjusted such that the coverage is approximately consistent (e.g. limited to people who worked in the last 12 months in England and Wales only), and even then are still affected by factors such as differences in survey design and level of information collected.

6. It is probable that awareness of and attitudes to work-related stress changed during the 1990s, and this may have increased reporting. Between 2001/02 and 2004/05, the earlier rise in the numbers appeared to level off, and has since fluctuated.

Source: Health and Safety Executive

More detailed figures for 2008/09 are available from the Health and Safety Executive.⁷

In December 2008, the HSE launched a consultation on a new strategy for the organisation.⁸ The purpose of the new strategy will be to get the incidence of accidents and ill health on a downward trajectory again, reach the growing number of small and non-unionised businesses and promote the message that good health and safety practices are good for business. The document also laments that:

⁷ Health and Safety Executive website, [Health and Safety Statistics 2008/09](#), [downloaded 15 April 2010]

⁸ Health and Safety Executive, [The Health and Safety of Great Britain: Be part of the solution](#), December 2008

'Health and safety' is being used increasingly as a synonym for unnecessary bureaucracy and an excuse for not doing things. It is time for us to regain the value of the brand for genuine health and safety – and not trivia.⁹

Trade union research has shown that the number of both inspectors and inspections has fallen significantly over the last few years, despite the fact that the number of accidents has remained broadly steady.¹⁰

3 School trips

Few would argue with the need for some system of control for some of the higher-risk activities undertaken on school trips. The principles of this control are 'use of guidance, risk assessment, participant involvement, parental consent, formal approval, leader competence and appropriate supervision' according to the Health and Safety Executive (HSE).¹¹

Accidents have happened on school trips, particularly adventurous trips and those involving activities in or on water. According to the Education and Skills Select Committee,¹² there were 57 fatal accidents between 1985 and the beginning of 2005, including accompanying adults and road accidents on the way to and from the site. The committee also found that in England in 2003, there were between seven and ten million 'pupil visits' (the number of visits multiplied by the number of pupils attending) involving educational or recreational activity, but only one fatality.

After the death of a 10-year-old boy during a trip in the Lake District in 2002, the government issued a [Manifesto for education outside the classroom](#). The initiative was enlarged to create the Learning Outside the Classroom Partnership, which has created its own website with guidance and support for school trips.¹³

While most people accept the need for a control system, problems may arise if procedures suitable for risky trips are applied to lower risk situations. The HSE recognises this possibility:

The risk assessment should indicate the appropriate levels of control. Excessively bureaucratic systems for low-risk visits can rapidly undermine respect for the control mechanisms.¹⁴

Some have claimed that the educational visits are in decline both because of fears of litigation and because of health and safety bureaucracy. The Education and Skills Select Committee conducted an inquiry into education outside the classroom, and published its report in January 2005, but the evidence of a decline in outdoor learning was not clear:

The Committee has received evidence from professional bodies, including the Royal Society and the Field Studies Council, on the diminishing opportunities for fieldwork. It has also heard from organisations such as Learning Through Landscapes, Play Wales and the Children's Play Council that children's day-to-day access to the outdoors is being increasingly restricted. In the past ten years, twenty local authority outdoor

⁹ The Health and Safety of Great Britain: Be part of the solution, *ibid*.

¹⁰ 'Unite Research Shows Significant Drop in HSE Injury Investigation Levels', *PR Newswire*, 6 November 2008; 'Disappearing inspectors can't enforce safety', *Risks TUC online health and safety magazine*, 15 Nov 2008

¹¹ HSE, [School trips: Getting it right](#)

¹² House of Commons Education and Skills Select Committee [Education Outside the classroom](#), Second Report, HC 120, 2004-05, 10 February 2005

¹³ [Learning outside the classroom website](#) [accessed on 15 April 2010]

¹⁴ Health and Safety Executive website, [School trips: getting it right](#) [accessed on 15 April 2010]

education centres have closed. Nonetheless, the DfES asserted that: "most LEAs tell us outdoor activity in their schools is stable or increasing."¹⁵

Whether or not outdoor learning is being restricted, the committee did find that the burden of bureaucracy was high:

Some schools and local authorities are demanding excessively lengthy risk assessments and we have found evidence of needless duplication in the system. The Government claims to be actively reducing public sector bureaucracy in general and specifically the burden on schools.¹⁶

When the representative of NASUWT, the teachers' union, gave evidence to the inquiry, she explained the union's policy of advising members not to participate in school trips. She said that the possibility of pupils or their parents taking civil legal action against teachers was too high, and that false allegations were regularly made against teachers. No mention was made of criminal prosecutions, although these are possible in relation to school trips.

