Work and Pensions Committee

Oral evidence: Health and Safety Executive, HC 39

Tuesday 12 May 2020

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Watch the meeting

Members present: Stephen Timms (Chair); Shaun Bailey; Neil Coyle; Steve McCabe; Nigel Mills; Selaine Saxby; Dr Ben Spencer; Chris Stephens; Sir Desmond Swayne.

Questions 47-127

Witnesses

I: Sarah Albon, Chief Executive, Health and Safety Executive, Professor Andrew Curran, Chief Scientific Adviser and Director of Research, Health and Safety Executive, Professor John Simpson, Medical Director, Emergency Resilience and Response, Public Health England, and Martin Temple, Chair, Health and Safety Executive.

Examination of witnesses

Witnesses: Sarah Albon, Professor Andrew Curran, Professor John Simpson and Martin Temple.

Chair: I warmly welcome everyone to the Work and Pensions Committee. I particularly welcome our witnesses who are giving evidence to us this morning from the Health and Safety Executive and Public Health England. I thank you all very much for being with us today.

I would be grateful if each of the witnesses in turn would introduce themselves, so that everybody knows who you are. Let us start with Martin Temple, chairman of the Health and Safety Executive.

Martin Temple: I am Martin Temple, chairman of the HSE.

Sarah Albon: I am Sarah Albon, chief executive of the HSE.

Professor Curran: I am Professor Andrew Curran and I am HSE's chief scientific adviser.

Professor Simpson: I am Professor John Simpson, senior policy and medical adviser to Public Health England.

Q47 **Chair:** Thank you all very much indeed for joining us.

We have a series of questions that we would like to put to you, but we are starting this morning with a short statement from the chairman of the HSE, Martin Temple. Martin, I think you are planning to give that statement to us. Please go ahead.

Martin Temple: Thank you, Chair. I felt it might be appropriate to give you a brief introduction outlining the range of activities that we have been carrying out relating to coronavirus, and no doubt you will ask more specific questions later on.

The first area has been our real desire to enable work to continue where possible and protecting those at work. To that end, we have been updating and revising proportionate operational policy positions to a wide range of industry stakeholders and sectors, and keeping that advice constantly reviewed and updated in the light of the current scientific discovery and new knowledge that we get about the pandemic.

There is a dedicated coronavirus microsite available from HSE, which is free for people to subscribe to. As things evolve, if you are subscribing to it, you will get the free updates in the areas that you are particularly interested in. I think that is very useful for people out there who are wondering what to do.

In the area of RPE and PPE, we have been advising businesses, including the NHS, on ways of working and how to efficiently manage the provision and use of RPE, including the reuse of disposable RPE and alternatives to certain items that are under significant supply pressure. And we have been

looking at the applications for manufacturers offering new products, and seeing whether we can support the technical assessment of these products, as well as sources coming in from overseas.

In the area of general guidance, we have been supporting Public Health England and Scotland and Wales in the review of guidance for workers, including general infection prevention and control, and secondary care, including handling clinical waste and prevention of infection from the deceased.

Another area is laboratory capacity. Laboratories are an area that we do regulate in general, but we have agreed proposals for a change in the ways of working for those laboratories that were putting themselves forward to screen covid-19 samples. As you know, that has been a very important element going forward in Government policy, and we have amended these things in view of exceptional circumstances. Our microbiologists have been working on the whole area of testing capacity.

Another area is things called biocidal products, which relates primarily to things like hand sanitiser products. We are, again, an approving body for a wide range of chemicals, and we have been able to facilitate the increased supply of these biocidal hand sanitisers by unblocking some of the obstacles in some of the regulations that existed. This allows, for example—people will have seen this in the press—drinks manufacturers to redirect production of ethanol away from drink manufacture into the supply chain for hand sanitisers.

On regulatory activity, many people probably don’t fully appreciate that there are still quite a lot of people working—for example, in agriculture, some areas of construction and large areas of manufacturing. Since the lockdown, we have had in excess of 4,500 concerns that have been looked at and will continue to be looked at. What I think the Committee should be fully aware of is that, across all sectors, we have been continuing to investigate work-related deaths, the most serious major injuries and dangerous occurrences, and reported concerns from the workforce or the public where people have been exposed to risk from work activities. And we will take action to secure compliance with the law where necessary.

The penultimate point I would make is about social distancing. We have worked closely with other Government Departments and the devolved areas on social distancing. We have a concerns and advice team, which is providing advice and information on social distancing to employers and workers. That has been expanded, and Sarah may talk a bit more about that later. Probably one of the most important points I could make is that, under the Health and Safety at Work Act, employers have a general duty to ensure that, as far as is reasonably practicable, the health and safety and welfare of employees at work is looked after, but the HSE considers that if an employer is following the relevant Public Health England or Scotland or Wales guidance for their sector, in terms of controlling the public health risk, they will be taking reasonable practical precautions to control workplace risk.

The last point is that we have been heavily involved on return to work, working closely with BEIS, the Cabinet Office, business organisations, the TUC and unions, and trade bodies. There is of course a lot coming out today, and there was yesterday, on that matter, and again I think it will come up later in the Committee session. Thank you very much.

Q48 **Chair:** Thank you very much for that introduction. We will certainly come back to a number of those points in the course of our time this morning.

I think that this would be a question for the chief executive. Yesterday there was a parliamentary written answer indicating how many covid-19-related calls you had had since 9 March, and it looked as though it was about 850 calls—online and telephone calls—per week. Is that the current rate at which calls are coming in? What is the rate at the moment?

Sarah Albon: No, calls spiked considerably during the first couple of weeks after the lockdown. Between 9 March and last weekend we have had just over 7,000 calls and online inquiries about covid—taken together—but there was a real peak around two weeks after 23 March, and during that time we saw the number of calls and online inquiries roughly double our normal rate. Until the various announcements about return to work, it had settled back to being more or less the same number of calls that we would have experienced in normal times, although about a third of them were still about covid, so clearly the focus of people's interest had remained significantly on covid-related matters.

I checked in with the team handling calls and queries just this morning, to see what difference the various announcements yesterday and over the weekend had made. There was a small increase, with roughly 60 additional email inquiries. We kept the phone lines open late last night in case there was a flurry of inquiries, but there were just 17 additional phone calls yesterday evening.

Q49 **Chair:** What is the regular rate at which calls come in in normal times?

Sarah Albon: It varies. The numbers are quite low: low hundreds, 100, certainly less than 200 a day, normally.

Q50 **Chair:** Up until last week, you are saying that it was running at that kind of rate, with a third of them about covid.

Sarah Albon: That is right. It briefly doubled, but for only about two weeks. Then it settled back down and the total was roughly in line with normal times.

Q51 **Chair:** As you have mentioned, and as the chairman mentioned as well, the Government published advice yesterday that I think has been quite widely welcomed. It makes it clear that employees who are unhappy or have concerns about conditions at their workplace, if they are returning, can raise concerns with HSE, so are you expecting a surge in calls as people start to go back from tomorrow?

Sarah Albon: Yes, we do expect that. People will often respond to key things in the media. Clearly, it is a concerning time for many people, so

we have made additional provision to be able to have more phone lines open and more phone operators. Normally we only have around 30 people available to answer our phone and first-line email queries, but we have made arrangements to have excess capacity so that up to 200 people can be available to answer calls coming in. We will keep this under review. I don't want to make people work late into the evening if there is no need for it. Our normal call times would shut at 5 o'clock, but we have made arrangements to keep the phone lines open until 10 o'clock. We will do that certainly for the next few days and we will keep it under review, but we will keep it open for those kinds of hours for as long as there is a significant public requirement for those kinds of times.

Q52 **Chair:** Have you brought in additional call centre capacity in order to do that?

Sarah Albon: Yes.

Q53 **Chair:** Have you been given additional resources to enable you to do that?

Sarah Albon: As was also announced yesterday, the Government has indicated that we can draw down up to an additional £14 million in the current financial year in order to assist us to cope with those kinds of immediate inquiries, and, potentially, if there are technical solutions that we would want to consider putting in place, and also to bolster the inspectorate capacity that we have to deal with this kind of concern.

Q54 **Chair:** The written answer yesterday also said that since 9 March you have had reports of 50 dangerous occurrences, 1,859 cases of occupational disease, and 56 deaths of workers resulting from suspected covid-19, but that no investigation has yet reached the stage of identifying the need for enforcement action and no workplace has yet been shut down. How satisfied are you that, particularly in view of the announcement that you just mentioned, you have the resources to do this job properly? And are you able to respond in a timely way to the reports that you are receiving?

Sarah Albon: I think we have been responding in a timely way. You will forgive me, but the figures I prepared for this appearance are slightly more up to date and slightly larger than those in the PQ that was answered.

For example, between 9 March and right up until 7 May, we have had, as I have said, just over 7,000 calls and online queries. Of those, just over 4,800 were queries about a specific individual workplace. Many of those were able to be dealt with immediately, but 1,400 or so of those needed to be referred to inspectors, of which, on further inquiries, the employer had already put satisfactory matters in place or, indeed, had made the decision at that point to cease operating so they were no longer working in 900 cases. In a further 321 cases, the inspector had a conversation and required the business to demonstrate that they had actually put something in place to make a difference. That evidence was provided to us.

