

## A guide to health and safety regulation in Great Britain



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This guide outlines the occupational health and safety system in Great Britain. It responds to the many requests for information we receive from international visitors, enquirers and researchers, although many in Great Britain will also find it informative. It also describes briefly the work HSE does, in partnership with local authorities, to protect the public from the risks from work activities.

The health and safety system in Great Britain has now been in place for over 30 years, and has stood the test of time. The foundation of the existing system was established by the Health and Safety at Work etc Act 1974. This legislation has at its heart a simple but enduring principle – those who create risk are best placed to control that risk, whether employers, the self-employed or manufacturers of articles or substances for use at work.

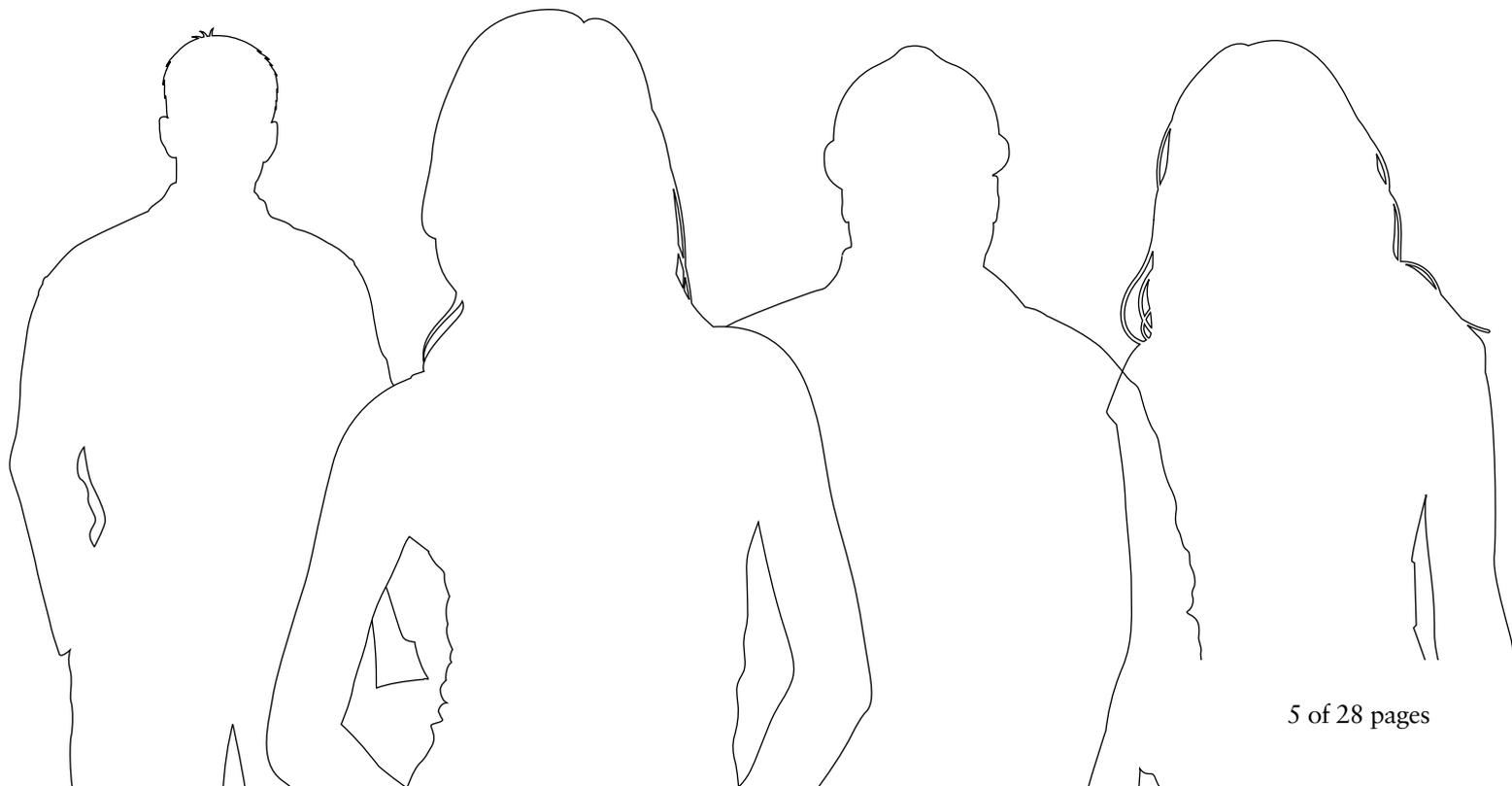
The performance of the health and safety system in Great Britain is a largely unheralded success story of the last 40 years. Great Britain has one of the best combined health and safety records in the world. Many other countries look to our model as an exemplar, so it is right that we articulate what the system is. But we are not complacent and we are always keen to listen to and learn from the experience of others.

Looking to the future, we still believe that the sensible management of risk in partnership with everyone involved is the way forward, starting with good leadership from employers and managers.

I hope you find this useful and interesting.

Judith Hackitt  
Chair Health and Safety Executive

- › Great Britain has a tradition of health and safety regulation going back over 150 years. The present system came into being with the Health and Safety at Work etc Act (HSW Act) in 1974 with further significant modifications in 2008. The effect of this is to provide a unified institutional structure and legal framework for health and safety regulation.
- › The Health and Safety Executive (HSE) enforces the law in many workplaces, ranging from health and safety in nuclear installations and mines, through to factories, farms, hospitals and schools, offshore gas and oil installations, the safety of the gas grid and the electricity distribution system, the movement of dangerous goods and substances and many other aspects of the protection both of workers and the public. In addition, over 400 local authorities are responsible for enforcement in a wide range of other activities, including the retail and finance sectors, and other parts of the services sector, particularly leisure.
- › The standards of health and safety achieved in Great Britain are delivered by the flexible regulatory system introduced by the HSW Act, and are typified by the Management of Health and Safety at Work Regulations 1999. They also reflect a long tradition of health and safety regulation going back to the 19th century. Since the HSW Act was passed, HSE has been engaged in progressive reform of the law, seeking to replace detailed industry-specific legislation with a modern approach in which regulations, wherever possible, express goals and general principles, and detailed requirements are placed in codes and guidance. Approved codes have a special place in British health and safety law – they set out ways of achieving standards. Those who depart from a code must be prepared to show that their own approach is an equally valid way of meeting the legal requirements. In this way, flexibility is allowed for technological development within a framework set by mandatory regulations.
- › A fundamental principle of the British system is that responsibility for health and safety lies with those who own, manage and work in industrial and commercial undertakings. This includes the self-employed. They must assess the risks attached to their activity and take appropriate action. Workforce involvement and, in particular, the work of health and safety representatives, has made an important contribution to raising standards of health and safety.
- › The need to take appropriate action to reduce risks lies behind the qualification ‘so far as is reasonably



practicable', which is widely used in British health and safety law. This, in effect, requires that good practice should be followed whenever it is established. It sets a high standard: a dutyholder must take all possible precautions up to the point where the taking of further measures would be grossly disproportionate to any residual risk.

feed information back to the policy and technical centres of HSE. All can call, where necessary, on the experience and expertise within their own and other inspectorates and elsewhere in HSE.