Ofsted published a report into school trips on 2 October 2008.¹⁷ The report said that the schools and colleges inspected had worked to 'overcome the barriers to learning outside the classroom, including those relating to health and safety'. Ofsted found, nevertheless, that schools had 'received valuable support from local authorities and local Learning and Skills Councils (LSCs) in meeting health and safety requirements' and been 'successful' in overcoming these barriers. For Ofsted, the biggest problem with school trips was integrating the learning into the rest of the curriculum; the report also mentioned teachers' workload and funding for trips as other impediments.

Although the Ofsted report was mainly concerned with the educational content of trips, and was positive about schools' handling of health and safety procedures, it was presented in some newspaper articles as being largely about health and safety, with headlines such as 'Safety fears still hit school trips'.¹⁸

The main guidance document is a 72-page booklet issued in 1998: *Health and safety of pupils on school visits*. The guidance was subsequently updated by the following publications: *Standards for LEAs in Overseeing Educational Visits*, *Standards for Adventure*, *A Handbook for Group Leaders* and *Group Safety at Water Margins*.

Further guidance is produced by the *Adventure Activities Licensing pages* on the HSE website. The Scottish Government has also issued its own guidelines.¹⁹

4 Police

"Health and safety legislation is holding police officers back. It is dangerous. It undermines public confidence. And we're going to change it." Dominic Grieve, shadow Home Secretary, made these comments during the Conservative Party Conference in September 2008. The commitment had previously been made by his predecessor David Davis. Specifically, he

¹⁵ House of Commons Education and Skills Select Committee *Education Outside the classroom*, Second Report, HC 120, 2004-05, 10 February 2005

¹⁶ *Education Outside the classroom*, *ibid.*

¹⁷ Ofsted, *Learning outside the classroom, how far should you go?*, HMI 07029,, 2 October 2008

¹⁸ 'Safety fears still hit school trips', *Daily Mirror*, 2 October 2008. See also 'School trips still deemed too risky', *Daily Telegraph*, 2 October 2008

¹⁹ The Scottish Government, *Health and Safety on Educational Excursions A Good Practice Guide*, 22 December 2004

pledged to amend Section 2 of the *Health and Safety at Work etc Act 1974* so that it does not apply to the police in pursuit of their duties.

It was under this act that a successful prosecution was brought against the Metropolitan Police for the death of the Brazilian Jean Charles de Menezes, a prosecution which the then Mayor of London, Ken Livingstone, criticised, saying that al-Qaeda would not be “considering the implications for health and safety legislation when they are planning their terrorist activities”.²⁰ There have been other controversial cases, like the one brought by the HSE against two former Chief Constables of the Metropolitan Police in 2003 over the death of an officer and injuries to another after they chased criminals across roofs. The case was thrown out but, according to Lord Stevens, a successful prosecution would have caused “irreparable damage to the way we police in Britain”.²¹

More controversy arose in 2008 over a decision by Kent police not to break up raves until dawn, for what they claimed were health and safety reasons. They said that many people at the rave would be under the effects of drugs and alcohol and that it would be dangerous to force them to go home in the dark. Residents were reported to be annoyed by the decision.²² In response to the statement by the police on the Kent raves, the President of the Institution of Occupational Safety and Health wrote the following:

Health and safety does not prevent the police from doing their duty - the fear of lawsuits does. I, and thousands of other health and safety professionals, resent the fact that our work is seen as an easy excuse to justify unpopular decisions.²³

Chairman of the Health and Safety Executive Judith Hackitt criticised a growth of bureaucracy linked to health and safety in the police service at a conference of the Association of Police Health and Safety Advisers. She also said that she believed that health and safety law should still apply to the police:

The fact that police officers are expected to face significant dangers as part of their job - and are often rightly commended for their bravery in very difficult and dangerous situations - is something that we all fully recognise and need to take proper account of when applying the Health and Safety Act [1974].