We would not normally double-check in 100% of cases that the changes had been made and that everybody was satisfied, but given that this is a new area with heightened concern, we have also been going back in each of those cases not only to the employer but to the complainant, to verify with them that they consider that the employer has made the relevant changes and that they are now satisfied. It is only at that stage that we say, "Okay, this case is closed".

In another 27 cases we have written formally to businesses now requiring further improvements to be made, having not made adequate progress in the first conversations. And there are 127 cases which we were unable to progress for reasons that vary but primarily include that the complainant will not give us permission to disclose the fact that they have made a complaint.

Q55 **Chair:** Just one more question from me, if I may, and this is a question to Professor Curran. I imagine at the moment you will be fielding quite a lot of questions requiring a scientific answer. What is the capacity of the science base at the moment to answer questions like that quickly and correctly?

Professor Curran: If I can use an example of personal protective equipment where there has been quite a significant involvement from our technical people, we recognised very early on that we were going to need to deploy that resource to answer what could be some quite difficult questions. We have deployed, in total, 21 full-time-equivalent people on to that work, drawing them away from existing activities to ensure that we could provide that rapid response to inquiries coming throughout the system.

In doing that, we made sure that the people who were involved had the right technical knowledge and that that knowledge was being used in a priority way to answer the questions in the right order—for example, looking at some of the stock that has arrived at the Daventry supply depot to make sure that the PPE was suitable and sufficient to enter the GB supply chain; supporting inspector colleagues in answering questions that may arise from the concerns that Sarah has outlined; and, of course, also supporting SAGE, my participation in SAGE and some of the sub-groups of SAGE where we are providing some of the applied technical knowledge that we have access to that is relevant to this particular issue.

In relation to that expertise, I would say it is a mix of our personal protective equipment expertise, our human factors expertise, our statistical and epidemiological expertise and, indeed, our medical expertise, all of which has, hopefully, been able to provide that applied view of some of the issues, to supplement the traditional research science activity.

Q56 **Shaun Bailey:** It would be really helpful to have a clarification of how the responsibility is divided among different businesses for the enforcement of safe working practices, particularly in the context of the current coronavirus outbreak.

Sarah Albon: It is first worth acknowledging that the actual detail of the regulations is quite complex. The key answer for individual employees and, indeed, for employers is that each and every workplace has an obligation in law to put up information about health and safety, including who their individual enforcing body is. What we are not going to do is expect individual workers to wade through the regulations and figure out, "Who is my enforcing body?" Where anybody does get it wrong and rings us, we will find the right enforcing body for them and point them in the right direction, rather than simply saying, "This isn't for the HSE." We don't leave people hanging.

To give you the direct answer: the broad split is between higher risk, where HSE is the lead enforcing authority, and lower risk, where it is the local authority. In general, most retail shops, their associated storerooms and most offices sit with local authorities, while higher risk enterprises such as laboratories, manufacturing establishments and offshore oil and gas refineries sit with HSE. It is all set out in secondary legislation. It is incredibly detailed and quite complex, which is why I think the most useful answer is: "There will be a poster up in your place of work that tells you who it is."

Q57 **Shaun Bailey:** As a follow-up, in terms of HSE's relationship with local authorities and the enforcements for low-risk categories, how does that work? Have you got a good dialogue with local authorities? Do you have extensive stakeholder management there? Do you have an information piece to help local authorities when they come to do their enforcements in respect of any work safe practice breaches?

Sarah Albon: We have a close liaison with local authorities. We have a local authority unit and they maintain regular contact with all the local authorities. We provide general guidance to them. If we are changing anything or have anything new, we make sure that it is proactively shared with them. Of course, we are always willing to share our scientific and other resources, and we will support a specialist investigation or something of that nature with our scientific team.

Q58 **Shaun Bailey:** Would you say that, on the whole, the approach to enforcement at that lower level is relatively uniform? Are there any regional variances depending on local authorities? Do you find that there is, on the whole, a relatively uniform approach?

Sarah Albon: I can honestly say that I have not had anything reported to me around concerns about variability or variation. I think it is inevitable because each local authority, when it looks at the kinds of businesses in its area, will have different priorities and different types of business, a different split between rural and urban, and different considerations. I am sure that there is some variation and variability, but I suppose that, in a sense, that is also the purpose of allowing the national-local split, because it means that local authorities can concentrate their resource on the areas that are seen by their communities to be the most important.

Q59 **Shaun Bailey:** That's great. I want to turn to the guidance now. From

HSE's perspective, are you happy that the guidance on the whole is relatively clear for businesses and employers to be following? I know you said that you had seen a spike at the beginning during the initial few weeks of the outbreak, but recently the inquiries seemed to have levelled off. Would you say that the guidance is relatively clear, or have you noticed through your engagements externally that there may be some issues?

Sarah Albon: Are you talking about the guidance that BEIS has just published? We were very closely engaged, as were PHE, in helping BEIS to write that guidance. They consulted widely with both business and unions in formulating that, and I think that that guidance is very clear.

I think that the initial guidance about which businesses need to open and which businesses need to shut was also very clear. There was a clear list in regulation that said, "These businesses may remain open, these businesses may not remain open." I do think that there was then some confusion in the minds of the public, to some extent. My view is that that was not the fault of the guidance, which was clear, but I think the sense of key workers and key industry became a bit confused in some minds. Certainly, we had some concerns raised with us in the early stages that were along the lines of saying that business X, which had been allowed to open, should be closed. The people ringing in felt it should not be open because it was not, for example, a hospital.

Chair: Martin Temple wants to come in, I think.

Martin Temple: It was just a very brief point relating to the local authorities and consistency. We did ensure that the local authorities had the opportunity with the same briefing on social distancing, for example, that our own HSE people had. That was specifically devised by us to get as much conformity as we could on this.

Q60 **Shaun Bailey:** Martin, just to follow up on that, have you found on the whole that conformity has been relatively good, particularly around that social distancing briefing?

Martin Temple: I have got to answer in the same way as Sarah. I am not aware of anything, but with such a variety across the country and different circumstances, it would be unusual if there were not some degree of variation, but we are not aware of it.

Q61 **Shaun Bailey:** That is fine. Thank you for that. There is one final point I want to touch on, which is around the self-employed and whether you felt that they were relatively properly protected during this outbreak in terms of following the correct regulations, and also, more widely, how you regulate the self-employed and any sort of contact you may have with self-employed people to ensure that they are up to date on the relevant guidance and regulations as they try to carry on with their work.

Sarah Albon: I suppose you get into some quite complex areas fairly quickly, depending on which kind of self-employed person you are talking about. For example, many individual people in the construction industry

will be self-employed contractors. Where they are working on a construction site, under the CDM regulations, the overall lead contractor will have an obligation to everybody on that site, irrespective of the fact that they are not directly employing them. Our general view with self-employed people—and the law applies differently to the self-employed than it does to the employed—is that we would still provide guidance to them and provide the same degree of help and assistance to enable them to choose to keep themselves safe. Of course, where a self-employed person is carrying out work activities that could impact on others, they are also under legal obligations to ensure that their work activity does not impair the safety of those with whom they come into contact in a working context.

Q62 **Shaun Bailey:** I think you have touched on it, Sarah, but from an enforcement piece, if you have somebody who is self-employed but is not necessarily following those regulations, how would you enforce that? I assume it would fall on the local authority to a degree to ensure that a self-employed person on their patch was following the regulations and conducting themselves properly. From an enforcement piece, is that quite difficult?

Sarah Albon: It depends on the industry they are working in. Many self-employed people do come under our own enforcement regime rather than the local authority. If you think of the self-employed, I mentioned the construction trades. Another significant group of self-employed people who would be regulated by us are farmers, where they are self-employed. Unfortunately, some of the highest fatalities are within the farming community. When we think about potentially a prosecution, you need to balance the public interest as well as the interest in enforcement. It is also true that where a self-employed individual has unfortunately done something that has resulted in their own death or serious injury, it is not always appropriate to continue with criminal or other proceedings against them. These cases need to be weighed up on a case-by-case basis, taking account of what would be gained in enforcement action and thinking about wider protections and the importance of health and safety being followed properly and the message that goes on to others, but also thinking about potentially a very seriously injured individual and/or the bereaved family.

Chair: Can I bring Neil Coyle in? I think he had a question to raise before we move on.

Q63 **Neil Coyle:** Just a quick one. You mentioned the new guidance, which it is great to see that the Government has worked with the trade unions and employers on, but the concern seems to be about having the time to implement the new guidance before people are expected back at work. Could you talk us through that? Do you think employers and businesses have the time to ensure safety for employees in their workforce?

Sarah Albon: First of all, although I think it is very helpful that the guidance has been set out in this kind of detail, at the moment it is, of course, only aimed at those businesses that were already enabled to be open. Where individual businesses have been approaching us during this

period, we have been able to provide the same kind of advice in the background. Obviously, any decisions about return to work are considerably above the pay grade of all the witnesses here this morning.

Q64 **Neil Coyle:** So you are saying, "You should already have been doing the guidance that has been published", that it should already have been made available to the company and that there is nothing new—is that really what you are saying?

