

From the Chief Executive

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Sent via email

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Meg Hillier MP
Chair of the Public Accounts Committee
House of Commons
London
SW1A 0AA

Dear Ms Hillier,

FURTHER INFORMATION following the Health and Safety Executive (HSE) evidence session (Monday 14 June 2021) on the principles of effective regulation

Thank you for the opportunity to give evidence to the Committee. During the session I committed to write to you to share the figures on HSE's Regulatory Cost Recovery; and examples where public consultation has led to concrete changes in how HSE have approached its regulatory responsibilities. Sir Geoffrey Clifton-Brown's question asked more broadly about taking stakeholders and citizens' views into account, so I have included examples of where we have responded to views and changed the way we regulated.

The figures for HSE's Regulatory Cost Recovery are in the table below and the examples of changing HSE's regulatory approach are contained in the Annex to this letter.

HSE'S REGULATORY COST RECOVERY

HSE Fees and Charges	2020/21 Income Indicative £'000	2019/20 Income £'000	2018/19 Income £'000	2017/18 Income £'000	2016/17 Income £'000
Biocides and plant protection*	8,772	11,163	13,472	14,561	15,710
Control of major accident hazards	10,333	11,148	11,147	9,987	10,675
Enforcement of offshore safety legislation	15,696	17,133	17,678	17,886	17,862
Fee for intervention**	8,665	15,344	14,142	15,052	14,925
Other HSE fees	2,485	2,322	2,450	2,352	1,892
Total fees and charges	45,951	57,110	58,889	59,838	61,064

*During the EU Exit transition, HSE committed significant resource in becoming the UK's Regulator of biocides and plant protection, and additionally we have seen an increase in complexity of applications in particular relating to environmental concerns. This has impacted our fee work.

**Our fee for intervention income is lower than previous years due to a change in the profile of inspections. Lockdown resulted in a significant number of businesses being closed reducing income for a short period, and when restrictions eased and businesses reopened, we supported the Covid

public health emergency through inspections where we found greater compliance which impacted our fee recovery.

Please see our latest published annual report and accounts [here](#) in particular pages 83,84 and 102 which expand on our fees and charges.

I thank you once again and HSE looks forward to working with the Committee in the future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sarah Albon', written in a cursive style.

Sarah Albon
Chief Executive, Health and Safety Executive

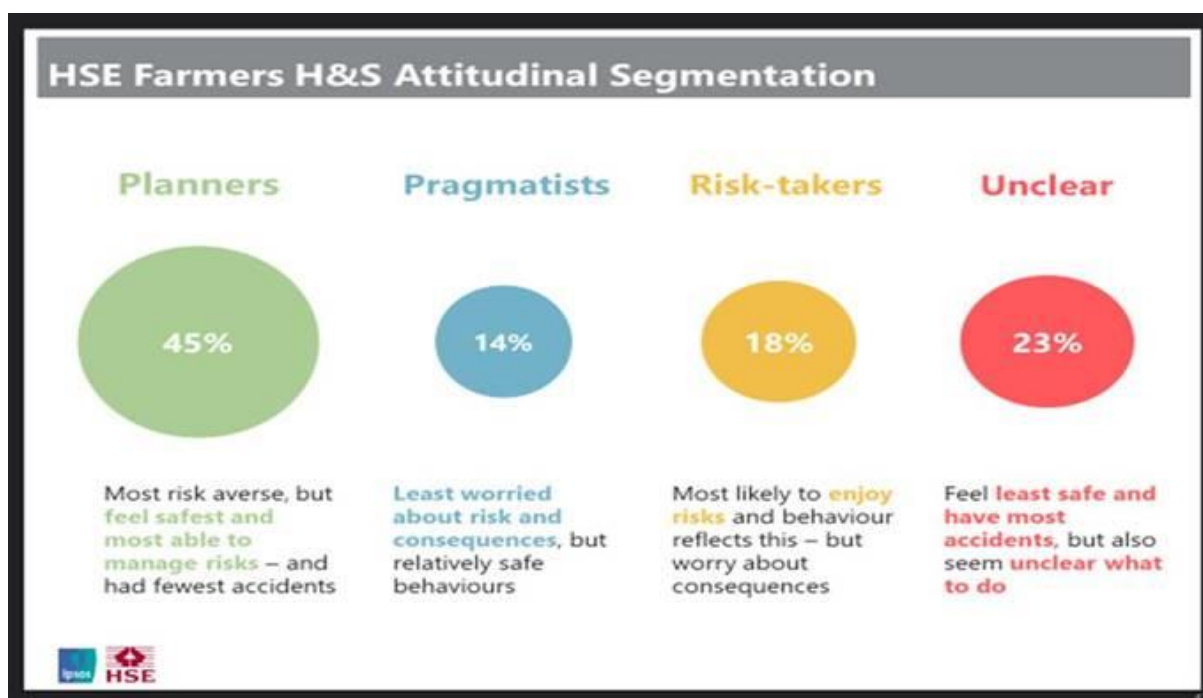
EXAMPLES OF HSE CHANGING THE WAY IT REGULATES AFTER PUBLIC CONSULTATION / RESPONDING TO STAKEHOLDER AND CITIZENS' VIEWS