Because of these added risks, the police service needs to be much more about considering what might happen well in advance, so that sensible, speedy and well-rehearsed actions can be initiated wherever this is possible.

It concerns me that a number of people suggest that we should get rid of health and safety laws when it comes to fast-moving situations in the police.

I want to make it clear that we do not consider that such large changes are necessary. We do, however, see the need for the principles which should underpin this all-important balance of health and safety and operational duties to be clearly set out.

She went on to say:

We need to put clear water between real health and safety and the nonsense coming from jobsworths, which is shamelessly used as an excuse not to do something.

²⁰ “Most foul - De Menezes shooting”, *Economist*, 22 July 2006

²¹ “Tories promise to ease health and safety rules for police”, *Guardian*, 15 May 2008

²² ‘Rave police foiled by health and safety’, *Daily Telegraph*, 9 May 2008

²³ Kent rave cop-out, *Daily Telegraph*, 12 May 2008

I am concerned that this has spread to the police service where health and safety is being cited as a reason for people not to do valuable police work. That worries me a lot.²⁴

The image of police officers spending time on health and safety bureaucracy being distracted from their real job of fighting crime may not be entirely accurate, however. Work by the West Midlands police found that divisions which had low numbers of officer assaults, workplace accidents, occupational health referrals and high staff attendance also scored highly on the Home Office's crime fighting targets.²⁵

Responsibility for police health and safety rests with the office of the chief constable of the force. There was a consultation process in 2003²⁶ on proposals to transfer the responsibility to the police authority but it was decided not to proceed with the proposals. The Flanagan review of policing, published in February 2008, found that health and safety responsibilities were contributing to increased levels of complexity in police work, but health and safety was not a major feature of the report.²⁷ Guidance to police forces on health and safety matters is brought together in the [Police Health and Safety Management Benchmarking Standard](#).

5 Penalties

At present, those who are found to have breached the criminal law may be fined up to £20,000 in magistrates' courts. There is no upper limit to fines where cases go to the Crown Courts. The *Health and Safety (Offences) Act 2008* now means that imprisonment is an option for the courts for nearly all offences – up to six months in a magistrates' court and two years in a Crown Court.²⁸

Under civil law, an employee who has suffered an injury or damage to health at work may initiate a civil action against their employer. An action like this would be based on the law of negligence, which is part of the common law and based on previous court judgments. As such, this law evolves constantly and Parliament has almost no role in its development.

6 Reporting health and safety concerns

The Health & Safety Executive (HSE) and the local authority are responsible for ensuring that the law on various aspects of health and safety is being followed. The division is split roughly as follows:

HSE is responsible for enforcing health and safety at workplaces including:

- factories
- farms
- building sites
- nuclear installations
- mines

²⁴ 'Delegates get health warning over spread of bureaucracy', *Police Review*, 10 October 2008

²⁵ 'Duty of Care', *Police Review*, 27 February 2007

²⁶ Health and Safety Commission [Consultation on amending the Police \(Health and Safety\) Regulations following the Police Reform Act 2002](#), 28 January 2003

²⁷ Sir Ronnie Flanagan, [The review of policing: final report](#), Home Office, February 2008

²⁸ *Tolley's Health and Safety at Work Handbook* 2010, 22nd Edition, page int-10

- schools and colleges
- fairgrounds
- gas, electricity and water systems
- hospitals and nursing homes
- central and local government premises
- offshore installations

You should contact your local authority environmental health department [local authority] if your complaint is about the following type of premises:

- offices (except government offices)
- shops
- hotels
- restaurants
- leisure premises
- nurseries and playgroups
- pubs and clubs
- museums (privately owned)
- places of worship
- sheltered accommodation and care homes²⁹

The HSE has a helpline, 0845 345 0055, which constituents can call if they have any health and safety related concerns. The constituent would need to provide the following information:

You will need to provide:

- your name, address and contact details;
- the name and address of the workplace or activity you are concerned about;
- a description of your concern, including who is at risk and why, if the risk is happening now, how long it is likely to go on for, how often it happens and when and where any incident occurred; and
- details about what you have done to try and resolve the issue.³⁰

