

The quality of working life: promoting a healthy agenda

Steven Kay, Prospect. HSE: a review of current policy, funding and future prospects

HSE are coming under unprecedented levels of attack from individuals in the media. These attacks use terms like: 'health and safety fascist,' 'stormtrooper of health and safety fascism?' or 'zombie inspector who would bring the whole of Britain to a halt to save a life?' They describe HSE as 'the Guantanamo Bay of defensive administration?' which seeks 'to infect the nation with a sense that being safe is more important than being happy' – health and safety being the cancer of a civilised society, a huge, ungainly, malignant, pulsating wart.' They are 'an unaccountable quango with the all pervasive power to ferret into your daily lives – the real Big Brother, keeping you under surveillance at work, rest and play' or the 'health and safety Taliban?' or, inspectors are the 'health and safety prefect who may trundle up to the workplace in executive charabancs to ensure that everybody's shoelaces are tied according to regulation.' We are living under the 'health and safety terror.'

Such comments come from Simon Jenkins; Jeremy Clarkson; The Sun editorial; the Chief Constable of West Yorkshire; and The Times leader three weeks ago. These comments are clearly not rational never mind remotely true, but they are having an impact. Some may try to dismiss them as extreme views, irrelevant, or some may say humorous but these views are insidious, they worm their way into the collective psyche – a lie told often enough starts to appear true. It also increases the chance HSE inspectors being assaulted or worse (look at the way traffic wardens are vilified – and the intolerable violence they encounter).

Simon Heffer on Radio 4's Westminster Hour last month, essentially gave the view that health and safety legislation was unnecessary. He said, "no one in his right mind would argue that an employer should wilfully endanger the lives of his staff: but then any employer who did would soon find it impossible to recruit, and would go out of business in short order." The free market regulating naturally - the HSWA replaced by the Devil take the hindmost.

Why is HSE such a target for these right wing attacks. Why such vitriol – and attempts to dehumanise Prospect members? Is it coordinated? Is it a deliberate assault on what they would see as a throwback to 1970s style social consensus, to turn the safety watchdog into a lapdog? Government is silent in HSE's defence. Gordon Brown has barely acknowledged its existence. He found it politically convenient for HSE to go to Pirbright to report on what happened with FMD, even though this investigation was way outside HSE's remit – it's just that HSE's perceived independence was politically convenient to his damage limitation PR. Other than that, he and Tony Blair have only mentioned HSE when playing to the gallery of the deregulation lobby, referring to the need to cut back on overzealous enforcement.

The government are certainly not going to stick their heads above this particular parapet and speak out against those who commit workplace health and safety crime. They could be accused of being complicit with the deregulationist army laying siege. Let's look at their actions:

HSE is being financially strangled. Since 2002 HSE's budget has been cut year on year – with below inflation Spending Review settlements. We are currently awaiting news of the 2007 Comprehensive Spending Review settlement which sets spending from this April. Everyone expects it to be at least 5% cuts below inflation from now up to 2011. We will have to take our share of the DWP (our parent department's) cuts – which amount to 16.8% cuts over three years. Get ready for the official line being that HSE's settlement is very generous if they get anything less than the full 16.8% cut: be grateful you've only lost one leg sort of thing. HSE are already about 17% down on 2002 staffing levels when comparing like with like. By 2011 this could be something like a 30% cut from 2002 levels.

These cuts have a direct impact on what we can do to stop people getting injured or killed at work. To get an idea of the scale of the problem HSE faces, one can make a somewhat crude comparison with British Crime Survey statistics. Something like 18,000 violent crimes a year

require some hospital treatment whereas there are around 30,000 reported workplace major injuries (things like amputations, fractures to limbs, serious burns, or injuries requiring at least 24 hours in hospital - and high non-reporting levels will add perhaps another 10,000). This doesn't include the 200,000 odd injuries keeping people off work for over 3 days, or the tens of thousands dying of occupational cancer each year. And yet HSE receives about as much public funding as Avon and Somerset Police Authority.