Sarah Albon: No, what I am saying is that the businesses that that is aimed at are currently all able to be open and that what we have done is pull those individual different things to think about if you have been in a period of not working, put it in one place, let people see that all in one place, and gathered it together for the different industries that are covered by the guidance there.

Q65 **Dr Spencer:** How do Public Health England and the HSE work together, and where do their responsibilities lie?

Chair: Perhaps Professor Simpson could start off that one.

Professor Simpson: The way we work, PHE and HSE have an ongoing relationship, because there are quite a lot of fields where we interact. A particular one would be the way in which HSE does the enforcement on our labs, for instance. In working with this, we have been in fairly constant contact with HSE, particularly over the last few weeks, about the guidance—about the BEIS documents, where we have worked very closely in feeding in on that. PHE's basic role is to provide the public health and scientific advice on which people can base the guidance. We advise on the scientific basis, with SAGE, on things like social distancing, on the fact that, with this virus, hand washing and behaviours like that are much more important than some other behaviours, and on what's important and what's not. With the safety of the public, and health and safety in particular, this is basically a set of systems that you use to reduce risk. So the advice we give is the scientific advice and then our HSE colleagues can put that into practical guidance.

Chair: I think Professor Curran wants to come in, then I'll go back to Ben.

Professor Curran: I want to support what has just been said, because over the last few weeks there has been considerable work between PHE and HSE to jointly consider and develop information that enables people to understand some of the scientific issues around covid-19. Our experts have been working together in a variety of different ways—be it looking at PPE or at the reuse of PPE, for example—to make sure that the best scientific evidence is applied to these difficult questions. Also, as was mentioned, the collaboration across some of the SAGE activities, be it through SAGE itself or some of the SAGE sub-groups, is really quite important, because the knowledge that resides both in PHE and in HSE from a technical perspective is really quite important to help us understand some of the practical applications that would need to be considered when enabling people to get back to work. I would say that that collaboration has been both effective and important in ensuring that

the evidence base that has been used to advise people what to do is appropriate and based on the real world of work.

Q66 **Dr Spencer:** Following up on that, could you explain to me how that is applied in terms of high-risk settings? The most obvious one would be NHS hospitals, but we now know of course that there is a variety of different high-risk settings, such as care and nursing homes. What is the relationship, and who calls the shots in terms of the guidance and advice on covid wards in hospitals, for example, and the use of PPE in those settings?

Professor Simpson: From a PHE point of view, as I say, we will give the scientific and public health advice, and also some of the technical advice on what PPE is there and what works. Obviously, we are all from a health background in PHE, so we have quite a lot of knowledge of the way health systems work. However, PHE is not an enforcement body. We can advise and we can provide input and guidance, but we cannot enforce.

Q67 **Dr Spencer:** So that responsibility lies with HSE in the hospital settings. I have had lots of constituents—as I am sure we all have—contact me about PPE in hospital settings and how that is working, and we all know that the use of PPE guidance has changed over the past few months as the scientific evidence has evolved. Again, who are the decision makers around enforcement? What are the tiers of enforcement to make sure our doctors, nurses, domestics, all healthcare staff, and also particularly the most vulnerable groups, which we are now starting to understand—the BAME population and people who are older—have adequate advice and protections at work?

Professor Curran: Shall I come in and just talk about the science? You are absolutely right: the PPE issue is clearly very important in this setting, and we as HSE have developed some appropriate guidance for PPE over many years. That guidance has been deployed in the case of covid-19, particularly in those areas where aerosols might be generated, because that is clearly one of the most high-risk activities.

Very early on, we looked at the protection issues provided by different kinds of PPE. We did some quite rapid evidence reviews to ensure that the personal protective equipment that was available was appropriate for the job in hand—that is, to protect those individuals who may be exposed to aerosol-generating procedures. We have been working with colleagues in PHE to look, for example, at issues around reuse of gowns and other personal protective equipment to make sure that it is appropriate, that it maintains safety, and that there is the evidence base to do that.

We have been working really hard to ensure that the evidence base keeps up with the requirements as the situation develops. I will perhaps pass to Martin or Sarah to talk about the enforcement side, but the science has been critical in underpinning our understanding of what works, and to ensure that personal protective equipment actually protects the person who wears it.

Chair: We'll take Martin, and then I think Chris Stephens wants to come

in.

Martin Temple: In terms of the regulatory responsibilities, in England, HSE is responsible for the staff and CQC is responsible for the patients. Sarah may want to come in on this later, but in Scotland, for example, we are responsible for the patients and the staff. There are different responsibilities in the different parts of Great Britain, and then, of course, there are sub-responsibilities around some of the aspects of medical appliances and PPE. I don't know whether Sarah wants to add any more to that, but specifically in answer to Dr Spencer, those are where the main regulatory responsibilities lie.

Q68 **Chair:** We all heard about the Turkish PPE that was rejected as not suitable for use in the UK. Was that HSE deciding that, or was that somebody else?

Martin Temple: Andrew should probably answer that one.

Professor Curran: We do have HSE staff on the ground at Daventry, where a lot of the PPE is delivered, and indeed the Turkish gowns were delivered to the Daventry depot for us to have a look at, I think. Our people on the ground collect all of the information that is provided with the kit as it arrives at that depot, and they review it to make sure that, for example, the certification is appropriate; that it is genuine, because we are seeing a lot of fake certification; and that the certificates actually relate to the materials that have been delivered. They then make a recommendation to our decision-making group, which comprises myself from the science side, our chief medical adviser from the medical side and one of our senior regulatory colleagues, to ensure that any agreement to enable that PPE to enter the GB supply chain is based on its ability to protect the people who are going to wear it.

In the case of some of the Turkish gowns, our recommendation was that the gowns would need to be subjected to additional testing before we were able to allow them to enter the GB supply chain, because sufficient evidence was not provided at the time to enable us to be assured that they would protect the people who were going to be wearing them on the frontline.

Chair: Right. So there was an HSE recommendation on that one.

Q69 **Dr Spencer:** One last question, unpacking a bit of what we are discussing. Based on what we are learning about the epidemiology of coronavirus, and how it looks from the early data to be disproportionately affecting different groups, do you intend to update guidance accordingly, in terms of safety at work, such as by raising the risk factors that I just mentioned?

Chair: I think that is probably one for Sarah.

Sarah Albon: We keep the guidance under constant review. I think that, as that evidence increases, we will probably want to look to colleagues—both in PHE and our own scientists, who Andrew leads—to give us advice on that.

I certainly think that, to the extent that there is evidence relating to a particular group of people—there have clearly been indications around not only age but ethnicity—we would want to consider whether different degrees of protection are required. However, we would always want to be led by the science and to actually be looking at ensuring that people are minimally exposed to the risk in their various workplaces.

Professor Curran: The evidence base is evolving all the time. That is the first point. We need to be absolutely sure that the evidence that we use to make decisions is appropriate, because sometimes when evidence is evolving in this way, early findings do not always follow through into robust findings, so we need to make sure that we use the right evidence to make our decisions.

Professor Simpson: On a very similar point, we are looking at our own data and at data from our international colleagues all the time, and sometimes these signals are real, sometimes they are not. It is important that we make sure that the signals that have to go through into policy are the right ones.

Q70 **Nigel Mills:** Can I start with a big, blunt question? The clear view of all the panel is that it is safe for the 31 million or so people who work in this country to go back to work, unless they are in an activity that is specifically closed by the Government. The view is that every workplace can be made safe. Is that correct?

Sarah Albon: Our view is that every workplace should do a risk assessment, and that the vast majority should be capable of implementing social distancing and appropriate hygiene and the other best lines of defence set out in the guidance. However, if an individual employer concludes that particular issues around the way they work, their accommodation or their staff means that they cannot, they should individually not open. The whole of health and safety legislation and the way it works in the UK is that the primary duty is on the employer—the duty holder—to consider all the risks in their workplace. That is not just covid but all the risks.

In the case of covid, they need to think about the additional risks that covid places on them and their workforce and how any additional controls that they might put in place will interface with other controls that they already have in place to maintain health and safety in their workforce, and they need to reach a conclusion about whether they can safely continue and carry on. Our expectation would be that the vast majority of workplaces would find it possible and practical to implement the kind of social distancing and hygiene regimes set out in the guidance.

Q71 **Nigel Mills:** So for our constituents who are nervous about returning to work, the message will be that, if their employer takes the steps that they should take, it is safe to go back. Is that the general message that we are giving?

Sarah Albon: Yes, I think that is right. A risk assessment done properly, with the right steps put in place, should enable people to have confidence that their workplace is safe for them to return to and to work in.

Q72 **Nigel Mills:** If I look at some of the mitigation for that, the published guidance says that employers must maintain social distancing in the workplace "wherever possible". It does not say "at all times". If they cannot maintain social distancing, it says they have to take "mitigating actions". Have I understood that correctly?

Sarah Albon: Yes. John or Andrew may like to come in with some of the science around this. It is not as if everybody has a bright shield of 2 metres around them, and if that is ever breached then they are unsafe, or as long as it is in place then they are definitely safe. The social distancing guidelines look at the principal methods by which the virus is spread, which is primarily through droplets going on to surfaces, and then people touching them and spreading them. Obviously, in medical surroundings the direct aerosol generation is a serious issue as well.

