



CD210 – “A Stronger Voice for Health and Safety” A Consultative Document on Merging the Health and Safety Commission and Health and Safety Executive

Amicus is the UK’s second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and the NHS.

Amicus welcomes the opportunity to respond to this consultation. Amicus is very supportive of the essential work done by the HSE and HSC as Britain’s safety regulator. However, Amicus has had major concerns in recent years that the HSE has become too detached from the control of the HSC, and has shifted its focus away from enforcement.

Executive Summary

1. The HSC’s responsibility for managing the HSE has been hampered by the growing “independence” of the HSE and its management Board, a situation which has no justification in law. This leads to confusion about who is really leading the work of the HSE, where in fact it should be the HSC that broadly directs the HSE’s work.
2. One example of this is that last year the HSE unilaterally decided to remove entries over five years old from its enforcement action database. This decision was reversed by the new incoming Chief

Executive, Geoffrey Podger, following a campaign by trade unions and other safety campaigning groups.

3. The HSE has changed from a safety policing body to a safety watchdog, more concerned with producing colourful, glossy guidance and encouraging employers to comply with “voluntary” best practice, rather than concentrating on enforcement of safety law.
4. Many in the safety and trade union fields believe the HSE has become far too focussed on presenting an employer-friendly safety culture, reducing the “burdens” of “safety red-tape” from employers that the HSE declares are trustworthy and do not need to be inspected – apparently without reference to its own enforcement database.
5. In the offshore oil and gas industry, one of the most safety-critical in the economy, the HSE’s offshore inspectorate has allowed years of neglect of safety inspection, and last year it expressed a concern that a safety maintenance backlog of tens of thousands of hours had been allowed to build up on offshore platforms by oil and gas employers. This exemplifies the problems of the “hands off” approach to regulatory inspection that has been advocated by HSE for all areas of its work.
6. The HSE’s inspectorate has a vital role in the protection of Britain’s workforce but the numbers of inspectors and its budget have been continually cut over the years, along with a drastic cut in the number of inspections. This situation has become so serious that the vast majority of serious accidents – and sometimes even deaths – in the workplace do not result in an inspection or other visit from an inspector.
7. Our safety representatives report that many workplaces have not been inspected in years, if at all. Even when they are inspected, the vast majority are done without the inspector having informed the safety reps that an inspection is taking place, and with no contact being made during the inspection. Safety representatives often find out there has been an inspection by chance.
8. The reduction in inspection and enforcement action has an obvious knock-on effect. Prohibition and improvement notices and prosecutions have all decreased considerably in the last few years. On top of this the average fine for a safety prosecution has also decreased.

9. Amicus does recognise that part of this reduction in safety enforcement is a result of the HSE's budget being cut year on year, but there is still the problem that the HSE is not spending what budget is left, where it should be spent. While there are many good employers that provide a safe working environment for their workers, there are a greater number that do not, and only enforcement can prevent workers being injured, made sick, or killed at work.
10. Amicus fully supports the recommendations of the House of Commons Work and Pensions Committee in its 2004 investigation of the work of the HSE, which recommended the number of inspectors needs to be doubled over the next six or seven years.
11. Amicus recognises that there is a Corporate Manslaughter Bill currently proceeding through Parliament. While we have our criticisms of that Bill, we are largely supportive of it. Currently directors of companies can be prosecuted for safety negligence but this is extremely rare and is usually possible only in small companies where there is a clear chain of command identifiable. However, the Health and Safety at Work Act, 1974 does allow for the prosecution of individuals for manslaughter, but this has been used on only a handful of occasions. The HSE needs to do more than produce guidance for Directors on their health and safety responsibilities. It needs to use the law that is already available.
12. Amicus believes that the absence of statutory directors' duties on health and safety hinders the prevention of accidents, injuries and fatalities and makes it more difficult to secure justice for the victims of health and safety breaches. Only the introduction of statutory health and safety duties on company directors and effective penalties will ensure directors can be held responsible for health and safety negligence. We believe that this should be a priority issue for the Government through the current HSC and its future format.
13. Amicus believes that the Commission and its successor should make further improvements to the legal rights of trade union health and safety representatives, with the right to issue provisional improvement notices, the right of access to establishments and the right to represent workers' interests, the right for workers and union safety reps to refuse

to work in dangerous workplaces. Furthermore the Commission needs to call on the HSE to enforce the existing and extended SRSC Regulations.

The Amicus case in detail

Our response to the consultation questionnaire is on the following pages.