- › In enforcing the law, health and safety inspectors have important statutory powers. They can and do enter premises without warning. If they are not satisfied by health and safety standards, they can offer information and advice (both face to face and in writing), issue improvement notices requiring problems to be put right within a specified time, serve a prohibition notice stopping activity either with immediate or deferred effect, and (in England and Wales) prosecute for the most serious failings. In Scotland, inspectors make a report to the Procurator Fiscal who decides whether to prosecute.
- › Some health and safety inspectors are trained in systems and principles applicable to a wide range of activities, while others specialise in a single high-hazard industry, for example, nuclear power, mining, explosives or offshore oil and gas. All are highly trained to use discretion in applying the law and to



### The Health and Safety Executive

HSE consists of a governing Board of up to 12 non-executive directors and approximately 3500 staff. Members of the Board are appointed by the Secretary of State for Work and Pensions after consultation with organisations representing employers, employees, local authorities and others, as appropriate. HSE's staff include inspectors, policy advisers, technologists, and scientific and medical experts.

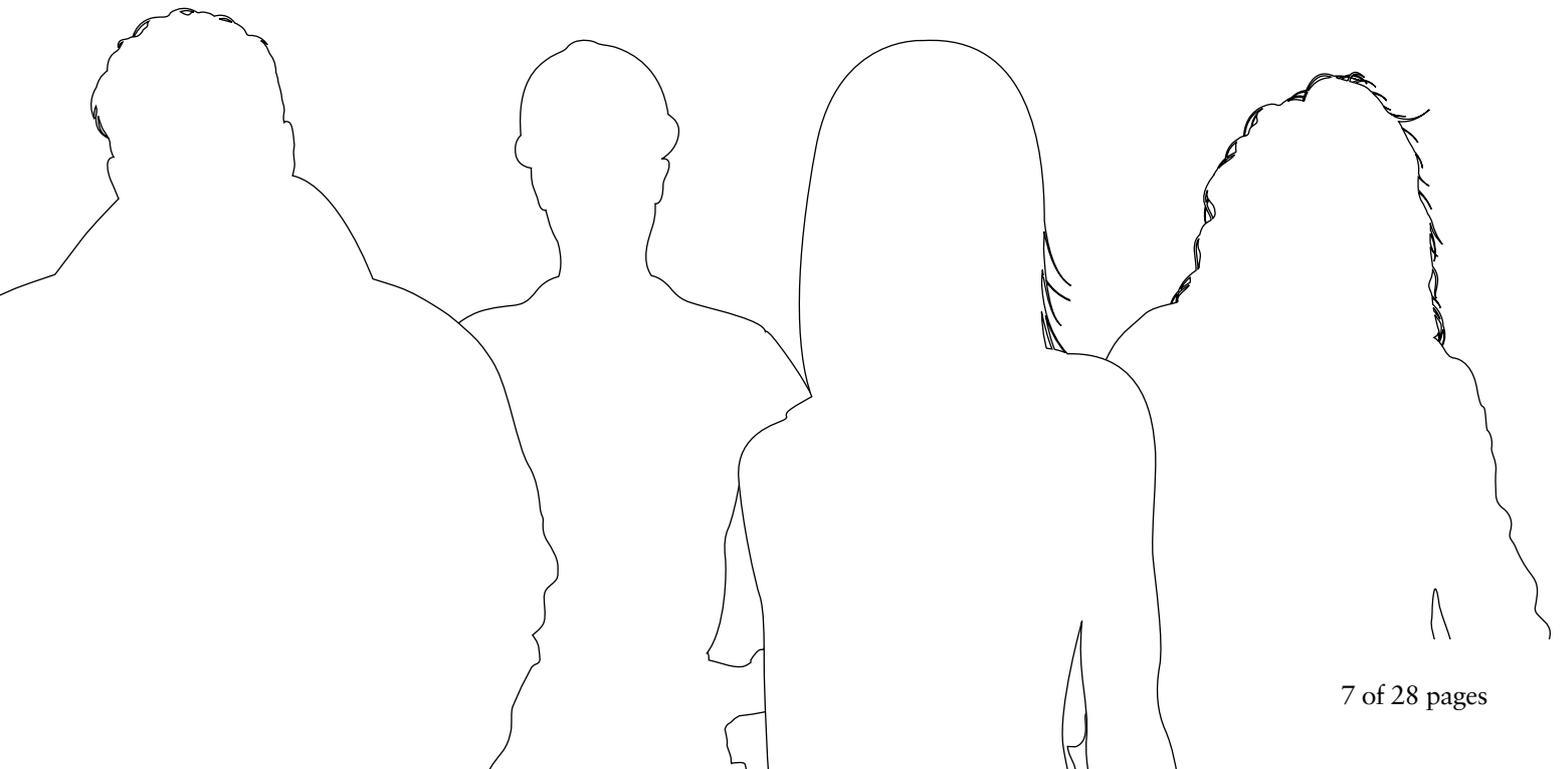
The HSW Act and related legislation are primarily enforced by HSE or local authorities, according to the main activity carried out at individual work premises. The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different premises between local authorities and HSE.

HSE's statutory responsibilities under the HSW Act include proposing health and safety law and standards to ministers. In preparing its proposals, it relies on the advice of its staff and on scientific research carried out by its in-house agency the Health and Safety Laboratory (HSL) and externally. It also consults extensively with organisations representing professional interests in health and safety, business managers, trade unions, and scientific and technological experts. This is managed through a network of advisory committees and by public invitation to comment on particular

proposals. Special efforts are made to seek the views of small firms, often using a range of intermediary organisations representing trade, sector or business interests.

### Local authorities

Local authorities enforce health and safety law mainly in the distribution, retail, office, leisure and catering sectors. HSE liaises closely with local authorities on enforcement matters through the HSE/Local Authorities Enforcement Liaison Committee (HELA). Partnership teams (comprising HSE and local authority staff) and an enforcement liaison officer network in HSE regional offices across Britain also provide advice and support. HELA was set up in 1975 to provide effective liaison between HSE and local authorities. Reconstituted in 2006, it provides a strategic oversight of the partnership aiming to maximise its effectiveness in improving health and safety outcomes – including enforcement priorities for local authorities. A Local Government Panel, comprising local authority councillors, was also established in 2006 and regularly meets the HSE Board for a strategic dialogue on local, central and devolved government issues that impact on health and safety regulatory functions. It also reviews the effectiveness and performance of the partnership between the two enforcing authorities.