At the hearing I briefly discussed our approach to regulation in the agriculture sector and I include more detail below.

Agriculture broad sector improvement plan: end-to-end approach

1.1 Our Agriculture end-to-end plan comprises a truly integrated programme of HSE and partner activity (including the three Farm Safety Partnerships – FSPs – and lead training organisation Lantra) that encompasses: consultation with farmers, training, inspections, guidance, campaigns, direct communications, events and activities. In following the end-to-end model we:

- A. **Defined the problems** – We analysed this sector's poor record of intransient Health & Safety (H&S) statistics and consulted farm stakeholders for their views. For example, at top level there were 33 farm fatalities in 2017-18 when we baselined our evaluation. We noted a flatlining of improvements (where other sectors were improving) together with our assessment that we were assured that knowledge of the causes and solutions of actual H&S incidents were well known - but that poor farmer behaviours persist. Our stakeholders' feedback (from the Agriculture Industry Advisory Group and the three FSPs) was positive and they supported our decision to look for new solutions.
- B. **Gathered evidence** – We undertook in depth qualitative and quantitative research with farmers and stakeholder groups (including 1,687 farmer interviews along with interviews with a consultant within the agricultural risk area, a senior inspector in H&S in Ireland, Unite the Union, a safety ambassador for National Farmers Union and a senior NFU official) – and we appraised our approach to preventing, assuring and holding farmers to account. A key output was an innovative farmer segmentation tool based on farmers' attitudes and behaviours to H&S. We now actively use this tool to help us target and tailor our activities and interventions;



- C. **Designed interventions** – We designed a blended agriculture sector end-to-end improvement plan that deployed a bespoke mix of joined-up activities across our (and our key partners’) regulatory levers. We can improve farmer outcomes (fatalities, accidents and ill health) through influencing and improving farmer behaviours (demonstrably reducing risk) by using a mix of intervention activities including;
- Agriculture Compliance Events and Training (HSE led and partner led)
 - Inspection (HSE inspectors – trained with powers – and visiting officers – carry out fact finding activities and give simple advice)
 - Guidance (what good looks like, repository of materials and tools)
 - Events, activities and direct communications (HSE produced, partner produced)
 - Communications campaigns (HSE, partner)
- D. **Deployed** – We worked closely with partners to iteratively launch improvement across all these levers. For example developing a different approach to regulation, offering in depth H&S training (compliance events – see below) to farmers in regions where we publicly planned inspection campaigns. Robust evaluation demonstrably evidenced increased take-up and training impact on inspection outcomes – both overall and for each of our attitudinal segments where we were able to further target and tailor delivery to the most high risk segments (‘unclear’ and ‘risk takers’). We took farmer feedback into account to improve training sessions.
- E. **Evaluated** – As well as our ongoing process evaluation to improve and optimise our delivery and impact, we are also monitoring our overall impact against the original key death, accident and illness outcome statistics – which has improved for farmers, albeit slightly over this period.

Agriculture: a specific deployment response

- 1.2 Agriculture is hazardous with high rates of death, injury and ill health. Building on insight, research and consultation to better understand dutyholder attitudes, HSE developed and runs ‘preparing for inspection’ compliance events for hard to reach farmers and invites them to attend showing straightforward ways of managing risk on their farms. When seeking views, farmers frequently commented: “tell me what to do and I’ll do it”.
- 1.3 The events (funded by HSE) are delivered by experienced agricultural trainers and then followed by inspection activity in the selected region, coupled with supporting wrap around communications that maximise the impact of the regulatory activity. We identify farms using data from other Government departments (including DEFRA and the Rural Payments Agency, along with both Scottish and Welsh Governments) so that we target appropriate establishments and inspectors visit a proportion of those attending the events and those that declined.
- 1.4 Inspectors are briefed before visiting and focus on the major things covered at the events; falls from height, transport and machinery, cattle handling and child safety. Analysis of inspection findings (unpublished) has identified an almost double likelihood of identifying breaches at a non-attende site compared to a site who attended the training events.