Hygiene is incredibly important. People should have the ability to wash their hands, and employers should remind their employees about the importance of basic hand hygiene, such as not touching your face after you may have touched a dirty surface and all those things.

Employers need to think about the amount of time a person may be exposed to another individual within a 2 metre gap. It is not as straightforward as simply saying that a 2 metre distance is always fine, and if you breach that there is an immediate problem. John or Andrew may want to say more about the science and evidence around the safe working rules.

Professor Curran: It is a really important point. As Sarah has indicated, there are three major transmission routes: from surfaces, from the air and from people. When organisations are considering their risk assessments, that is clearly where they should focus.

As Sarah says, the 2 metre rule does not mean that once you go below 2 metres that is it and there is immediately a dangerous situation. It is a function of both distance and duration. Yes, the risk will increase as you get closer to someone, but if you are close to someone for a short period of time then you can manage that risk.

Similarly, the orientation between people is important. There is a big difference between two people facing each other and two people with their backs to each other. There are things that you can do in some situations. If the exposure at a distance of less than 2 metres is going to be for a short period of time, you can manage the risk in the context of duration and orientation. For me, the most important thing—

Q73 **Chair:** Professor Curran, how short is short? How short is safe?

Professor Curran: There is some physics in this and the SAGE sub-group on environmental modelling is looking at that to provide better information

for people. For example, if you were exposed for a few seconds at 1 metre, that is probably about the same as being exposed for a longer period of time—an hour, say—at 2 metres. It is that order of magnitude.

Therefore, it is important that people understand the work activities that comprise a whole job. There may be elements within a job where there is exposure for a short period of time, but where the risk is so low it can be managed effectively by using common sense and a better understanding of how that transmission might progress.

Professor Simpson: Andrew said most of what I was going to say. There is a duration and a distance element to the exposure that has to be worked through, as 2 metres is not a magical number. We know 2 metres is a very safe number. Some other countries, for instance Germany, say 1.5 to 2 metres, although privately they are beginning to move more towards 2 metres. Two metres is a good distance.

The other thing, from a behavioural science point of view, is that 2 metres is actually a very good distance for everyone to think about, because it is basically the distance of somebody lying down between you and the next person. It has quite a good behavioural science backing to it, apart from being safe from a scientific point of view.

Q74 **Nigel Mills:** Is it fair to say that this is about managing risk? We will have some constituents who think that, if we just waited another couple of weeks or another month before we reopen workplaces, it would be much safer. Is it basically fair to say that that is not accurate, and that we will have to learn how to manage the risk of living and working with covid-19 for a decent amount of time? We will just have to accept there is some risk in being at work, but that risk is pretty low.

Professor Simpson: Yes, that is a very good point. Until we have an effective vaccine for this organism and have more knowledge of how good and how long lasting the immunity to being affected by this organism is, we will have to live with dealing with this organism and dealing with how we reduce transmission. The rates are going down and we hope that we can keep it that way until we have a vaccine; otherwise, there will always be an amount of balancing of risk that people are going to have to be able to cope with.

Q75 **Nigel Mills:** Can you quantify the current risk? Of the 31 million or so people who work or are self-employed, how many, roughly, currently have the virus in that age and working group? Is it more or less than 1% of them? Do you have an estimate for these things?

Professor Simpson: I think the view at the moment would be probably about 0.25%.

Q76 **Nigel Mills:** So if I have a factory of 1,000 people, there may be two and a half people, in theory, who have got that. They should not be coming to work—that is roughly what you are saying.

Professor Simpson: That would be of people who are symptomatic. You have to remember that one of the biggest rules is that, if people are

symptomatic, they should not be going to work; they should be staying at home. It is very important that that is stressed. There is some asymptomatic transmission, but it is not the major component.

Q77 **Nigel Mills:** As a final question, should employers be doing temperature checks?

Professor Simpson: Basically, temperature checking for people going into work is probably rather ineffective. There is good science on this, particularly on airports. Interestingly, anecdotally—I suppose I shouldn't do anecdote—one or two very large companies that have done this have said they find it very useful for reassuring staff but, actually, they do not find anybody with it, and these are large firms. Scientifically, it is not a very good intervention, but some companies have done it and now seem to realise that it might help with staff reassurance, although it may be slightly false reassurance.

Q78 **Steve McCabe:** I want to ask about the question of advice and guidance for pregnant women in the workplace. I have to say I am honestly really confused about this. I notice that the charity Working Families say they have received calls from pregnant women whose employers are insisting they come into work. I have certainly had calls to my own office, one from a woman who worked on the frontline in a care home and who was told that she must come to work. At the Select Committee hearing on 23 April, the Employment Minister told me that the situation was not clear enough, as she was waiting for BEIS to work with DWP to provide an update. Last week, the Health Secretary told me during a statement that he was perfectly satisfied with the existing advice and guidance. What is the position? Is the guidance relating to pregnant women in the workplace clear enough?

Sarah Albon: I believe that John may want to come in on the evidence about pregnant workers' vulnerability. The guidance does not automatically designate all pregnant women as being in the shielded category, which is the only category where people are asked to stay at home and remain at home. I guess the complexity here is around the additional employment rights available to women who are pregnant.

An employer needs to conduct a risk assessment, in which they need to think about the working arrangements, the type of work that is going to occur, the individual woman's pregnancy and any other health conditions that she may have. Whereas pregnancy alone will not put you into the category of shielded and advised to stay at home, potentially if you have other health issues at the same time as pregnancy, you may be in a shielded category. Employers who cannot put appropriate measures in place to satisfy their risk assessment that the pregnant worker will be safe in the workplace are required under the regulations that provide normal protection for pregnant women in the workplace to suspend them on full pay, in line with the Management of Health and Safety at Work Regulations.

Q79 **Steve McCabe:** So not to send them home on sick pay or tell them to

take unpaid leave?

Sarah Albon: No, they cannot make them take unpaid leave if their pregnancy is part of the reason why they are not safe to be in the workplace.

Q80 **Steve McCabe:** What should happen where employers are doing that?

Sarah Albon: The individual woman's right of appeal would ultimately be to an employment tribunal.

Q81 **Chair:** Professor Simpson, did you want to comment on this?

Professor Simpson: No, I think Sarah has covered it. I am not an expert on the employment rights of pregnant women, but that certainly should not change in all this. The one bit of good guidance—the one bit of science—that we can give you is that we know that this virus does not cross the placenta, and there is no reason to think it would cause congenital abnormalities. From that point of view, that is probably the most relevant bit of science, apart from the normal advice for pregnant women.

Q82 **Steve McCabe:** I just want to be clear: we are saying that there no risk to the pregnancy or to the baby. Is there a risk to the woman?

Professor Simpson: There would be the risk of getting coronavirus. We do not have evidence at the moment—I will go back and check this—that pregnant women are more likely to become seriously ill with this virus. I have not seen any evidence on that. However, there are all sorts of reasons, as Sarah says, why pregnant women have protections in employment legislation. I do not think there is any evidence that being pregnant will make you more likely to have severe illness with this virus.

Q83 **Steve McCabe:** The reason I pursue that—this relates to the point that Sarah made about health and safety assessments—is that a constituent of mine is pregnant and has a frontline job in a care home, and was told that she must come to work. She was told that her employer had conducted a health and safety assessment and had concluded that there was minimal risk. Obviously, given what is happening in care homes up and down the country, I find that quite astonishing. Can you tell me who is responsible for regulating those assessments? How do we know that it was properly conducted and that the conclusion that there was minimum risk was accurate? Is that a Health and Safety Exec requirement? Which body pursues that?

Sarah Albon: Ultimately, there is no requirement for risk assessments to be lodged and approved. I suppose that takes us back to the question that I covered earlier—that the fundamental obligation to ensure that the health and safety is maintained in a work environment lies with the duty holder, the employer.

However, yes, it would be the HSE that would typically be the enforcing authority. If your constituent, or indeed anybody in that circumstance, had reason to be concerned that there was an inadequate risk assessment or

that the employer was not doing the right thing, they could certainly raise a concern with us and we would look into that and take regulatory action if appropriate.

Q84 **Steve McCabe:** Have you looked at any health and safety assessments in care homes in recent weeks?

Sarah Albon: I am sorry; I do not have the details of the particular types of queries that have been raised with us, but I can certainly find that out. I would need to write to you.

Steve McCabe: That would be helpful, thank you.

Q85 **Chair:** It is worth making the point that the guidance published yesterday made it clear that new risk assessments need to be undertaken to take account of covid-19, and that if there are more than 50 staff involved, those risk assessments must be published.

Sarah Albon: Sorry, I realise that I have potentially been grouping things together and using care homes in a bit of a vernacular sense. Technically, care homes are split into nursing homes, where more vulnerable patients are typically looked after, and care homes, which could just be residences for elderly people who are no longer able to cook and clean and do those kinds of things. That lower-grade care home will be under a local authority enforcement regime, and the nursing home-type environment will be HSE. I realise that I have perhaps been using slightly too loose language, and I do not want to mislead the Committee.

Chair: That is helpful, thank you.

Q86 **Selaine Saxby:** I want to ask about public awareness of HSE. I wonder what has been done to increase public awareness of your role and how concerns can be reported, given the increased safety risks at work and as a result of the outbreak. How confident are you that people know what you do?