HSE is not investigating many of even the most serious accidents. The Field Operation Directorate which covers the bulk of HSE's work, has set itself Incident Selection Criteria to determine those reported accidents it believes should be investigated. The number of these HSE failed to investigate due to lack of resources has increased in recent years (188 in 2004/05, 255 in 2005/06 and 307 in 2006/07). As it is, HSE only investigates 11% of reported major injuries).

HSE is now carrying out about half the number of prosecutions it did in the early 1990s. This is not the result of improved standards, but more employers getting away with workplace crimes. Prospect is aware that prosecutions are not being taken even though sufficient evidence exists, simply because there are not the resources to pursue them.

This is the reality of 'living under the terror.' Thousands being killed by their work each year, and no comeback on those responsible, no justice. We are not risk averse, we are risk tolerant. HSE has nothing to do with banning plastic swords in school plays and the other, often made up, stories that do the rounds.

There is something like 1 LA or HSE health and safety inspector for every 12000 businesses in the UK. That does not represent a credible deterrent effect. Not every business needs inspecting to achieve reasonable levels of compliance – but HSE needs to be able to visit the worst ones at least every year or so.

A consequence of the jam being spread very thin in HSE is that the work Prospect members in HSE are forced into doing becomes increasingly superficial. There is a tendency to judge an individual's performance more on targets than doing the job properly. There are targets for everything. So, for example, complex investigations into occupational health problems are less likely to be pursued than more straightforward issues because you get little credit for doing one long investigation when others have knocked out loads of visits: the most prized skill in HSE is being able to wallpaper over cracks. Or, as another example of superficial work, take a difficult issue like stress. All the statistics show this to be a huge problem leading to a lot of serious illness and a lot of time off work.

[A little tangent about stress – something not in any health and safety publications- far too political. My belief is that the stress epidemic is a consequence of driving work further and further away from patterns of social behaviour we have evolved to deal with. We are social animals, designed for social groupings and hierarchies comprising up to about 80-100 individuals. As workplaces change in response to global competition, your relationship with the company is reduced more and more to your performance in the last quarter or last 6 months. Long service counts for little, and we move further away from the sorts of behaviour our brains are designed for. We create a climate where self esteem can become very fragile, where working environments present a high risk to mental health.]

Returning to stress being another example of where HSE is forced into work which could be seen as superficial. HSE can still intervene successfully on stress, if only to mitigate some of the risk: not to eliminate stress but to improve enough factors to stop as many people being tipped over the edge. But it requires a sophisticated approach, aimed at changing attitudes and encouraging changes to the working environment in its broadest sense. This approach takes time. An inspector being allocated 2 days out of their work programme to go to talk to a local council with 15,000 staff, flitting in and out before moving onto the next flavour of the month, could be just like poking a wasps nest and then running away. At the risk of mixing insect

metaphors, HSE inspectors flit about butterfly fashion, rarely stopping long enough to do as thorough a job as they'd like. To deal with stress properly we would need additional expertise that is in rare supply in HSE. HSE now has just 5 occupational physicians capable of making a diagnosis of occupational disease, whereas in the early 1990s there were 50-60. There are only two or three psychologists. But then again, there are also too few engineers, too few of everything to make real inroads into the still huge numbers of occupational injury and illness.

Occupational stress is a good example of why the theme of this conference on quality of working life is so important. Health and safety professionals often look at health and safety in isolation from the wider employment context. Often what really lies at the heart of poor health and safety is lack of respect – directors and managers treating employees in ways they would not be expected to be treated themselves – a lot stems from that attitude. You only have to look at the often massive difference in some shop floor toilet facilities compared to those in the management offices to gauge that lack of respect. When out inspecting, good toilets tell an inspector a lot. There are a lot of bad employers and the only way to get them to improve is to keep inspecting them, and keep hitting them, preferably until they improve or if not until they are driven out of business. But HSE needs to have a reasonable chance of being able to chase them down. HSE is one of the last legislative checks on bad employers – maybe that's why HSE is hated by some.