Shale gas

- 2.1 The emergence of proposals to develop a domestic shale gas industry became a controversial topic in Great Britain from 2011 onwards. Shale gas sites are subject to the same robust regulatory requirements as any other onshore petroleum wells, but the lower pressure associated with shale wells means the level of risk from an unplanned release of fluids is generally lower than that for conventional wells. However, this is not generally recognised, and the public perception is that activity on shale gas wells is very high risk.
- 2.2 Large numbers of opposition groups formed to protest local shale gas developments and there were significant numbers of local people, concerned about risks to the environment and public health, volume of truck movements and effects on property. Operators were concerned about the time it took for planning decisions to be made with opposition groups focussed on preventing operators from gaining public acceptance and planning permission. HSE concluded that a higher level of public engagement and greater reassurance was required.
- 2.3 HSE secured extra resource to increase engagement with the public and to provide support to planning authorities. This allowed more proactive engagement with local authorities; greater coverage of public events; and increased joint working with environmental regulators and more proactive stakeholder engagement. HSE was also able to develop improved communications products (for example, a guidance document for planning authorities, outlining HSE's regulatory responsibilities) and new public engagement materials clearly explaining the level of health and safety risk and how the industry is expected to manage these risks, as well as communicating the regulatory regime.
- 2.4 To reassure the public and local planning authorities that the health and safety regulatory regime is robust, HSE committed to additional onsite inspection activity at shale gas operations even though this work sits outside the normal risk based work profile that HSE agreed with ministers. HSE and the Environment Agency signed a Working Together Agreement in 2012, setting out a joint regulatory approach to the shale gas industry. This committed HSE and EA to joint visits to all shale gas (and oil) sites during the exploratory phase and to joint meetings with new operators before they start drilling to ensure they are aware of the requirements of the regulatory regime. During the construction phase, HSE wells inspectors must also visit the well site before high volume hydraulic fracturing can take place. HSE also provided greater onsite scrutiny of shale gas and oil sites and enhanced the level of regulatory work currently undertaken. In order to achieve this, five HSE extractive industry specialist inspectors were upskilled to enable them to inspect shale gas and oil well sites.

Review of legislation

- 3.1 HSE routinely involves industry and key stakeholders in its' policy and decision making, from informal stakeholder engagement through to formal consultation. This was evidenced by the Report of the House of Lords Secondary Legislation Scrutiny Committee, following the implementation of four sets of consolidated regulations in 2014:

'All four of these Regulations are consolidations and simplifications of existing legislation in some cases repealing legislation that is over a century old. They are the result of extensive consultation with industry and others to find where clarifications and improvements are needed while maintaining appropriate safety standards. The Committee commends the Health and Safety Executive for its efforts and regards these instruments as examples of best practice:

[House of Lords - Electricity Market Reform \(General\) Regulations 2014 and 8 related instruments; Police and Crime Commissioner Elections \(Amendment\) \(No.2\) Order 2014 - Secondary Legislation Scrutiny Committee \(parliament.uk\)](#)

Explosives legislation

- 4.1 HSE worked with the industry and other regulators to produce draft guidance for the fireworks display sector on their duties under the Explosives Regulations 2014 (ER2014). HSE's original intention was to limit that guidance solely to the scope of ER2014.
- 4.2 As part of the informal consultation on the guidance a firework display company identified activities that could be lawfully carried out under ER2014 but could result in display fireworks being transported in large quantities on public roads without having been subjected to the safety testing expected by transport legislation.
- 4.3 HSE agreed that an incident during the transport of large quantities of display fireworks would present a significant risk to the public and, as the competent authority for non-military explosives under transport legislation, agreed to extend the scope of the guidance in this limited area to ensure that firework display operators were clearly informed of both the risks and hazards as well as their duties

Gas Safety (Installation and Use) Regulations

- 5.1 The Gas Safety (Installation and Use) Regulations 1998 (GSIUR) were updated in 2018, to simplify the regulatory framework whilst maintaining current gas safety standards. The changes were initially suggested by stakeholders and there was significant informal consultation with businesses, charities and trades unions, before confirming policy proposals through a formal consultation process.
- 5.2 The changes included introducing a more flexible approach to the timing of landlords' annual gas safety checks and incorporating an exemption for allowing alternative safety checks in certain circumstances. HSE originally intended to remove detailed requirements for the alternative safety checks and rely on goal setting requirements. As a result of the considerable feedback from stakeholders, HSE agreed to change its approach and retain the detailed requirements.