## Ministerial responsibilities

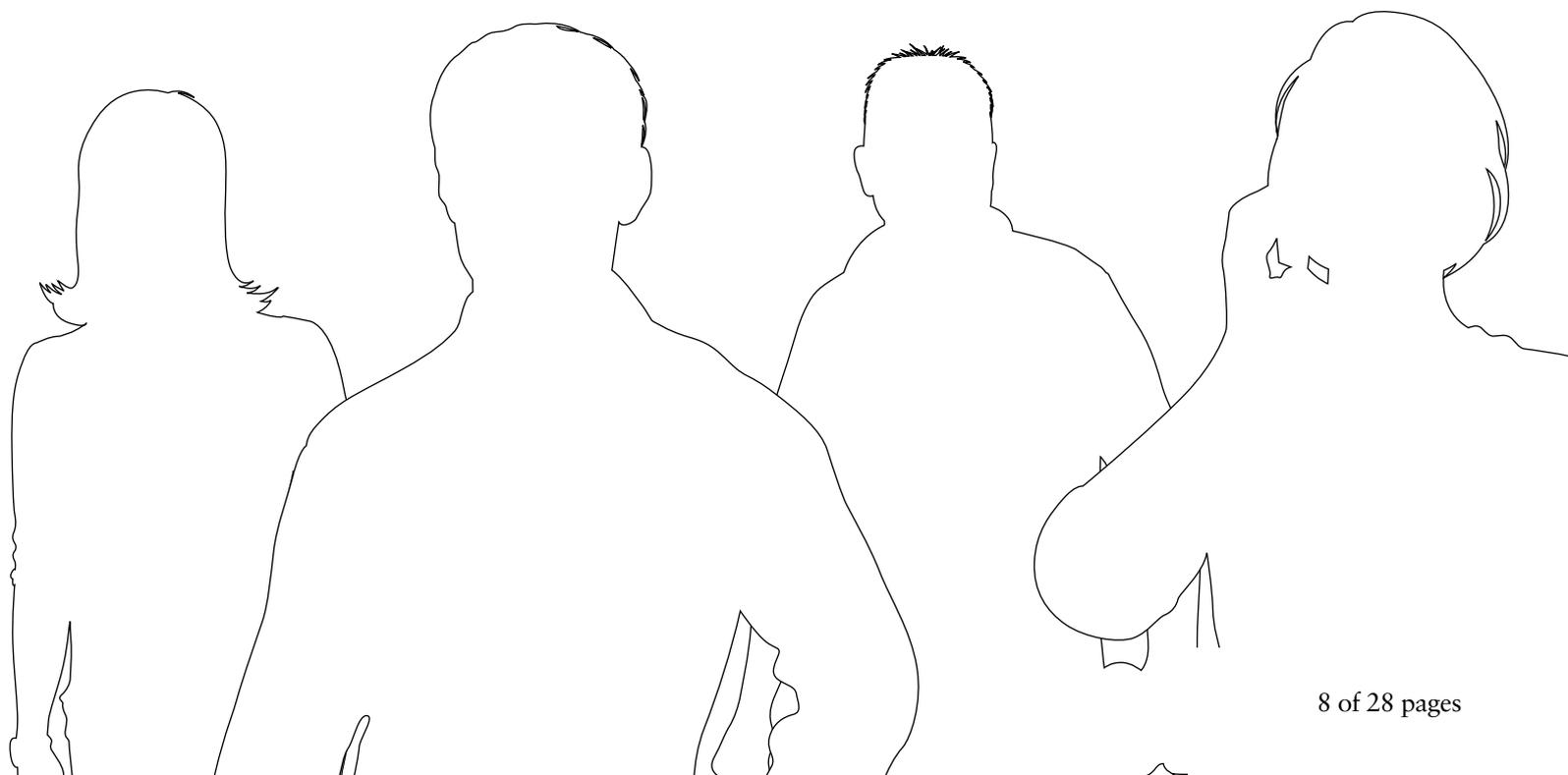
Health and safety is regulated in the same way across the whole of Great Britain and a number of different Secretaries of State are responsible to Parliament at Westminster for the activities of HSE in different areas. The Secretary of State for Work and Pensions answers to Parliament on HSE's staffing and resourcing, on matters affecting protection of workers and on all other HSE activities, except when these come within the specific area of responsibility of another Secretary of State, eg the Secretary of State for Energy and Climate Change on nuclear safety, the Secretary of State for Business, Enterprise and Regulatory Reform on the health and safety aspects of barriers to trade, the Secretary of State for Environment, Food and Rural Affairs on certain aspects of pesticide safety, and the Secretary of State for the Home Department on the security of explosives. In most of these matters, HSE and local authorities act by virtue of their powers and duties under the HSW Act and its associated legislation, or European legislation. In a few, they act under agreements as the agent of the Secretary of State concerned.

HSE is required to submit to the Secretary of State such proposals as it considers appropriate for making regulations under any of the relevant statutory provisions, and to submit to the Secretary of State

particulars of what it proposes to do for the purpose of performing its functions. HSE is also required to ensure that its activities are in accordance with proposals approved by the Secretary of State. The Secretary of State has the power to direct HSE in particular matters (although they may not give directions with regard to the enforcement of the relevant statutory provisions in any particular case). In practice, almost all health and safety proposals since the 1974 Act have been put forward to ministers by HSE. In exercising their responsibilities for negotiating and implementing European health and safety law, ministers have always looked to HSE for help and advice.

## Advisory committees

HSE provides policy, technological and professional advice. Other expert advice comes from HSE's network of advisory committees who deal with particular hazard areas and some with particular industries. Each includes a balance of employer and employee representatives and, where appropriate, technological and professional experts. The committees are supported by HSE staff whose main function is to recommend standards and guidance and, in some cases, to comment on policy issues or to recommend an approach to a particular new problem.



## Consultation

HSE consults those who are likely to be affected by any proposal before it goes forward to the formal stage. Though this process frequently makes use of the advisory committee network, it normally extends more widely. Within HSE, policy staff make use of the expertise of inspectors, scientists and technologists during the process of working up proposals into a practical form, as well as consulting local authorities.

Before it puts forward proposals for new legislation or codes of practice to ministers, HSE issues formal consultation documents which are made publicly available and which have a very wide circulation. This ensures that HSE, in finalising its proposals, is aware of the views of a range of people and institutions that may be affected by new health and safety provisions.

The same procedure is followed whether the proposed law on standards originated domestically or from the European Union (EU). Though the consultation process in the latter case is necessarily constrained by the terms of the EU legislation, questions will normally arise about application and interpretation, about the chosen method of implementing a directive, and about any options or consequences for the reform of related British law. In every case it is HSE's objective to ensure, both in the negotiation of European proposals and in their implementation, that established British standards are maintained or improved.