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Health and Safety Commission

'A stronger voice for health and safety'

The merger of the Health and Safety Commission and Health and Safety Executive

Consultation Reply Form

(please type or write in block capitals)

Part 1 : Your Details

Your name *(if responding as an individual)*

If responding as an individual, what is your area of interest?

Name of your organisation

Amicus, the union

Nature of your organisation / business sector

Trade Union

How many people does it employ?

0 - 50

51 - 250

251 - 500

500+

Address

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Name of contact

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Position held

Research Officer

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If you are responding on behalf of a group of organisations or a trade union;

How many companies or workers does it represent?

0 - 50

51 - 250

251 - 500

500+

Are you a:

Employee

Employer

Employer Organisation

Trade Union representative

HSE employee: Inspector Other

Local authority employee: Inspector Other

Health and safety professional: Other (please specify)

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Please indicate if you are happy to be contacted about your comments

Yes No

If you have read the consultation document and have no comments, please tick the box and return the form.

Part 2 : Questions

Question 1 – Do you agree with our proposals for merging HSC and HSE into a new single authority for regulating health and safety at work in Great Britain?

Yes No

Comments:

Amicus believes the proposals would maintain the independence and tripartite nature of the HSC, and would make sense in terms of following the recommendations of the original Robens' Report. of a single authoritative body to facilitate and promote health and safety within the workplace with autonomy, its own budget, executive powers and functions'.

Question 2 – Do you agree with the overarching governance principles for a new merged health and safety authority?

Yes No

Comments:

We believe that the principles should state specifically that there must be an overall majority of members drawn from organisations representing both sides of industry. We also believe that one of the specific selection criteria should be the ability of the member to work with their constituency in taking soundings and also ensuring their engagement with the Body. While this is suggested in the penultimate principle it should also be within the selection and skills principle.

Question 3 – Do you agree that the governing body of the new merged health and safety authority should consist entirely of non-executive directors?

Yes No

Comments:

This is essential to ensure that the governing body remains, and is seen to be, independent.

Question 4 – Do you agree that the governing body should have the scope to increase in size to 11 independent members should the need arise in future?

Yes No

Do you have views on the right size?

Yes No

Comments:

The current size is correct, maintains a proper balance of representation and is manageable. More members would make it cumbersome.

Question 5 – We would welcome your views on whether we should be doing more to enhance our relationship with stakeholders

Comments:

Amicus believes the HSC has a good relationship with its stakeholders, but that the HSE has become detached from the HSC to an extent, and is also less involved with its trade union and employee stakeholders, as outlined in our introduction above.

Question 6 – Do you agree that prosecution and individual enforcement decisions within a merged health and safety authority should continue to be taken by officials?

Yes No

Comments:

Although we have reservations about the low number of enforcement decisions currently being taken, it would be impossible for the small HSC governing body to be responsible for this: there are too many cases to make this workable and it would unduly delay the enforcement process. It is right that those with the most direct experience of enforcement are the ones that make these decisions.

Question 7 – Do you agree that the merged body should be known as the Health and Safety Executive?

Yes No

Comments:

Although this would be a new body, the HSE is currently the body that most people recognise as being responsible for safety policing. The vast majority of guidance, advice, publications and the website are branded as HSE and rebranding these would waste money better spent on enforcement, lead to confusion, and distract from the main safety promotion and protection work carried out by the HSE.

Question 8 – In your view, how well does this Consultative Document represent the different policy issues involved in this matter:

Very Well Well Not Well Poorly

Comments:

Question 9 – Is there anything you particularly liked or disliked about this consultation exercise?

Comments:

No

Please note: all responses will be placed in HSE Information Centres unless you state specifically that this response, or part of it, should be treated as confidential. To treat your comments on a particular section as confidential, please insert bracketed text 'treat as confidential' within that section's response.

Treat as confidential?

Yes No

How did you hear about this consultation?

HSE consultation letter	<input checked="" type="checkbox"/>	HSE website	<input checked="" type="checkbox"/>	HELA extranet	<input type="checkbox"/>
LAU newsletter	<input type="checkbox"/>	LACORS website	<input type="checkbox"/>	Word of mouth	<input type="checkbox"/>
HSE Inspector/Official	<input type="checkbox"/>	Local Authorities Official	<input type="checkbox"/>	Trade press article <i>(please specify)</i>	<input type="checkbox"/>

Other *(please specify)*

Thank you for taking time to respond to this consultation

Please email this form to: governance@hse.gsi.gov.uk

Alternatively, you can post or fax the form to:

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Fax: 020 7717 6670

Your response should arrive no later than the 5th March 2007