Coming back to the government's role, another reason to conclude that they are complicit in wanting to loosen standards of workplace health and safety, is all the talk about reducing burdens on business. The Better Regulation Executive is yet again going through a process of consulting business on which health and safety laws they would like to ignore. Under the euphemistic title of "Improving Outcomes from Health and Safety" they ask things like: "Are there particular health and safety requirements that do not make sense to you? What are they? Why?" and: "Would you rather government told you exactly what to do? Or do you want Government to leave the detail for you to sort out?" and, "Could government do anything to make it easier to get things right." All of this serves to suggest that the Government itself believes that health and safety regulation is burdensome, and this fuels a negative culture towards common sense regulation. In 2006 the taxpayers spared no expense in paying that arm of government, Price Waterhouse Coopers, to produce a 100 page report on HSE called the Administrative Burdens Measurement Exercise which comes up with fictitious estimates of how much each piece of health and safety legislation costs industry in terms of paperwork. The fictitious estimates are adjusted and extrapolated and a few assumptions are thrown in for good measure. They are all added up and the conclusion is that private industry is sinking under a burden of £2.87 billion of health safety bureaucracy. The report concludes that the risk assessment element of the Management of Health and Safety at Work Regulations alone costs private industry £923M. This is absurd. Prospect's inspector members in HSE are always pleasantly surprised to even find a risk assessment, and even more surprised if any real effort has gone into it. So what does the administrative burdens exercise achieve: 1) it perpetuates the myth that health and safety is a burden to business 2) it wraps HSE up in a massive exercise of trying to cut 25% of a fictitious burden.

The government's actions show that all they want is a figleaf of regulation.

When Prospect have met ministers and argued for more government money, they often sympathise and say they would like to do more, but then make the argument that HSE has no monopoly over saving lives - that the government has to balance expenditure between departments who also have a good claim over funding to save lives. A big difference though is that lives are being lost through injuries and ill health inflicted on employees due in many cases to unpunished criminal acts - but that statement about 'criminal acts' is worth exploring in itself. Is it even seen as a crime to breach health and safety law? Many people do not regard HSE as a law enforcement body, including ministers and other influential people in the safety system. Rather what they see HSE as, is a PR exercise: a bit like a government campaign to encourage healthy living: eat your five portions of fruit and veg a day, and also try not to be beastly to workers by killing them or other such unpleasantness.

Where do we go from here? Well, we can win this argument. Our moral case cannot be challenged. We can also argue on their terms: there is also a strong economic case: with small amounts spent on increasing enforcement having a large impact on health and safety behaviours amongst employers. Poor health and safety is costing the economy billions of pounds (between £20-30bn), so investing just small amounts in regulation would have a huge payback to the economy. We won the arguments before the DWP Select Committee in 2004, when they agreed with our call for a doubling of the numbers of inspectors. I don't doubt we'll win again in the current inquiry, but it's about more than winning the intellectual argument. Somehow we've got to unlock the political will. We've got to change the culture, marginalise the Simon Jenkins and Jeremy Clarksons, we've got to apply pressure on politicians, and get politicians to promote the positive aspects of regulation and send out the message that health and safety in the workplace matters. There will be opportunities coming up to continue to press our case. For example, there will be the Select Committee report, which should give us an opportunity to pressure the government. Also HSE will be consulting this year on its next strategy to take us beyond 2010. The last strategy was marked by the shift of resource away from inspection and an emphasis on softer, promotional interventions: I think this provides a real opportunity to push for an evidence-based approach, rather than one which panders to deregulation. They have tried things like Workplace Health Connect: using £20M to fund consultants to do HSE's job: it was expensive and didn't work, it had no basis in evidence. We told you so. We in this room know we're right; we just need everyone else to recognise it too.