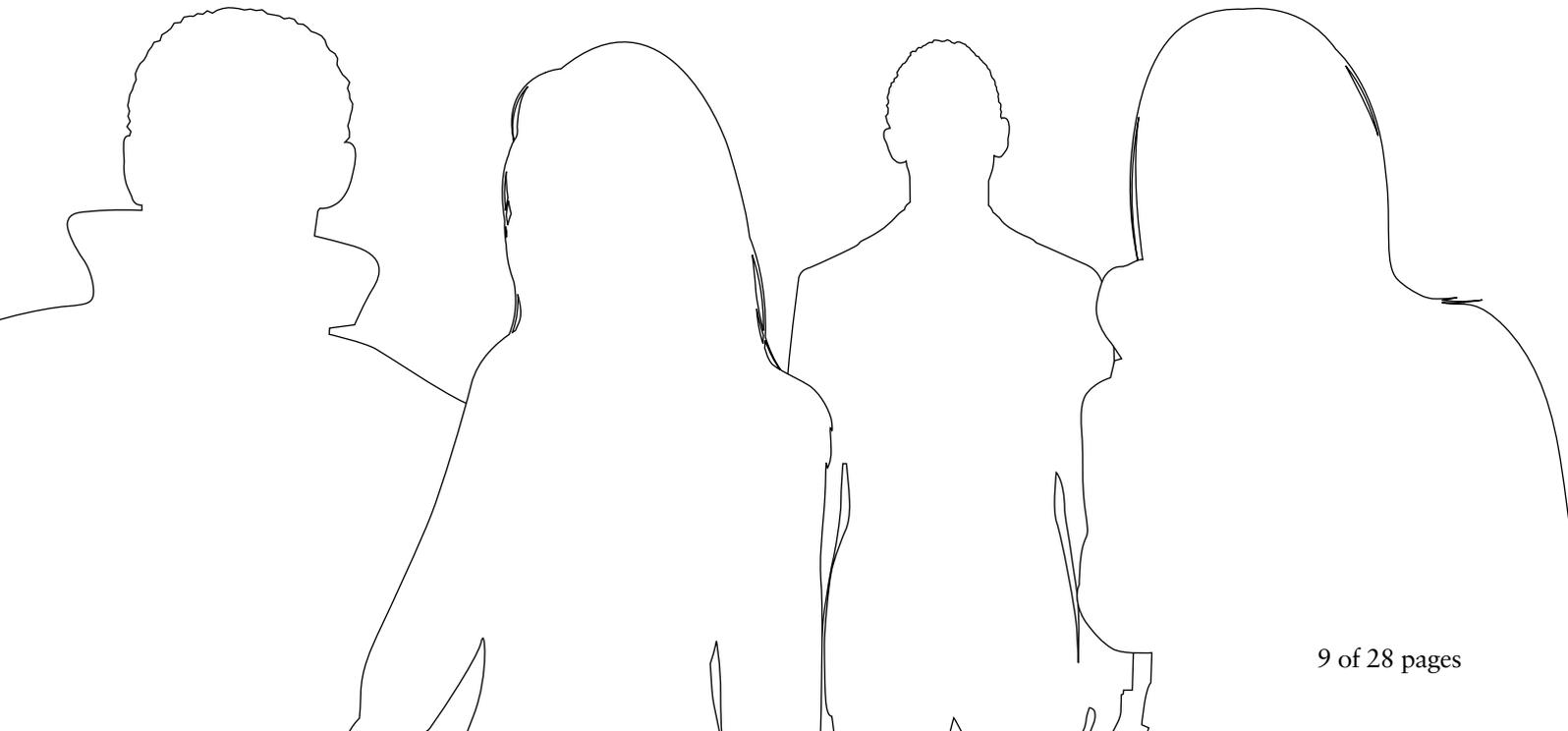
HSE has links with other bodies, notably universities,

engineering institutions and the Health Protection Agency, which has a national function in relation to ionising and other radiations, infectious diseases and chemical incidents. Close contact is also maintained with professional and scientific societies, for example, the Royal Society, the British Occupational Hygiene Society, the Institution of Occupational Safety and Health and the Royal Society of Chemistry, which make a major input into the development of the scientific and technical base of occupational health and safety in the UK.

Internationally, HSE assists and co-operates with the main institutions – notably those of the European Union (the Directorates General of the Commission, their advisory committees and working groups, and the European Agency for Safety and Health at Work), but also those of the Organisation for Economic Co-operation and Development (OECD), the International Labour Organization (ILO), the World Health Organization (WHO), and the International Atomic Energy Agency (IAEA) in developing and applying international standards, codes and guides.

## Limits of HSE's responsibilities

Certain areas of risk or harm directly or indirectly related to work activity are covered by legislation other than the HSW Act and are not dealt with by HSE. These include consumer and food safety, marine, railway, and aviation safety and most aspects of environmental protection.



## Organisation

The Health and Safety Executive brings together staff from a range of different backgrounds including:

- › administrators and lawyers with experience of policy development in government departments;
- › inspectors;
- › scientists, technologists and medical professionals;
- › information and communications specialists, statisticians and economists; and
- › finance, accounting and personnel specialists.