Sarah Albon: We have been doing quite a lot since lockdown on 23 March. You would expect us to be monitoring, in this day and age, what is happening in the social media space. I can tell you that the campaign activity that we have been running since then has reached in excess of 10.8 million people in different social media regimes. That relates to different output engagement that people have had with our messages and things like that. Our covid-19 microsite, which Martin referenced at the beginning of the session, has now received in excess of 1.8 million page views, which is almost 20% of our web traffic since 20 March. The main covid-19 landing page has received 940,000 page views, ranking above our current organisation homepage.

We have launched a new form and a new helpline. As I said, in the first couple of weeks of lockdown, we saw the number of phone calls and emails that were reaching our various helplines double. I am relatively confident that people do know that we are there, and do and can reach out to us, and are reading the information that we are putting out.

Q87 **Selaine Saxby:** Building on that, I am wondering about the relationship between you and other bodies. Your website sets out the types of businesses that you are responsible for and those that fall under local authorities. Take somewhere like north Devon, where I am: our local authority is tiny and is currently inundated with concerns about 1,000 tourists arriving this weekend and it not having opened any of its public toilets or car parks. If they are getting concerns that should be with you, and vice versa, is there a good communication line between the two? Are you providing that advice to small local authorities that are perhaps experiencing things they have never experienced before?

Sarah Albon: Certainly, we are sharing best practice with our local authorities through our local authority unit. We have well established communication channels between us and the various local authorities. We are proactive, if we are changing something or doing something different, in sharing that. As I said, if people come to us when their detailed concern is about an individual local authority, we will try to find out for them which local authority it is and put them in touch with the right place and the right team.

We all appreciate how incredibly frustrating it is when you ring or make contact and get passed from pillar to post—when people keep saying, "Oh, it's not me," but never tell you who it actually is—so we try to be more helpful than that, and to point people in the right direction, and to the right place. Indeed, many of the queries that we get are not necessarily about a specific workplace but are more general, such as, "What are my employer's obligations?" and "What kind of things do I need to do?". We are able to answer a large number of general queries without drilling down into where people live and trying to make them speak to local authorities instead.

Q88 **Selaine Saxby:** Is there a process for compiling all the coronavirus workplace safety concerns that are reported to you, local authorities and other enforcing agencies, so that there is a full picture of what is going on in our workplaces in relation to coronavirus?

Sarah Albon: As far as I am aware, there is not a central place gathering all the different concerns into just one dataset. I may be corrected by my stats team, but I do not think that we routinely compile all the different concerns that are raised. What, of course, we do get to see a national picture of, ultimately, are those RIDDOR reports where people are reporting an incident, accident or fatality under the RIDDOR regulations; it may be us or a local authority enforcing the regulation. Those statistics can be compiled on a whole-picture basis, as well as looking at the individual enforcement authorities.

Q89 **Chris Stephens:** I want to pick up on the issues that came up in the Chair's introduction, in terms of enforcement powers and resources. You said to the Chair that 5,000 concerns were raised at the start of the covid outbreak. What proportion were investigated, and how was that different from what would be investigated in a normal period?

Sarah Albon: We consider all of the concerns. For each and every concern that comes to us, whether it is covid or non-covid, we look at it to understand what the issue is and whether it is the type of query that we can deal with. I mentioned, for example, that a typical concern about covid where we would have said to the complainant, "There's nothing we can do," would have been people ringing us to say, "The building site opposite me is working, and they are building something that isn't an essential building, so they shouldn't be open at the moment." The Government guidelines never required building sites in England to shut. That was obviously different in different countries in the United Kingdom, but in England that was never a requirement. Our call centre workers would have logged that, but they would have explained to the individual that those businesses were allowed to remain open, and we had no jurisdiction to prevent them from being open.

Where people were raising a concern about their workplace, our team would engage with the complaint to understand whether in principle it was the kind of thing where we may take enforcement action. They would then make contact with the employer to put that complaint to them and ask for any evidence that they had around what the current situation was. If they said that everything was fine, we would ask for evidence to see that. If it appeared to the inspector dealing with that complaint that everything did look fine, we would go back to the individual complainant to say, "We've seen x, y and z. It appears your employer has either sorted it out or it's working okay now. Do you accept this, and are you happy for us to close the complaint?"

Everything is followed up. As I said, in only a relatively small number of the nearly 5,000 cases we talked about at the beginning have we had to write formally to the business, requiring them to make changes that they were otherwise not proposing to do.

John said earlier that we should not use anecdote, and maybe we shouldn't, but in this case I think it is quite informative. The sense that I am getting back from our inspectors is that the heightened awareness around covid as a risk in the workplace is making employers quite amenable on the whole to making changes. Our inspectors are seeing people who want to do the right thing. In that sense, it is perhaps more similar to asbestos; there is widespread public understanding of the risk involved in working unsafely with asbestos, and it is not hard for us to get compliance in the majority of cases where that is raised as an issue.

Compare that, for example, with some other things which can be significantly problematic—working in a hole that has been dug but does not have adequate support, or working at height without adequate protection—but where people do not necessarily appreciate the risks or take them quite as seriously. Covid has been in that class where people respond very well to the intervention of our inspectors and our other staff who are requiring changes to be made.

Q90 **Chris Stephens:** Help us understand, Sarah, what you face now and what you would face in a normal period. How many additional complaints

are there? As a Committee, we want to know the difference between what is happening now and what happens in a normal period, in terms of the volume of complaints you have been receiving.

Sarah Albon: As I think I said to the Chair at the beginning, the volume of complaints has settled back down, so we are seeing roughly the same number of complaints that we would normally receive, but they are skewed towards covid. We had a period for a couple of weeks around the lockdown when the number of total complaints roughly doubled; at the moment, we are getting more or less the same number of complaints that we normally do, but roughly 30% of them are about covid.

This is not just complaints, and it is important that the Committee understands that, notwithstanding the fact that covid is clearly uppermost in everyone's mind—this big, new and important risk for employers to take seriously. We have had somewhere in the region of nearly 200 RIDDOR reports of dangerous occurrences for covid, over 3,000 RIDDOR reports of occupational disease and, unfortunately, 71 deaths of workers reported to us under RIDDOR. People are unfortunately dying in those industries that are open, for reasons that have nothing to do with covid.

In the period since 23 March, another 38 people have been killed at work, unconnected with covid, including three people killed by gas. We have seen farmers crushed by their animals, people falling from height, and people killed when vehicles drive into them—all the normal, tragic reasons why people are unfortunately still killed at work. It is important to understand that our inspectors are taking both covid and non-covid deaths and other accidents and incidents absolutely seriously, as we always would, and we are prioritising investigating those as the Committee would expect.

Q91 **Chris Stephens:** You touched on working at height issues, on which the Committee has had some evidence sent to us. That seems to be a concern that some would want to continue to pick up with the HSE.

To take you back to what you said to the Chair, Sarah, I think some of us would be alarmed that no business has been forced to close down since the covid outbreak. We would want to find out the reason for that. Obviously, we know that there are rogue employers out there who force, or try to force, people into work, so will you give us a reason or explanation as to why the HSE has not enforced the closure of any businesses?

Sarah Albon: Issuing a prohibition notice under the Health and Safety at Work Act effectively requires an inspector to consider that there is an immediate risk of serious personal injury. To conclude that you are likely to have a serious personal injury, i.e. that you are likely to contract covid-19, you have to think about the general likelihood of contracting covid-19 at all and its prevalence in the general population. In establishing that this is a highly likely thing to occur, you will probably be restricted to those work environments where covid-19 is particularly prevalent, such as intensive care units and some nursing homes. You would have to conclude that the steps implemented to protect workers there were so significantly

short of what was acceptable that they faced an imminent risk of serious harm as a result of their working practices.

For all the difficulties, which have been well documented, that the NHS faced, particularly during the peak of this, when there were clearly serious pressures and real concerns about the availability of PPE and those kinds of things, we have not, to my mind, seen such an uncontrolled and unacceptable environment that we would feel the need to step in and say, "This intensive care unit is so dangerous that it cannot continue." I imagine that you would not expect the NHS to have been run in such a way that we would be in that position.

We need to understand that limit on prohibition. What we can do—our inspectors continue to do this—is work with businesses to require them to take reasonable steps to implement social distancing and the other hygiene-related issues that will give that kind of protection to their workforce. We can require them to do that, so that they can continue to work safely.

Q92 **Chris Stephens:** If we take out health or care homes, if HSE got a complaint from a worker that there was no PPE or social distancing—none of that was happening—what enforcement actions, in those circumstances, would HSE want to take? I am trying to get some sort of explanation for people who are watching, because people will be concerned to ensure that businesses comply.

Sarah Albon: We need to be careful around PPE, which is an important last line of protection in a number of work environments. We have been working with industries to remind them that if they need PPE for their normal work, they need to ensure they have sufficient supplies, for example to protect against dust and other things, given the shortage there has been of PPE generally. It remains important that if that is part of your overall risk assessment as a business considering reopening, you ensure that it is available.

Thinking about social distancing, we can and will work with individual businesses to require them to change the way they work to put in place the appropriate social distancing, hand hygiene and other routines, so that their workers have protection and the confidence that they need to return to work.