7 Review of health and safety laws

7.1 The Young Review

On 14 June 2010 the Prime Minister announced that Rt Hon Lord Young of Graffham, former Secretary of State for Employment and former Secretary of State for Trade and Industry, had

²⁹ Health and Safety Executive website, [Concerns about workplace health and safety](#) [on 19 April 2010]

³⁰ HSE website, [Contact HSE](#) [on 19 April 2010]

been appointed as his adviser on health and safety law and practice. Lord Young was asked to investigate “concerns over the application and perception of health and safety legislation, together with the rise of the compensation culture over the last decade.”³¹

The Chair of the Health and Safety Executive (HSE), Judith Hackitt, welcomed the review. She warned that health and safety law has often been used as a scapegoat for when a company has had to take an unpopular decision:

However, we in HSE have been saying for some time that health and safety is being used by too many as a convenient excuse to hide behind.

"We welcome your review and stand ready to make available to you whatever information or insight we can."

HSE has been running its myth of the month campaign since 2007, hitting back at some of the ridiculous decisions that are wrongly blamed on health and safety.

Often health and safety is invoked to disguise someone's real motives - concerns over costs or complexity, or an unwillingness to honestly defend an unpopular decision.

HSE continues to champion a sensible and proportionate approach to dealing with risks in the workplace - not eliminating them from all aspects of life.³²

Lord Young's review was published on 15 October 2010, *Common Sense, Common Safety*. Lord Young said that a compensation culture driven by litigation was “at the heart of the problems that so beset health and safety today.”³³ He concluded that a fear of compensation not only blights the workplace, but almost every walk of life – from schools and fetes to voluntary work and everyday sports and cultural activities. The Prime Minister and the Cabinet have accepted all of the recommendations put forward by Lord Young, who will now continue to work across departments to ensure his recommendations are carried through.³⁴

Lord Young set out a number of recommendations proposing changes to the compensation culture. These recommendations relate to the civil law and so are therefore outside the scope of this note.

One of Lord Young's criticisms of the current health and safety regime, which originates from the *EU Framework Directive 1989*,³⁵ is that the same regime applies to both low hazard workplaces (such as offices, classrooms and shops) as well as high hazard workplaces (such as factories). He reported that smaller businesses in particular struggle to evaluate how well they meet the health and safety goals as set out in the legislation; that a lack of specific criteria increases misunderstanding. He said this places “undue burdens” on businesses that operate in low hazard environments. To address this issue he recommended:

- The HSE should produce clear separate guidance under the Code of Practice focused on small and medium businesses engaged in lower risk activities.
- The current raft of health and safety regulations should be consolidated into a single set of accessible regulations.

³¹ Number 10 press release, *PM announces review of health and safety laws*, 14 June 2010

³² HSE press release, *Health and safety 'used as an excuse', Judith Hackitt warns*, 15 June 2010

³³ HM Government, *Common Sense, Common Safety*, 15 October 2010, p7

³⁴ 10 Downing Street press release, *Lord Young restores common sense to health and safety*, 15 October 2010

³⁵ *Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work*

- The UK should take the lead in cooperating with other member states to ensure that EU health and safety rules for low risk businesses are not overly prescriptive, are proportionate and do not attempt to achieve the elimination of all risk.³⁶

He also recommended that employers should be exempt from risk assessments for employees working from home in a low hazard environment and that self-employed people in low hazard environments should also be exempt.

Other key concerns and recommendations by Lord Young are:

- That there are no qualification standards for health and safety consultants. He reported that consultants often adopt an over-cautious approach which can lead to unwarranted costs and/ or the unnecessary cancellation of events on health and safety grounds. He recommended that health and safety consultants be accredited and that processes are in place to ensure that assessments are proportionate.³⁷
- That local authorities have sometimes adopted an “overzealous” approach towards health and safety. He recommended that citizens should have a route for redress where they want to challenge local officials’ decisions; that local authorities should conduct an internal review of all refusals on the grounds of health and safety and that citizens should be able to refer unfair decisions to the Local Government Ombudsman. The Local Government Ombudsman should implement a fast track process to ensure that decisions can be overturned within two weeks.³⁸
- That a disproportionate approach to health and safety has led to a negative impact on education. He recommended simplifying the process to be used before children can be taken on visits. He also recommended that government considers reviewing the *Health and Safety at Work Act 1974* to separate out play and leisure from workplace contexts.³⁹
- That police officers and firefighters should not be at risk of investigation or prosecution under health and safety legislation when engaged in the course of their duties if they have put themselves at risk as a result of committing a heroic act. He recommended that the HSE, Association of Chief Police Officers and Crown Prosecution Service should consider further guidance to put this into effect.⁴⁰
- That food safety and health and safety inspections are simplified. He recommended combining food safety and health and safety inspections, the results of which should be made public to enable consumers to make informed choices. That the delivery of inspections should be open to accredited certification bodies in order to reduce the burden on local authorities.⁴¹