## Policy

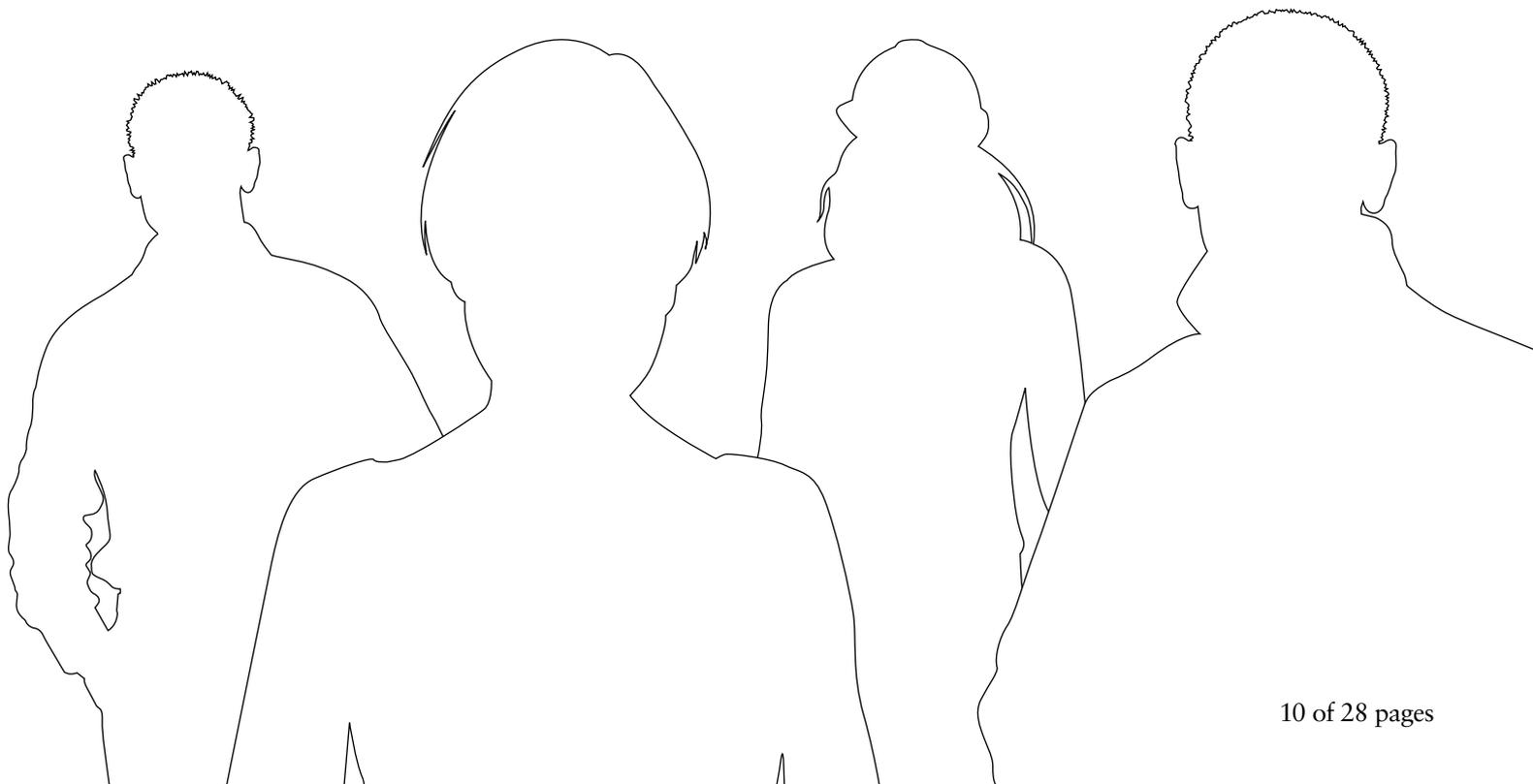
Policy staff from all these backgrounds work across HSE to advise on policy concerns, including legislation. They ensure, among other things, that HSE's proposals are legally sound, embody high technical and scientific standards, have taken into account EU and other international requirements and are, in practice, enforceable. Policy staff are active in consulting stakeholders, liaising with other ministries, preparing briefings for ministers and Parliament and negotiating in a variety of EU and international working groups concerned with new legislation and standards.

## Inspection

Most of HSE's inspectors work in the Field Operations Directorate (FOD), working from HSE offices across Britain. FOD inspectors are organised in geographical teams covering a diverse range of sectors and work activities with dedicated teams to deal with the construction industry. Inspectors work with, and are supported by, medical and other specialists who are also located in the regional offices. Their work is mainly concerned with inspection, investigating incidents and complaints, and enforcement, but they have a variety of other responsibilities including local authority liaison.

Inspectors also act as front-line contacts with the public who may, for example, seek advice on hazards affecting them. FOD also has health and safety awareness officers whose primary role is to provide advice and guidance to small businesses through site visits and educational events; they will also support inspectors in complex investigations and other work.

HSE regulates the nuclear industry through its Nuclear Directorate (ND). ND's primary goal is to ensure that those it regulates have no major nuclear accidents. The Nuclear Installations Act 1965 requires that the operator of a nuclear installation must hold a licence granted by HSE. The Act allows HSE to attach such conditions to the licence that it considers necessary



in the interest of safety. Licensing does not absolve operators of nuclear installations from the requirements of the Health and Safety at Work etc Act. These requirements provide protection for workers and the public from ionising radiation and are enforced by ND on nuclear sites. Since April 2007 the staff responsible for civil nuclear operational security and safeguards matters have been part of ND.

The Hazardous Installations Directorate (HID) is responsible for enforcing health and safety legislation in: 'upstream' petroleum and diving industries; sites where chemicals are manufactured or processed, large quantities of hazardous chemicals are stored, explosives are manufactured, processed or stored, or biological agents (including human and animal pathogens) and genetically modified organisms are handled; pipelines transporting hazardous substances; road transport of hazardous substances; and mining operations and mining exploratory drilling. HID also advises local authorities on planning for hazardous installations and other development in the vicinity of such installations.