Martin Temple: I wanted to reinforce something Sarah said earlier, when you asked about closing businesses down. I think she mentioned early on in her statistics that a number of employers chose to stop operating when it was made clear to them that their methodology of operating at the time was not safe. Such a business would not be allowed to continue; it is just that in many cases they realised that it was not possible to continue. I think that was mentioned earlier. I would not like you to be under the impression that nobody stopped working as a consequence of finding social distancing difficult to achieve.

Q93 **Chris Stephens:** That is very helpful. Do you have the statistics about

the number of businesses that have chosen to close as a result of HSE contact? Is that available?

Sarah Albon: We would have the numbers of businesses that closed between there being a complaint made to us and our following it up. I do not know that we would necessarily have evidence in every single one of those cases that they made that decision entirely because of a complaint coming to us, or indeed because of social distancing or other things, rather than the economic viability of continuing work. We have the data that they have closed rather than why they have closed.

Q94 **Chair:** If you sent that to us, it would be very helpful.

Sarah Albon: I would be happy to.

Q95 **Chris Stephens:** Yes, that would be helpful. Finally, has there been any work that the HSE has been unable to do as a result of resources issues? Is the additional money coming in going to assist with that?

Sarah Albon: There are no specific tasks that we have wanted to do but have said, "We can't do it because we just can't afford it." Clearly, all organisations—we are no different—would do more things if more money were available. Undoubtedly, with a different overall financial settlement, we would do different amounts of work and would choose to do different things. However, there is nothing specific to tell the Committee or the Departments who give us funding whether because of a lack of X, Y or Z, we are not doing A, B or C.

I think that the additional money is certainly likely to be helpful in meeting short-term peaks and thinking about how we can bolster some of the teams who are providing initial advice and contact to members of the public who get in touch. The funding that has so far been made available is short-term funding, as I guess you would expect in a crisis like this. We, like the rest of the public sector, will need to engage in a longer term spending review if, for example, this particular crisis looks like it will have a long-term impact on our overall activity and requires us to up the amount of investigation and other resources devoted to covid.

In the short term, we are used to flexing the available resources to the most pressing and current concern. At the moment, for example, roughly 30% of the queries and concerns coming to us are about covid. If, as the entirety of the workforce goes back to work and normal queries and complaints go back to a normal level—if they do—we saw a 13% increase in workload, say, obviously we would need to talk to those who fund us about how we would manage that increased work.

Q96 **Chair:** Sarah, could you clarify one figure? The written answer yesterday said that HSE had received 6,780 calls and online inquiries between 9 March 2020 and 4 May 2020. I think you have an updated figure.

Sarah Albon: Yes. From 9 March to 7 May, the same figure is 7,149.

Chair: Thank you very much; that is very helpful.

Q97 **Sir Desmond Swayne:** Sarah, am I one of Chris's rogues, forcing people back to work?

Sarah Albon: It depends what you are doing.

Q98 **Sir Desmond Swayne:** Well, I'll tell you. The illusion that got abroad that somehow only essential work should continue led to a huge number of people coming to me for advice—small builders, gas fitters who go into people's homes to change the boiler, gardeners, window cleaners and even mobile dog-groomers—and my advice was, "Yes, get back to work. Get out there, and just practise social distancing with your clients." Are we making too elaborate a science of what is actually largely common sense?

Martin Temple: Where we are on this is that the general guidance is quite clear that people who can work at home should do so, and that employers should facilitate that wherever possible. Some of the "essential workers" words and so on have not really been in the Government guidance, but have been used where the press has tended to broaden the term or make other definitions. If you cannot work at home and you can go to work, and work in a sensible social distancing way—all the things we have discussed this morning—then the general view is you should go to work.

We have seen over the last day or so more clarification about how people should take care when travelling to work, but if people can do appropriate social distancing at work, they should do so, other than in those areas that have been quite clearly designated as not to be open for work. For example, shops, restaurants and pubs—those sorts of areas—have already been designated as such. We recognise that in certain circumstances—they are probably fairly rare; Sarah touched on them earlier—social distancing, in the way that we have discussed today, may not be possible or may not be appropriate, in which case, regrettably, one has got to say that those are some of the probably relatively few areas that still cannot work.

By and large, however, if you cannot work from home but you can do it in a socially responsible way, as we have defined earlier, then people can and probably should go to work.

Q99 **Sir Desmond Swayne:** For many, even in those areas which have been specifically closed down, work has continued. Shop workers have gone in to revamp the stores; there is continuous stocktaking. In hospitality, a huge amount of maintenance has been required, not least in the large holiday parks that predominate in my constituency. So for many people it is not a question of going back to work; they have been at work.

With respect to those that have been specifically required to close down and have closed down, to what extent are you involved in the decision on when they can reopen?

Martin Temple: We are not the people who will decide which sectors of the economy will and will not be operating. What we do is to regulate and observe those places that are working, by whatever definition. I do not

know, Sarah, whether you want to add to that, because I know you have been involved in some of the debates around this.

To pick up on your point, Sir Desmond, we recognise that a lot of people have been working. That is why we have made sure that, wherever possible, our regulatory activity has continued where there is a workplace activity going on.

Q100 **Sir Desmond Swayne:** Do you have involvement in setting the conditions that will be required to be observed when those sectors reopen, and do you have all the information that you need from the Government to fulfil that task, if indeed you have that task?

Martin Temple: Regarding return to work, I think, Sarah, that you have been quite heavily involved in this particular facet, and it is probably appropriate for you to pick this up rather than me.

Sarah Albon: Yes; thanks, Martin. Just to be clear, we are not involved in the decision about when to open different sectors of the economy and which businesses can or cannot open. That is not us and we are not playing a part there in those discussions and decisions, which are being made in the very centre of Government.

Where our role comes in is working with BEIS and with other Government Departments, taking—as we said at the beginning of this evidence session—the scientific evidence provided to us by PHE, through SAGE and others, about what the risks are about how this disease is transmitted, taking some of the work that Andrew and his sub-group of SAGE are doing in looking at what that practically means in terms of a work system, and then translating that into practical guidelines that employers can follow to help keep their workers safe in the workplace. That is the work we have been doing with BEIS, and that is the close working that resulted in the various publications by BEIS yesterday, looking at the different work sectors.

Professor Simpson: Likewise, PHE does not make the decisions on this, but what we will do is to give advice from a public health and scientific point of view on what the risks may be if a sector is going to be opened, as Sarah said. One could pick up things such as hairdressing, where you have very close contact. We would advise on whether there were ways in which those risks could be reduced to an acceptable level, but we do not make the decisions on this.

Q101 **Chair:** Professor Curran, you are a member of SAGE. Will SAGE express a view about which sectors should open and when?

Professor Curran: I don't think so, no. What SAGE does is review the evidence—as Sarah said, the sub-group that I am a member of is looking at some of this now—that would enable people to make informed decisions, either as policy makers or as employers, on when it is sensible to move back. I am talking about things like understanding the routes of transmission, understanding how mitigation can best be put in place, based on the best available evidence, and understanding how the

interactions will work between the employees and members of the public, so that all those issues can be thought through, the best evidence can be identified and then people can use that to make their own informed decisions about how to manage the risks, based on that information.

Q102 **Dr Spencer:** Do you think that using a sector approach is too blunt a tool? You have been talking in terms of your interactions with the guidance. A shop can be huge; it can be small, with different modifications made for social distancing. A variety of businesses may be part of an individual sector, with a lot of granularity in terms of how they operate and what risks they are exposed to. What are your thoughts about that and on a return to work and guidance on that—a sectoral approach as opposed to an individual business approach?

Professor Curran: One of the things that we have been thinking through is that a particular job is not just one thing; as you say, it comprises a number of different individual activities in a number of different geographies or locations, potentially. You have to understand how all those fit together to understand the total risk that you might be exposed to or, indeed, exposing members of the public to. From my perspective, it is really important that employees start that thought process as soon as possible, so that they can deliver on the requirements for a risk assessment, based on their specific circumstances, which may not be the same for every bit of a particular sector. I think that that task-based approach to understanding risk becomes really important to enable people to assess appropriately.

Q103 **Steve McCabe:** This is a straightforward question. We see a lot on the news about international comparisons and we hear lots of arguments about how easy it is to make those comparisons. Is the HSE co-ordinating with its international counterparts on the issue of coronavirus? If so, what have you learned and how is it being shared?

Professor Curran: Shall I come in as a starting point on the science side? There is a network of European laboratories, which we call the Partnership for European Research in Occupational Safety and Health, and very early on, soon after the coronavirus issues began to become apparent, we set up a forum where we could share information very quickly. For example, when the HSE was asked to undertake a rapid evidence review on behalf of Sir Patrick Vallance, we used that network to see what each national network of national health and safety laboratories was actually doing in this space. So certainly on the science side, we have made very good use of those international links, not just in Europe but globally. I chair something called the Sheffield Group, which is the international network of national health and safety labs. We have had conversations with, for example, our colleagues in America, through NIOSH, and in other parts of the world. So on the science side, certainly it's very joined up.