Annex M of Lord Young’s report sets out a timetable ranging from autumn 2010 to April 2012 of when the recommendations are likely to be implemented.

³⁶ HM Government, *Common Sense, Common Safety*, 15 October 2010, p16

³⁷ Ibid, p12

³⁸ Ibid, p27

³⁹ Ibid, p37

⁴⁰ Ibid, p36

⁴¹ Ibid, p35

Reaction to the Young review

A press release from the Health and Safety Executive “warmly welcomed” Lord Young’s report and said that it had already begun work on some of the recommendations:

HSE has already been working with others to develop responses to two of the recommendations:

- a 20-minute online risk assessment for offices, which was launched today, with other web tools for similarly low-risk workplaces to follow
- a new Occupational Safety Consultants Register (OSCR), which will be set up in January 2011.

Judith Hackitt, the HSE Chair, said:

"Lord Young's report is an important milestone on the road to recovery for the reputation of real health and safety. HSE welcomes it and will be actively pursuing those recommendations within our remit.

"We welcomed the review when it was announced by the Prime Minister in June and we are looking forward to contributing to its implementation."⁴²

A press release from the Royal Society for the Prevention of Accidents (RoSPA) said it agreed with Lord Young’s overriding message that staying safe should be made as simple as possible. It said however, that it was important not to over-simplify the legislation which may mean that risks are not addressed in low hazard workplaces:

But we must also avoid over-simplifying health and safety by classifying businesses as either ‘low hazard’ or ‘high hazard’. With work-related injury and ill health causing nearly 30 million lost working days annually we need to focus on the main issues but without ignoring the real risks that people face even in ‘low hazard’ workplaces. Even seemingly low hazard settings, such as offices, can have significant hazards associated with them. For example, a mainly office-based worker who drives 25,000 miles a year runs the same risk of being killed as a construction worker.

The *Financial Times* reported that the TUC had called the review a “missed opportunity” to improve health and safety:

Brendan Barber, general secretary of the TUC, said the conclusions were predictable but disappointing. Lord Young had failed to find ways to prevent injuries or deaths at work and instead “uncritically” accepted myths around health and safety, said Mr Barber.

“The report contains not a single proposal that will reduce the high levels of workplace death, injuries and illness,” he warned. “Every year in the UK over 20,000 people die prematurely as a result of their work and at any one time over two million people are suffering ill-health because of their jobs.”

The report was a missed opportunity to improve Britain’s health and safety record, he said.⁴³

The article also reported that the British Chambers of Commerce had welcomed the recommendations:

⁴² Health and Safety Executive press release, [HSE welcomes Lord Young's report on health and safety](#), 15 October 2010

But Adam Marshall, director of policy and external affairs at the British Chambers of Commerce, welcomed the recommendations and urged ministers to implement them swiftly. "These recommendations have the potential to reduce business costs and time-consuming bureaucratic burdens by managing risk in a far more sensible way. They will also give companies greater confidence to create jobs."⁴⁴

Progress report on the Young Review

On 21 March 2011 the Government published a progress report on Government departments' progress on health and safety reforms, [Common Sense, Common Safety – progress report](#). The report made clear that Chris Grayling, Minister of State, Department for Work and Pensions has now assumed overall responsibility for the implementation of Lord Young's recommendations, following the resignation in 2010 of Lord Young.⁴⁵

One of the areas of progress has been the establishment of a register of an Occupational Safety and Health Consultants Register:

An Occupational Safety and Health Consultants Register (OSHCR) – assembly of which began on 31 January – was formally launched on 21 March. There has already been a very good response with over 1,400 consultants now on the register. HSE has supported a number of participating professional bodies in establishing OSHCR as a not-for-profit company.⁴⁶

The report also set out that work had begun to establish redress for citizens who want to challenge local officials' decisions on refusing events under health and safety grounds:

Proposal

26. Citizens will be able to refer unfair decisions to the Ombudsman and a fast track process should be implemented to ensure that decisions can be overturned within two weeks. If appropriate, the Ombudsman may award damages where it is not possible to reinstate an event. If the Ombudsman's role requires further strengthening, legislation should be considered (in DCLG Business Plan, by May 2012).

Progress

Action on the above three recommendations has been included in Part 2 – "Reinvigorating local accountability, democracy and participation" – of DCLG's published Business Plan, with any necessary legislation (which would also deal with the wider role of the Ombudsman) scheduled for 2012.

In advance of that, the Local Government Ombudsman has agreed to look at an administrative mechanism for fast-tracking complaints about excessive use of health and safety enforcement powers. This work is underway.⁴⁷

Next steps

Alongside the progress report the Government also published a document setting out what steps it would take next, [Good Health and Safety, Good for Everyone](#). There are three "key aspects" to further reform:

The Government will:

⁴³ "Cameron promises end to 'compensation culture'" [Financial Times](#), 15 October 2010

⁴⁴ Ibid

⁴⁵ Department for Work and Pensions, [Common Sense, Common Safety – progress report](#), 21 March 2011, p3

⁴⁶ Department for Work and Pensions, [Common Sense, Common Safety – progress report](#), 21 March 2011, p5

⁴⁷ Department for Work and Pensions, [Common Sense, Common Safety – progress report](#), 21 March 2011, p11

- launch a Occupational Safety and Health Consultants Register to:
 - clamp down on rogue health and safety consultants,
 - and ensure that businesses have access to competent and ethical advice
- shift the focus of health and safety enforcement activity away from businesses that do the right thing, and concentrate on
 - higher risk areas, and
 - dealing with serious breaches of health and safety regulations
- seek to simplify health and safety legislation and guidance, and in doing so ease the burden on business.⁴⁸

One of the main proposals was to change the system of automatic health and safety inspections for lower risk organisations:

Responsible employers will no longer face automatic health and safety inspections. Instead health and safety inspectors are being instructed to concentrate their efforts on high risk locations, like major energy facilities, and on rogue employers who are putting the safety of their staff and the public at risk. This measure will cut the number of inspections carried out in the UK by at least a third. Rogue employers who endanger public and employee safety will also have to pay for the costs of the investigation into their activities.⁴⁹

7.2 Further review of health and safety rules

On 21 March 2011, in a Written Ministerial Statement to the House, DWP Minister Chris Grayling, announced that an independent review of health and safety regulation would be undertaken by risk management specialist Professor Ragnar Löfstedt. The review is due to make recommendations to Ministers by autumn 2011:

The Government are committed to a health and safety regime that is fair, balanced and proportionate. Sensible health and safety at work helps to maintain a healthy and productive work force and contributes to economic prosperity. The burden of health and safety red tape has, however, become too great, with too many inspections of relatively low risk and good performing work places, frequently poor health and safety advice to businesses from badly qualified consultants, and a complex structure for regulation. To address these issues, the Government are today publishing their plans for the reform of the health and safety system. (...)

We are also launching an immediate review of health and safety regulation overseen by an independent advisory panel chaired by Professor Ragnar Löfstedt, director of the King's centre for risk management at King's college London. The review will be asked to make recommendations by autumn 2011 for simplifying the current rules. We will also ask the review to consider whether changes to legislation are needed to clarify the position of employers in cases where employees act in a grossly irresponsible manner.

Further details are available on the Department for Work and Pensions website at www.dwp.gov.uk/policy/health-and-safety.⁵⁰

⁴⁸ Department for Work and Pensions website, Health and safety reform [on 22 March 2011]

⁴⁹ Department for Work and Pensions press notice, *Reforming Britain's health and safety regime to put common sense back*, 21 March 2011

⁵⁰ HC Deb 21 Mar 2011 *c 46-7WS*