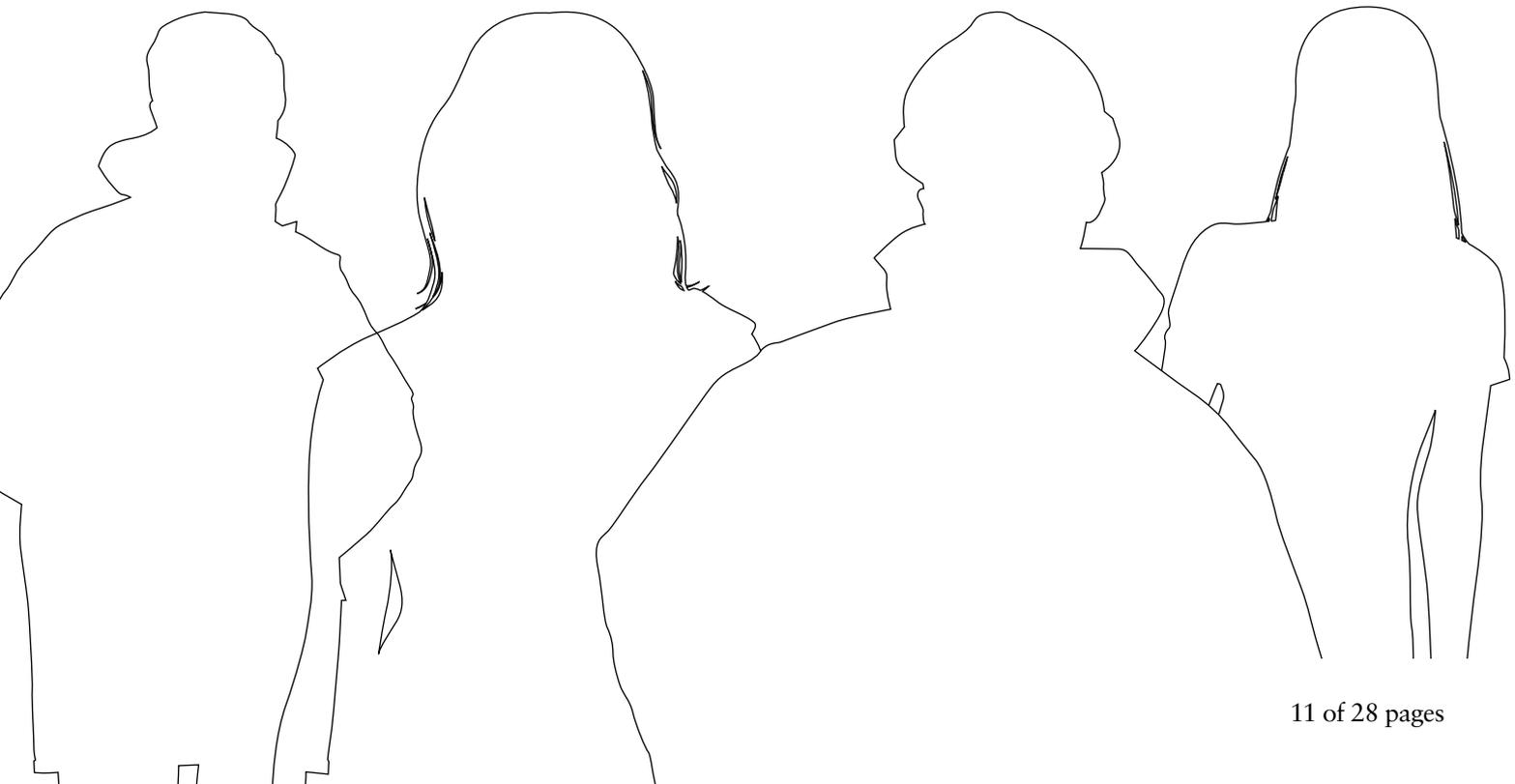
## Science and technology

HSE uses high-quality scientific and technological evidence to help it be an effective regulator and to ensure that policy and standards are technically sound and cost

effective. HSE commissions a wide range of work on science and technology – around a quarter of the annual budget on original research and the rest on support including applied research, investigating incidents and analysing and assembling evidence to support enforcement action.

HSE's Science and Innovation Strategy describes how it applies science and technology in support of its mission to ensure that risks from work activities are properly controlled. In particular, the strategy explains how scientific resources are deployed to meet the business targets set out in the Strategic Plan.

HSE sources its scientific and engineering expertise from various groups: academia, external contractors, HSL and its own staff. The type of work commissioned varies from longer-term scientific analysis through to scientific support for investigations. HSL's primary roles are to provide investigative work and services arising from HSE's day-to-day operation, which often require a rapid multidisciplinary response. Much of the scientific and technological content of policy development and operational casework is provided by staff who are highly qualified in a range of industrial and scientific disciplines, and work across HSE's operating directorates and in HSL. HSE maintains a dedicated horizon-scanning team based at HSL to keep the health and safety consequences arising from new trends in science and technology under



review. HSE's Chief Scientist is also Director of the Chief Scientific Adviser's Group which brings together statisticians, epidemiologists, economists and social scientists to ensure that the evidence base for future policy making is robust and scientifically based.

## Scotland

The health and safety system in Scotland is the same as in England. Inspection arrangements and accountabilities involving HSE and 32 Scottish local authorities are similar to the rest of Great Britain. The area of greatest difference is Scotland's distinctive legal system; only the Crown Office and Procurator Fiscal Service can prosecute and HSE prepares cases for their consideration. The Scottish Government has devolved powers in relation to health, education, environment, the Fire and Rescue Service etc, and as a consequence different arrangements are made with ministers and other stakeholders in Scotland in relation to consultation, engagement and implementation of legislative changes, and in developing and implementing inspection priorities and programmes. HSE has established a Partnership on Health and Safety in Scotland (PHASS) with the devolved administration, business and union stakeholders and the interested professional bodies to ensure that initiatives are undertaken jointly wherever possible.

## Wales

The health and safety system and the legal system in Wales is the same as in England. Inspection arrangements and accountabilities involving HSE and Welsh local authorities are the same as in England. The Welsh Assembly Government has devolved powers in relation to health, education, environment, the Fire and Rescue Service etc, and as a consequence different arrangements may need to be made with ministers and other stakeholders in Wales in relation to consultation, engagement and implementation of legislative changes, or in developing and implementing inspection priorities and programmes.

## Diversity

HSE is committed to protecting the health and safety at work of all people in Britain. We consider carefully how our policies need to take account of the needs of different groups in Britain's diverse workforce and ensure that HSE is reaching people from different groups effectively, with messages they find accessible and culturally acceptable.



### Duties imposed by the Act

The Health and Safety at Work etc Act 1974 is based on the principle that those who create risks to employees or others in the course of carrying out work activities are responsible for controlling those risks. The Act places specific responsibilities on employers, the self-employed, employees, designers, manufacturers, importers and suppliers. The Act and associated legislation also place duties in certain circumstances on others, including landlords, licensees and those in control of work activities, equipment or premises. Under the main provisions of the Act, employers have legal responsibilities in respect of the health and safety of their employees and other people who may be affected by their undertaking and exposed to risks as a result. Employees are required to take reasonable care for the health and safety of themselves and others.

Most duties are expressed as goals or targets which are to be met 'so far as is reasonably practicable', or through exercising 'adequate control' or taking 'appropriate' (or 'reasonable') steps. Qualifications such as these involve making judgments as to whether existing control measures are sufficient and, if not, what else should be done to eliminate or reduce the risk. The main duties placed on employers and the self-employed under sections 2 and 3 of the Act, for example, are qualified by the phrase 'so far as is

reasonably practicable'. This means that the extent of the risk must be balanced against the difficulty involved (in terms of time, money or trouble) in controlling the risk further; additional controls are not necessary if the difficulty in implementing them would be grossly disproportionate to the risk, or to the reduction in risk that would be achieved. This judgment is an essential part of the risk assessment process and will be informed by approved codes of practice, published standards and HSE or industry guidance on good practice where available. The size of the business and its financial strength do not determine the health and safety standards to be achieved.

### Regulations, codes of practice and guidance

The Act states that legislation passed before 1974 should be 'progressively replaced by a system of regulations and approved codes of practice'. At the time the Act came into force there were some 30 statutes and 500 sets of regulations. In carrying out the reform of the law, the general principle has been that regulations, like the Act itself, should, so far as possible, express general duties, principles and goals and that subordinate detail should be set out in approved codes and guidance. Following a review of health and safety regulation in 1994 the process of reform continues. Further change results



from the European legislative process, which sometimes imposes more detailed and specific requirements than would be envisaged under the Act.

Regulations are made by the appropriate government minister, normally on the basis of proposals submitted by HSE after consultation, as previously explained. They have to be laid before Parliament and become law 21 days after being submitted to Parliament, unless an objection is made.

