

From: neville.briscoe@hse.gsi.gov.uk
Sent: 06 September 2001 15:49
To: jane.haswell@btinternet.com
Subject: UKOPA

Jane - as promised, a brief note in response to your letter dated 4 September. Point (ii) - a lot has been said by stakeholders, either as expressions of concern or suggested ways forward. Whilst this is unlikely to produce the definitive response I hope it will either allow us to vary what we have already drafted, or where that proves impossible, to lay the issues open in the formal Consultation Document. In this way the issues/concerns would be openly stated - questions would be asked - options suggested etc.

We would hope to begin redrafting the proposal shortly. I would anticipate its route being to the PEPF for comment; revised/clarified where appropriate, then to ACDS MHSC etc. This would likely be in the form of draft proposed amendment regulations, draft guidance and ACoP, a draft CD, along with details of stakeholder reaction etc.

Point (ii) - ideally, we would like to present a complete package by the time we get to ACDS MHSC, but evidence of work underway would not preclude submission without all the final detail being there. Certainly, by the time it would go to Ministers for the CD publication decision the full package should be there - although as we found with the emergency planning guidance this came quite some time after the regulations actually came into force.

Having a ACoP to support the regulations came out of the PEPF discussion and examples of current working practice. No actual work has been started on this, although one clear view is that it should focus on incident simulation acted out at desktop level, or something along those lines. In terms of who will be responsible, that will fall to me. As to who will actually undertake the work, that could range from me, working with stakeholders or stakeholders going away and doing the work. Whatever, an agreed (one that was fully compliant with HASAW Act) ACoP would then become HSE "property" and become part of the regulatory package.

Point (iii) - at best we would hope to have a draft CD ready by the turn of the year.

Point (iv) - all RIA's are researched and prepared by professional economists employed in the HSE Economic Advisory Unit. They are developed in line with HM Treasury guidelines - Ministers are only likely to publish the CD if they are convinced that the accurate costs of legislative change have been developed and presented in a clear and transparent way, and can then be justified. To do this HSE economists will need to draw information from a variety of sources - the industry, local and national government, the regulating bodies and from a whole range of published data and statistics. This work will only really take effect when the proposed amendment package is ready - whilst this might not be the final package it would enable realistic costs to be set, around what we expect to be in place, as opposed to what stakeholders assume will obtain. It will be at that point when real questions about the balance between the costs of change and how people are going to benefit, alongside getting the words to balance with the intent.

With regard to your final point on the duty, we have noted what has been said, and although HSE has no plans to propose amendment to the absolute duty (where it applies), it is likely that the arguments, including those raised by UKOPA and some individual companies, will be considered at the formal consultation stage.

I am sorry I have had to rush at this. I hope it not only addresses the issues but also that much is still to be developed.

Neville Briscoe

PS Hope you were able to access the Cabinet Office website re the EP Review
PPS Include LA's in any thoughts you might be having with regard to an ACoP -
the plans are their responsibility with any duty to test falling on them

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