Q104 **Dr Spencer:** How about PHE? How is PHE working internationally? This is an international pandemic, and we are seeing across the world what is happening, with people doing lockdowns and all sorts of different things, in Sweden, France, etc. What are you learning and how are you

collaborating with centres of excellence abroad?

Professor Simpson: In public health, rather like the health and safety science side, as Andrew was saying, we have significant international collaborations and discussions in groups that go on all the time when we do not have something like coronavirus. We exchange information sometimes via WHO and sometimes one-to-one or in smaller groups, and we have discussions on interventions, particularly on the health and treatment sides. We also interact with each other on response measures. Obviously one very important thing for us is if other countries change their response measures and whether that affects the numbers, so we do this all the time. On the public health side, with WHO and with various European bodies, this is an ongoing conversation. It is something we are doing all the time, but in this circumstance we ramp it up.

Q105 **Neil Coyle:** Sarah, you mentioned earlier that only 71 occupational deaths as a result of coronavirus exposure had been reported to you. Given that we know there have been over 100 healthcare worker deaths—29 care workers and 47 in Transport for London alone—why is that figure so low when there is a requirement to report to you, and what are you doing to improve reporting?

Sarah Albon: You are right. We have noticed that. We think it is at least likely that we have had some significant under-reporting, particularly in NHS settings where we have had very low numbers so far reported through to us. There are a number of reasons why they may have been slow in coming through, but we are concerned that we are not getting the numbers we would expect. We have taken that up both with the NHS at a national level and with individual health authorities, and we will pursue that.

Q106 **Neil Coyle:** What does that look like? If a registered medical practitioner confirms that the death is likely due to occupational exposure, where is the gap in awareness among the professions most involved in this? Why are they not coming to you? What is the barrier?

Sarah Albon: I don't know. I don't think there is a barrier.

Q107 **Neil Coyle:** Clearly there is a barrier, because they are not being reported.

Sarah Albon: I am not sure there is anything getting in the way of people being able to report to us. I do not know why they have not yet done that. I don't know whether it is simply something that they are late in doing or whether it is a misunderstanding of the RIDDOR regulations and what is required to be reported, but that is why we are taking it up with the NHS and with individual trusts to remind them of their obligation to report to us.

Q108 **Neil Coyle:** You also know where the risks are highest from the stats that you and others have provided. What are you doing proactively to contact them? Can you confirm what I think you said in answer to an earlier question: there have been no closures, even following the death of an employee due to coronavirus exposure?

Sarah Albon: That is right. We have not closed any business for any reason; whether it is about a death or for any other reason, we have not issued a prohibition notice on any activity. It is important the Committee understands that we will rigorously investigate all the deaths that meet the selection criteria. For the avoidance of any doubt, we are not changing our normal incident selection criteria. We intend to investigate all deaths in the same way that we would, whatever the cause, using the same criteria to select where it is appropriate to investigate death, and we will take that forward. When there is an immediate death, an inspector would consider whether there is a remaining uncontrolled risk that requires immediate action in order to ensure the ongoing and immediate safety of individuals. We have not, as I say, had a level of concern reported to us around individual healthcare settings that are such that we would feel the need to intervene and prohibit them from continuing to work.

Q109 **Neil Coyle:** So despite knowing about the higher risk for some workers, including care workers in care homes, which of course affects the residents as well as the workforce, you have not yet proactively inspected additional care homes as the result of the higher risks that you have been aware of?

Sarah Albon: I said that we have not yet prohibited any activity or closed a business.

Q110 **Neil Coyle:** I do not expect you to have this, but it would be useful to know if you have it to hand. Can you provide the Committee with the number of inspections of care homes that have been undertaken? I appreciate the circumstances could prevent some inspections, but how many have been undertaken in each of the last six months, given that the alarm has been raised about care homes in particular for many months now?

Sarah Albon: I do not know, but I am happy to find out what information we do have and to write to the Committee.

Q111 **Neil Coyle:** You said you "will contact" health trusts. Have you already been contacting health trusts, local resident care home operators, to remind them of their duties to report to you?

Sarah Albon: I believe that we have, but I have not seen the direct letters myself, so I would need to double check that as well and write to you. I know that it was the operational team's intention to make proactive contact and remind people about their duties to report under RIDDOR.

Q112 **Neil Coyle:** I find it worrying that the chief exec of such an important organisation says that they do not know. Can you share that correspondence with this Committee, please?

Sarah Albon: Of course.

Q113 **Neil Coyle:** I know you have lost half your budget since 2010. The additional resource was announced yesterday, can you share with us the forward plan and how you will be increasing inspections and protection for people and employees most at risk? How will you target some of the

professions most at risk?

Sarah Albon: As we make a plan, I am very happy to share that with the Committee. We also found out about this additional money yesterday.

Q114 **Neil Coyle:** You did not know before yesterday that this might be coming so you have been unable to prepare before?

Sarah Albon: We were told yesterday that this additional money would be coming.

Q115 **Neil Coyle:** Obviously, with the additional data on professions most at risk, will you be publishing more data before July and will it include the regional breakdown and employment/profession breakdown of deaths due to exposure in particular?

Sarah Albon: I would need to double-check whether RIDDOR reporting publication is covered by the national statistics requirements. It may be that the reporting of statistics under RIDDOR and the publication of those are covered by the ONS requirements, which mean that dates are set and we have to follow those specific dates set out in order to ensure that reporting is regular and is not infected by particular political or any other spin that might be put on it. I suspect that RIDDOR deaths may well be covered by ONS reporting requirements, in which case the answer is yes, we will report them, but to the schedule that we are required to report.

Neil Coyle: I am not sure if that is a yes or no, Chair.

Chair: I think it is a yes.

Neil Coyle: It is a yes, but—

Chair: But not quite sure when.

Martin Temple: Not wanting in any way to take anything from what Sarah said, I want to remind people that we have been using the phrase "care homes" again. Some of the things we will not know about because local authorities may well be doing it, or in some cases CQC may be doing something about it. I just wanted to make sure that people realise that we do not have the full picture here even though the points being made are still relevant and important. I do not want to detract from that main point. That is partly why there is not a complete picture.

From my involvement with one of the large teaching hospital trusts, one of the things which I learned yesterday was that—as I understand it, and John may be able to clarify this—if a health worker died of a covid-related illness in, say, one of our hospitals but worked in another hospital where they may well have actually got the illness, it is the hospital that treated them, not the employing hospital, that must make the report. That is new and has not always been clear.

The only point I am making here is that there are some areas that are lacking clarity at the moment, which may result from some under-reporting. Again, I do not want to detract from the very important point

you are making. I just want to point out that, within all that is going on, there are some slight confusions, which hopefully will get resolved. As Sarah said, we will be looking at every death that has a covid-related name next to it from the beginning.[1]

Q116 **Neil Coyle:** Thank you for that clarification. It would be important to know what measures you have taken against the care homes you are responsible for following the report of a death due to occupational exposure to coronavirus. It would be useful to have that in the follow-up information.

Chair: That will be covered in the further information to come. Professor Simpson, very quickly, if you would.

Professor Simpson: Just to say that what Martin says is quite correct. The report would be from the hospital where the person was treated. Hopefully, there would be a note to say where they worked.

Q117 **Steve McCabe:** I just want to ask two very quick things. Given that the Prime Minister put a lot of stress on the five levels of his indicator in his broadcast, I just wondered what are the key metrics that will be used by Public Health England to monitor things like the infection rate and the number of cases. On the back of that, how are the ONS statistics published yesterday going to modify the guidance? We saw that quite a few occupations appear to be rather high risk, and presumably that has not been factored into the guidance yet. Who is going to take responsibility for that, and when will we start to see it?

Chair: The first point, I think, is for Professor Simpson.

Professor Simpson: On how the monitoring will happen, we will be continuing as we do at present. As everybody is aware, the number of tests that are being done has been ramped up considerably, and there are four pillars of that. Public Health England is responsible for only one of the pillars, but that is all collated by us in the figures. We also come together with the deaths figures. The important part is that that continues consistently so that we have those figures and can feed them into the model.

Q118 **Steve McCabe:** Professor Simpson, with so many more people returning to places of work, will there be any change in the testing arrangements? The criticism we have heard is that people are being expected to travel huge distances to these mega test centres. Is there a plan to change that? How are you going to keep on top of the risk of an increase in the infection rate in workplaces?

Professor Simpson: As you are aware, the number of occupations and groups who can be tested has been increased quite considerably over the last two weeks, and the amount of testing available will be increased. Therefore, it will be much easier for people to get tests. Mobile military

[1] HSE later clarified this answer in subsequent correspondence: https://committees.parliament.uk/publications/1428/documents/13029/default/

testing groups have been going out and getting closer to where people live and work, so that is being dealt with. Obviously, the more testing you do, although the incidence in the population is dropping, you may see some small increases, so it is important that we transmit and communicate the fact that sometimes some of the small increases are due to more testing. That is what will be done over the next few weeks.

Professor Curran: I just want to come back on that last point, because it is important to realise that we are not at the end of the story yet, when it comes to data. Clearly, we need better data to make more informed decisions. One of the things we are working on is to try and include occupation as one of the data points that are collected when people enter the system, be it through hospital or through other testing routes. It is really important that we understand that that is an ongoing situation and that at the moment, the information that is coming out is an early part of that data. It will need to be analysed a lot more before we really understand the true cause-effect relationship. At the moment, it may just be correlation as opposed to causation.