Approved codes of practice (ACOPs) are approved by HSE with the consent of the appropriate Secretary of State – they do not require agreement from Parliament. ACOPs have a special status in law. Failure to comply with the provisions of an ACOP may be taken by a court in criminal proceedings as evidence of a failure to comply with the requirements of the Act or of regulations to which the ACOP relates, unless it can be shown that those requirements were complied with in some other equally effective way. ACOPs (which can be updated more easily) provide flexibility to cope with innovation and technological change without a lowering of standards.

## Providing information and advice

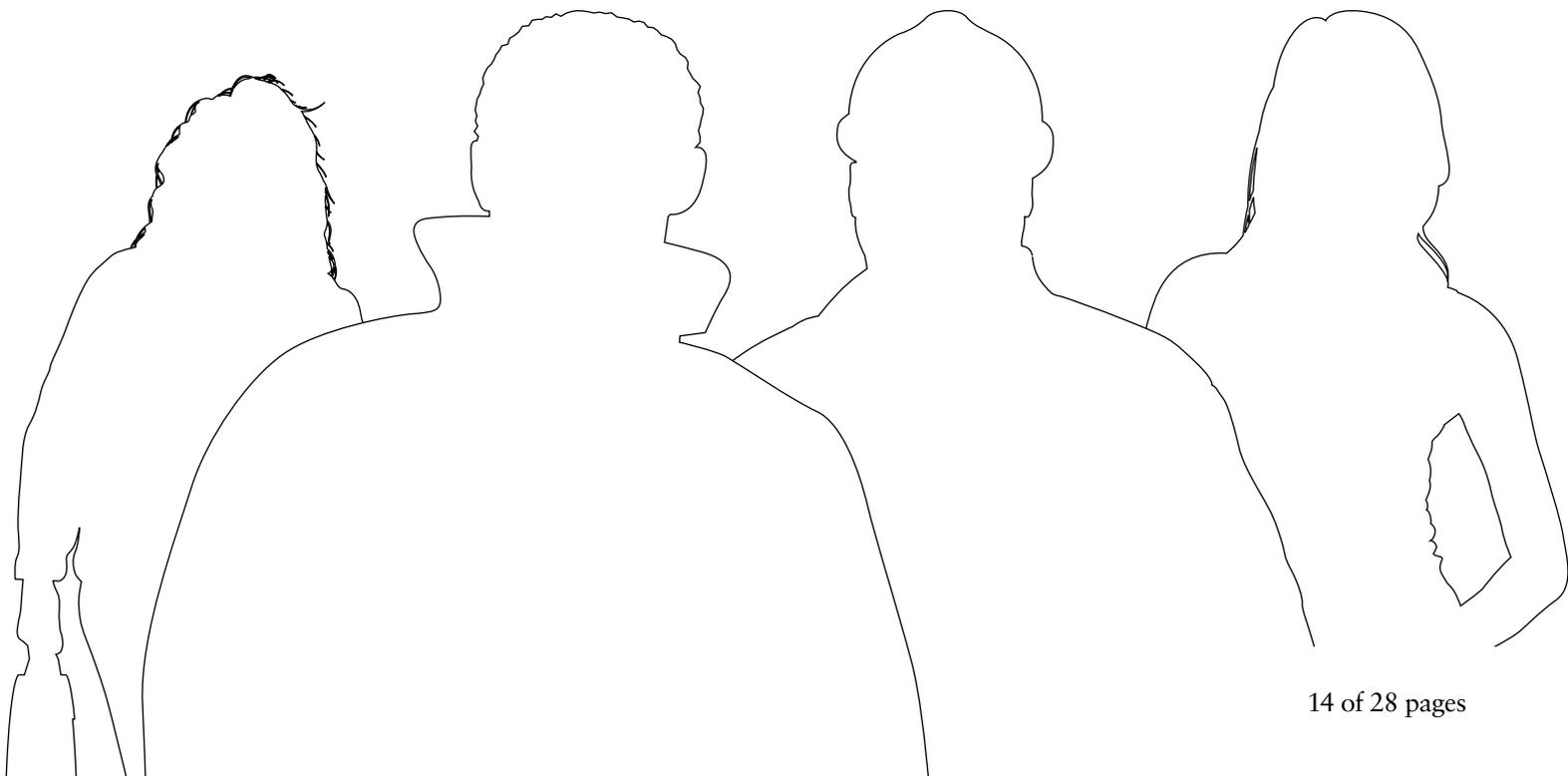
HSE's principal means for providing health and safety information is its website. With nearly 22 000 web pages and documents, it is one of the most popular in

government in terms of the number of hits it receives each year (24 million). HSE has a range of free leaflets which are also available through its website. It distributes some four million hard copies each year at events or in response to requests from businesses, organisations and the public. Alongside this guidance, HSE maintains a limited portfolio of priced publications which bring together detailed guidance on aspects of health and safety legislation and good practice. HSE's leaflets and books are available from HSE Books.

## Europe and the world

The UK implements health and safety legislation based on European directives and/or regulations. A key element is the health and safety Framework Directive (89/391/EEC), primarily implemented in Britain by the Management of Health and Safety at Work Regulations, which established broadly based obligations for employers to evaluate, avoid and reduce workplace risks. A range of related and other directives, implemented through national regulations, cover:

- the management of specific workplace risks (such as musculoskeletal disorders, noise, work at height or machinery);
- the protection of specific groups of workers (such as new or expectant mothers, young people and temporary workers);



- › measures to complete and maintain the single market in the EU; and
- › the protection of the environment.

The UK promotes decent working conditions worldwide as a member of the International Labour Organization, in part by adopting and ratifying conventions on occupational health and safety. In addition, the nuclear sector is regulated in accordance with International Atomic Energy Agency standards and HSE's Nuclear Directorate is an active member of the Western European Nuclear Regulators Association.

## Competent authorities

HSE has been designated as the competent authority under a number of European laws, including those concerning:

- › the registration, evaluation, authorisation and restriction of chemicals (REACH);
- › plant protection products;
- › biocidal products; and
- › the prevention of major industrial accidents (jointly with the Environment Agency and the Scottish Environmental Protection Agency).

