

HSE's focus on occupational health to continue?

With a new 10-year strategy in the pipeline, will this focus continue and what is this likely to mean for HSE inspection and enforcement activities?

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The HSE's decision to prioritise occupational health in its 2016 "Helping Great Britain work well" strategy has put certain key occupations in HSE's cross-hairs for inspection and potential enforcement actions. With a new 10-year strategy in the pipeline, will this focus continue and what is this likely to mean for HSE inspection and enforcement activities?

The HSE adopted a new Strategy in 2016, titled "Helping Great Britain work well". The new strategy set out six strategic themes for the HSE's work going forward, including tackling workplace ill health.

For HSE this increased focus on workplace ill health has meant prioritising occupational respiratory diseases such as asthma and chronic obstructive pulmonary disease, and occupational cancer for inspection and enforcement. HSE's Acting Head of Manufacturing and Utilities Unit, Clare Owen, has previously pointed out: "12,000 people died last year from lung diseases estimated to be linked to past exposure from work, with thousands more cases of ill-health and working days lost."

Target occupations

The HSE has prioritised specific priority agents / occupations in relation to occupational respiratory diseases and cancers and has published lists of these on its website.

In relation to respiratory diseases target occupations are:

- Agricultural workers
- Bakery workers
- Construction workers
- Foundry workers
- Quarry and stone workers
- Vehicle paint sprayers
- Welders

In relation to occupational cancers the target agents / occupations are:

- Asbestos
- Shift work
- Respirable crystalline silica
- Welding
- Painters
- Diesel Engine Exhaust Emissions
- Solar radiation
- Polycyclic Aromatic Hydrocarbons (PAHs, coal tars and pitches)
- Tetrachloroethylene
- Radon

These lists are not exhaustive. HSE's prioritisation of occupational diseases has included prosecutions in relation to occupations not on this list, including occupational asthma arising from laboratory animal allergy or LAA. LAA is an allergic hypersensitivity response which may develop as a result of exposure to animal allergens. Approximately 20% of people who work with laboratory animals experience some allergic symptoms due to contact with, or inhalation of, animal allergens, and about 10% of all those who work with laboratory animals develop the serious symptoms of asthma.

As niche as LAA may seem, in the last year the HSE has served improvement notices on Cardiff University and Charles River Laboratories Edinburgh Limited in relation to works exposure to animal allergens, demonstrating its determination to deliver on its occupational health objectives across all sectors. In November 2019 the University of Edinburgh was prosecuted and fined £10,000 as we reported at the time.

Consequences of non-compliance

Whether your business is on the list or not, the consequences of non-compliance with health and safety regulations can be serious.

The maximum sentence following either summary conviction or conviction on indictment for health and safety offences is an unlimited fine. [Sentencing Council guidelines](#) for fines applicable to breaches of the Health and Safety at Work Act 1974 suggest a starting point of between £10,000 to £4,000,000 for very large organisations, i.e. those with a turnover of £50 million or more, depending on the culpability of the offender, and the seriousness and likelihood of the harm risked through the offence.

While the offence range stated in the guidelines suggests a maximum of £10,000,000, the guidelines further state that where an offending organisation's turnover or equivalent very greatly exceeds the threshold for large organisations, it may be necessary to move outside the suggested range to achieve a proportionate sentence, implying fines in excess of this.

Future HSE priorities

The HSE is set to develop and publish a new 10-year strategy and revised mission and vision, but COVID has had a significant impact on its activities and progress. HSE's 2020-21 Annual Report confirms that several milestones relating to occupational health were not delivered, including responding to the Department for Health and Social Care (DHSC) green paper: Advancing our Health Prevention in the 2020s, and targeted inspections on the woodworking and fabricated metal manufacture sectors.

For HSE there is unfinished occupational health business to be carried forward, but the statistics present an equal if not more powerful justification for this remaining a priority throughout the next five-year strategy. Estimates based on self-reports from the Labour Force Survey suggest there were 1.6 million work-related ill health cases (new or long-standing), and 38.8 million working days lost due to work-related ill health and non-fatal workplace injuries in 2019/20.

For the HSE occupational diseases are likely to continue to be a priority for inspection and compliance activities beyond 2021. For all businesses, whether they are on the HSE's target lists or not, doing the right thing means ensuring they have measures in place to comply with the law and protect workers from lung diseases such as occupational asthma and lung cancer.

If you have any queries in relation to the topics covered in this blog, please contact Browne Jacobson's Regulatory Team.

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