

From the Chief Executive

Sarah Albon
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Sent via email

1 April 2021

Rt. Hon. Stephen Timms MP
Chair of the Work and Pensions Select Committee
House of Commons
London
SW1A 0AA

Dear Mr Timms,

Thank you for your letter, of 24th March 2021, seeking further clarity following receipt of my letter of 18th March, on our operational review of our Enforcement Management Model (EMM) and the decisions taken on how HSE categorised Covid-19 in the workplace.

I have responded to your specific questions below:

Question 1. You explained that the decision was taken by “a group of senior members of staff in the organisation who themselves have a background as warranted inspectors”. Please could you tell us who these senior members of staff were?

Answer:

Samantha Peace and I were referring to decisions made on 24th November 2020, following a senior peer review of evidence presented in the paper which HSE has now published and drawn to the Committee’s attention. The author of the paper is a highly-experienced senior regulator, who has taken a leading role in shaping HSE’s operational response to the pandemic. The author was supported in this capacity by a team, including HSE’s Head of Operational Strategy, the Head of the Director of Regulation’s Office and a number of scientific experts, details of whom are provided in the answer to your question 7.

The group which undertook the peer-review of this evidence, before reaching a decision, was chaired by HSE’s Director of Regulation and was made up of senior operational directors: the Director of Field Operations Division, the Director of Construction Division, the Director of Energy Division, the Director of Chemicals, Explosives and Microbiological Hazards Division, the Director of Chemical Regulation Division and the Head of Enforcement & Legal Advisor.

Question 2. Samantha Peace explained that “there would have been at least five senior regulators involved in peer reviewing the decision”. Please could you let us know how many people were involved in peer reviewing the decision, and who they were?

Answer:

The composition of the relevant group is as outlined in the second paragraph of my answer to your first question, above.

Question 3. When asked whether the decision had involved a minuted meeting, Samantha Peace told us that she did not “recall a minuted meeting, but there is a lot of exchange of information and some discussions in person”. Please could you set out for us in detail the meetings, discussions and exchanges of information that led to the decision being taken?

- a. Were any of these meetings minuted? If not, why not?**
- b. Were there any agendas or other meeting papers to support these meetings? If so, could you share those documents with the Committee?**

Answer:

The review of the paper took place as part of a routine meeting of the Director of Regulation’s senior team. These meetings are not formally minuted, although key actions are recorded and communicated as necessary. There was no formal agenda, and the paper was circulated by email on 16th November, in advance of the discussion.

The development of the paper largely took place through email correspondence and so did not take place within a framework of meetings; as such no minutes are available. A group of HSE colleagues were consulted on early drafts of the paper, again through an exchange of emails.

Question 4. She further explained that these exchanges led to a “final paper” setting out “the operational regulatory position that we have at that moment in time, that we capture and keep as our record of right”. Would you share with the Committee a copy of this final paper?

Answer:

The paper considered by Operational Directors, in the meeting chaired by the Director of Regulation, is the final paper. As all of the proposals for decision in the paper were agreed, there was no need for any further note. The paper was shared, in full, with all regulatory colleagues by email cascade from the Director of Regulation in order to provide complete clarity about the decisions made and the context for them.

Question 5. Your letter also directed us to a document entitled “Regulatory Enforcement Decisions Made in the Pandemic: A Review of experience April-October 2020” and dated November 2020. The paper says that its primary purpose was “to support a review by experienced and expert senior regulators”. It concludes that “the category of Significant remains the most suitable choice within the EMM structure to maintain proportionality of regulatory decision-making.” When and why did HSE decide that a review was necessary?

- a. Other than this paper, what meetings, discussions or exchanges of information took place as part of this review? Were any meetings minuted?**

b. Who took the final decision on the outcome of the review, and when?

Answer:

HSE decided to review the proportionality of its regulatory approach to the pandemic in the early autumn because by then it had accumulated significant experience from operational practice, since the start of the pandemic, and because there was significant data becoming available from ONS and other sources.

The process of meetings, discussions and exchanges of information leading up to the peer review and the final decision has been explained in answer to earlier questions.

Question 6. The paper also notes that it was “discussed and agreed with HSE’s Director of Regulation and Operational Directors on 24 November 2020”. Is there a record of this discussion?

Answer:

This question is answered in response to question 3.

Question 7. The paper says that the original classification was made “on the advice of HSE’s Chief Scientific Adviser”. During the session, Professor Curran told us that he was “obviously part of the discussion, but I do not form that final recommendation”. Could you please clarify for us the role that the Chief Scientific Adviser plays in decision-making?

Answer:

In the preparation of the paper, data was provided by HSE science experts including the Chief Statistician, Chief Medical Officer and Chief Scientific Adviser and their teams. This group of scientific experts was amongst the group of HSE colleagues consulted on a draft paper prior to its being submitted for senior peer review.

In consultation on the draft, the scientific experts were asked to confirm that the data had been fairly represented in the paper, although they were not asked to give an opinion on the decisions set out in the paper, which were for the senior operational peer review group.