Q119 **Steve McCabe:** Presumably, if you were a construction worker or a taxi driver and you saw the data that was released yesterday, you would be a bit worried.

Professor Curran: I can understand that completely, yes. In terms of how that data is communicated, it is really important that people understand that it is not the end of the story, as I say. There are certainly a few more chapters to come before we know who did it.

Chair: I think, Steve, the other question was whether there are going to be changes to the guidance in the light of that data yesterday.

Steve McCabe: Yes.

Q120 **Chair:** Is that something, Sarah, that you can comment on?

Sarah Albon: The guidance itself is principally owned by BEIS. I am not aware of them intending to update the guidance in the light of the data yesterday, but I am sure they will want to have a good look at it and have a close understanding and conversation about whether or not any updating would be appropriate.

Q121 **Shaun Bailey:** I just want to touch on working from home. As a result of the crisis, I think we are going to see quite a rise in the number of people working from home. From that end, I would be keen to understand a bit more about, first and more generally, how the enforcement regime works for people who are working from home. I assume the enforcement regime is still the same. Also, a main one for Sarah: do you have any data around queries or any complaints that have been raised around work-from-home arrangements? What engagements do you have with organisations around advising them about working from home? I appreciate there is already guidance on that, but have you done anything in addition to that?

Sarah Albon: I guess I can probably speak from two perspectives: one as a regulator, but also as an employer, where we have the vast majority of our over 2,000 staff working from home. The position is different depending on whether the working at home is occasional or temporary, or if it is your main place of employment. Either way, the regulating body still is either HSE or the local authority, depending on who your employer is. It is the nature of the overall employment—not your particular location—that will determine whether it is the HSE or your local authority.

We took the view in the early stage that the immediate "work from home if you can" was effectively a mass temporary working from home that did not require employers to necessarily do a full DSE equipment check for everyone's home. It did not necessarily require them to provide full additional equipment to people's homes. It is really important here to also recall and think about the fact that not everybody has a home that is necessarily capable of being set up in a permanent office way. It not only needs the IT kit and a screen and a chair and those kinds of things; it also needs the space to put those things. It is important that we remember that not everybody is lucky enough to have the space to just straightforwardly work from home.

We took the view that, in that initial phase, it should be considered temporary and that, as part of that, it is still important that employers do not expose their workers to injury as a result of hunching over a laptop or something like that. Therefore, it is appropriate to let people take a break more frequently, accept some lower productivity and those kind of things.

If we are potentially moving into a phase now where at least some part of the workforce is considering extended working from home, that is going to make employers and us—both as an employer and as a regulator—start to look at where the point comes where you have to really consider a full home-working environment, which needs to be set up with the right kind of kit and which can only be supported if your individual employee has got the right environment in which to put that kit.

As some office workers come back to work, and along with the kind of work that needs to be done, that might actually start to inform employers' views about who should return and the right order of that. Clearly, office space will also be at a premium as and when the message to work from home if you can is eased up. It is most likely that, as a degree of social distancing will still be recommended, for a protracted period we will see at least part of the workforce working from home, with greater social distancing maintained in offices, although, as I say, the current message is clearly to work from home if you can.

Q122 **Shaun Bailey:** As you say, Sarah, it might be the case that we move into a more permanent phase of people working from home. I am conscious that larger businesses may be able to comply with a more bespoke scheme that moves them out of this ad hoc scheme. However, for smaller and medium-sized enterprises, if they are having to outlay lots of money so that their employees are compliant with some of the guidance, that in itself might present issues, which could lead to some SMEs flouting the

regulations. I am just curious as to your views on our moving into a more permanent or semi-permanent working-from-home structure in some elements of the economy going forward, particularly around the SME sector.

Sarah Albon: I suppose it is really going to vary. If you are a very small employer, you may find it more straightforward to facilitate social distancing back in your workplace if you already do not employ very many people. It is really going to be horses for courses. It is for employers to understand that, as the restrictions gradually ease off over the coming months, a lot of this is going to be driven, as much as anything, by the requirements across public transport and the ability to get people safely to work, which really plays to the points that Andrew made about thinking about work as a system, rather than just as a thing that people do.

The bottom line is that, although I am sure that some businesses will find it more straightforward than others to provide the kind of kit that they need to, as a regulator, we view this through the lens that it is not acceptable to injure your workforce. If people need to provide particular kit and to give people facilities in order to work at home safely and without injuring themselves, ultimately they will need to do that. We will take enforcement action in our sectors if people are unable to do that or choose not to.

Chair: We are into injury time now, but there are a couple more points I think we would like to cover. Ben Spencer has a point he wants to raise.

Q123 **Dr Spencer:** It is just a follow-up on the international collaboration question that we touched on earlier. One key industry that needs to get flying again is the aviation industry, which by definition requires the international collaboration of all involved, in terms of safety. To the professors, are your departments looking into this and collaborating with international colleagues on how that can operate?

Professor Curran: It is not something we are looking into at the moment, from a specific air sector perspective and certainly not from a regulatory perspective in the UK. The Civil Aviation Authority may be involved in some of that work, but it is not something that I am aware of, I am afraid.

Q124 **Chair:** Can I just raise a couple more points? Professor Curran, you made the interesting point earlier that the normal requirement is 2 metres separation, but if it had to be 1 metre, if that was for a few seconds, that would probably be okay. Can you tell us a little bit more about the thinking there and the extent to which this flexibility has been spelled out?

Professor Curran: It is a really difficult issue for people. I understand that. As Professor Simpson mentioned, the international variation around this does not help. Essentially, we are looking at the laws of physics and how far particles of certain sizes will travel under certain conditions. Of course, that is not very easy to model in workplaces, because, for example, if you cough, the particles will travel further than if you are just

talking naturally, so there are a lot of different factors to bear in mind when doing some of the maths around this. That is why the 2 metre rule has been established as the best rule of thumb.

However, the important thing is that as the evidence develops—certainly, as I say, the SAGE group I am involved in is looking at this—there will be better information for people to make more informed decisions once we understand a bit more about the transmission of the virus: how it moves in air, and how it moves in particles. That will help us make better informed decisions, but at the moment, that 2 metre rule is the best we have.

There are some circumstances that, as I have mentioned, relate to duration that will help people to make a sensible judgment. If you are passing in a corridor, if you pass for a couple of seconds, do you really need to be 2 metres apart? Probably not. There are those sorts of judgments to be made based on that evidence, which will be evolving and being refined over the coming weeks and months.

Q125 **Chair:** Can you give us an insight into how SAGE works? There has been a lot of interest in this, and it is fairly opaque from the point of view of outsiders. What kind of engagement do you have as a member? Perhaps I can ask you how long you have been a member of SAGE, and what your participation in that entails.

Professor Curran: The first thing to say is that SAGE is organised by the Government Office for Science, so questions in relation to its operation and membership should be directed to them, but I can give my personal experience. Of course, SAGE is not a membership group: it is brought together depending on the nature of the emergency, and the specific expertise that is required for that emergency is drawn from both the Government science community and the wider academic community.

I have been to a number of SAGE meetings. I have not been to all of them; I certainly was not involved early-doors, but as the crisis developed, the kind of work that HSE has been involved in—particularly from the science side—became of more importance and relevance. I see it personally as an extremely good way for scientists from around the academic and Government communities to have an open and frank discussion about the issues, because science is not just an answer; science is a series of activities that bring together different views about a subject to create a consensus. The advantage of something like SAGE is that you can have that open conversation and come to a consensus about an element of the covid situation that can then feed into policy.

My experience—this is my personal view—is that those conversations are extremely high quality. They are very robust and provide, I would hope, the best available evidence for policy makers and others to make properly informed decisions.

Q126 **Chair:** Have you participated in SAGE prior to the covid-19 pandemic, or is this your first involvement in it?

Professor Curran: I have been involved in SAGE previously. I think that is a matter of record: if you go on to the gov.uk website, you can see previous minutes of SAGE activity. To give you an example, I was involved in the Whaley Bridge dam issue, and the minutes of that are available on the gov.uk website. SAGE also undertakes exercises at regular intervals, and I have been involved in those as well. A scenario is presented to the group, and the group will review that and effectively do in an exercise situation what we are doing for real at the moment. It is very helpful to provide those opportunities to make sure the process is working properly and everybody understands what their role is, because that is also really important.

Q127 **Chair:** Presumably at the moment, the meetings are virtual rather than physical. How frequently are you attending SAGE meetings?

Professor Curran: At the moment, I am attending all the SAGE meetings, which tend to be twice a week. I also attend the sub-group meetings of the environment and modelling group, which also tend to be twice a week, and they spin off other meetings with other parts of Government. From a science perspective, the draw on mine and my colleagues' time is hopefully demonstrating that because this is driven by the science, a lot of science activity is going on to ensure we have the best possible input to make the right decisions in the right way.

Chair: A lot of demand. Can I thank all our witnesses very much—Professor Simpson, Professor Curran, Sarah Albon and Martin Temple? Thank you all for joining us and being so generous with your time, and giving us such helpful answers to all our questions.