Question 8. You told us you expected a further review, considering newer scientific evidence, to be finished by the end of next month. Please could you share with the Committee the outcome of that review at the end of April, and any documents on which it is based?

Answer:

As I said when I appeared before the Committee, we aim to produce a report by the end of April which will consider any new scientific evidence, changing factors in the workplace, overview of enforcement experience and explore any additional evidence sources. Whilst this will be a draft report, which will need to be approved internally; once it has been finalised, we will share the outcome of the findings and relevant evidence on which it is based.

I hope the above is helpful and thank you for your continued interest in HSE. You have written to me, separately, in respect of fracking at the Preston New Road, which I will respond to under separate cover.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', with a stylized, cursive script.

Sarah Albon
Chief Executive, Health and Safety Executive



Work and Pensions Committee

House of Commons, London SW1A 0AA

Tel 020 7219 8976 Email workpencom@parliament.uk

From the Chair

Sarah Albon
Chief Executive
Health and Safety Executive

24 March 2021

Dear Sarah,

Thank you very much indeed for taking the time to give evidence to the Work and Pensions Committee last week. I should be grateful if you could also pass on my thanks, on behalf of the whole Committee, to Samantha Peace and to Professor Curran.

We were also grateful for your letter of 18 March, which responded to the Committee's interest in HSE's decision to categorise coronavirus as a "significant" rather than a "serious" workplace issue.

You explained that the decision was taken by "a group of senior members of staff in the organisation who themselves have a background as warranted inspectors".

1. Please could you tell us who these senior members of staff were?

Samantha Peace explained that "there would have been at least five senior regulators involved in peer reviewing the decision".

2. Please could you let us know how many people were involved in peer reviewing the decision, and who they were?

When asked whether the decision had involved a minuted meeting, Samantha Peace told us that she did not "recall a minuted meeting, but there is a lot of exchange of information and some discussions in person".

3. Please could you set out for us in detail the meetings, discussions and exchanges of information that led to the decision being taken?

a. Were any of these meetings minuted? If not, why not?

b. Were there any agendas or other meeting papers to support these meetings? If so, could you share those documents with the Committee?

She further explained that these exchanges led to a "final paper" setting out "the operational regulatory position that we have at that moment in time, that we capture and keep as our record of right".

4. Would you share with the Committee a copy of this final paper?

Your letter also directed us to a document entitled "[Regulatory Enforcement Decisions Made in the Pandemic: A Review of experience April-October 2020](#)" and dated November 2020. The paper says that its primary purpose was "to support a review by experienced and expert senior regulators". It concludes that "the category of Significant remains the most suitable choice within the EMM structure to maintain proportionality of regulatory decision-making."

5. When and why did HSE decide that a review was necessary?

a. Other than this paper, what meetings, discussions or exchanges of information took place as part of this review? Were any meetings minuted?

b. Who took the final decision on the outcome of the review, and when?

The paper also notes that it was "discussed and agreed with HSE's Director of Regulation and Operational Directors on 24 November 2020".

6. Is there a record of this discussion?

The paper says that the original classification was made "on the advice of HSE's Chief Scientific Adviser". During the session, Professor Curran told us that he was "obviously part of the discussion, but I do not form that final recommendation".

7. Could you please clarify for us the role that the Chief Scientific Adviser plays in decision-making?

You told us you expected a further review, considering newer scientific evidence, to be finished by the end of next month.

8. Please could you share with the Committee the outcome of that review at the end of April, and any documents on which it is based?

It would be helpful to have a response by Thursday 8 April.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Stephen Timms', with a stylized flourish at the end.

Rt Hon Stephen Timms MP
Chair, Work and Pensions Committee

From the Chief Executive

Sarah Albon
Health and Safety Executive
7th Floor Caxton House
6-12 Tothill Street
London SW1H 9NA

Sent via email

18th March 2021

Rt. Hon. Stephen Timms MP
Chair of the Work and Pensions Select Committee
House of Commons
London
SW1A 0AA

Dear Mr Timms,

Thank you for giving Professor Andrew Curran, Samantha Peace and myself the opportunity to give evidence before the Work and Pensions Select Committee yesterday.

Towards the end of the session, you were interested in our Enforcement Management Model (EMM) and the decisions taken on how HSE categorised Covid-19 in the workplace. Samantha Peace explained that the technical review of enforcement decisions on Covid-19 was agreed by senior operational regulators. This was carried out following a review of the scientific evidence involving HSE's Chief Scientist, Chief Medical Advisor, Head of Operational Strategy and feedback from inspectors..

I thought that you and Committee members might find it helpful to see our technical review, including the data considered in the review, which can be found on our website here [HSE's enforcement of guidelines on coronavirus \(COVID-19\) in workplaces - HSE news](#).

Thank you for your continued interest in HSE and I hope you find this useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', with a stylized flourish at the end.

Sarah Albon
Chief Executive, Health and Safety Executive