## Standards

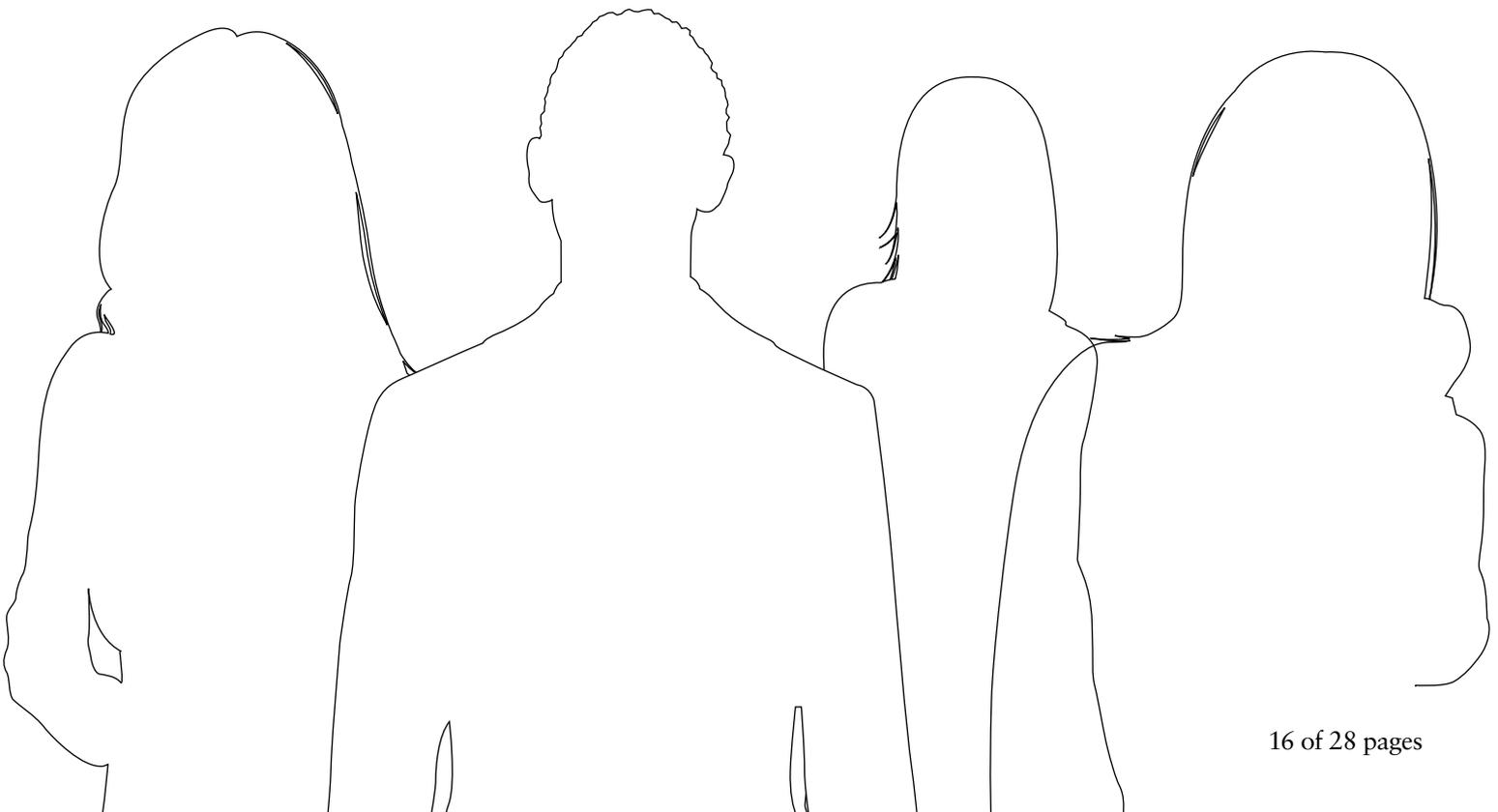
Information from inspections and investigations is used when developing standards, which may be published as informal guidance or as formal standards. The British Standards Institution (BSI) is the national body responsible for the development of British Standards. The vast majority of these are transposed European or international standards. BSI is the gateway to UK participation in the Comité Européen de Normalisation (CEN) and International Organization for Standardization (ISO) and, through the British Electrotechnical Committees, in the Comité Européen de Normalisation Electrotechnique (CENELEC) and the International Electrotechnical Commission (IEC). HSE is a major contributor – often on behalf of BSI – to the development of many of the standards which have health and/or safety aspects.

Standards vary in type from specifications of performance goals, to guidance on operational practice, to design criteria for industrial products. They are sometimes referred to in HSE's published guidance and occasionally, use of standards is required in health and safety regulations and codes. In a policy statement published in 1996, HSE emphasised the continuing



importance of standards as a form of guidance in promoting health and safety. The statement also said that HSE would make a major contribution to standard making where health and safety matters appear to justify it and resources are available. This policy statement still forms the basis of HSE's involvement in standards work. Input by HSE into the development of standards is seen by our stakeholders to be beneficial and an effective and efficient way to influence behaviour of businesses and dutyholders in general without the need for direct intervention in the form of enforcement.

The development of harmonised safety standards in support of 'New Approach' directives made under Article 95 (formerly Article 100a) of the Treaty of Rome has represented a substantial element of HSE's work in connection with the single market. These standards are of particular importance since they allow manufacturers to design and build products to the harmonised standards, and then claim they have met the essential health and safety requirements in the relevant directives.



In developing its policy, HSE follows the principles of good regulation as adopted by the UK Government under the following headings:

- › transparent: any regulation must be easy to understand with aims written in clear and simple language. People and businesses are given an opportunity to comment and time to comply before introduction;
- › accountable: HSE answers to ministers, Parliament and the public for any legislation it proposes, with appeals procedures for enforcement actions;
- › targeted: any regulation is focused on the problems and reduces adverse side effects to a minimum, where possible being goal-based, and regularly reviewed for effectiveness;
- › consistent: new legislation is consistent with existing regulations – in health and safety and other subjects – and compatible with international law and standards; and
- › proportionate: the effect that regulations have on people and businesses provides a balance between risk and cost, and alternatives to state regulation (such as guidance or electronic toolkits) are fully considered.

To follow these principles, policy staff are responsible for considering a broad range of options during the development of any legislative initiative, whether this originates from the identification of an issue peculiar to Great Britain or from a European or international

initiative. This starts with the collection of evidence to justify the intervention – from various sources, such as experience with enforcement of existing legislation, scientific data and, if necessary, specially commissioned research. Alternative solutions, including non-legislative ones, are considered, an impact assessment carried out, and associated existing legislation considered for contradictions or compatibility. In line with the UK Government's 'Think Small First' initiative, we particularly consider the impact of our policies on small businesses – 99% of Britain's businesses are small and medium enterprises and they employ 50% of its workforce. We are also concerned to ensure that our proposals do not discriminate unfairly against any person or group.

Once the alternative solutions have been developed, this analysis is often made available to interest groups and the public for their views. This frequently takes place in two stages: the issue of a discussion document, where the problem is described and views are sought on appropriate action, and a consultative document, where the details of the options are presented and views sought on practicability. The results of this policy development process and the consultations are then presented to the HSE Board for them to advise ministers on the appropriateness of the regulations, if this is the option selected. If all agree that regulation is necessary, associated guidance is produced and issued well in advance of the implementation date of the regulations.



This process is designed to obtain broad public support, avoid unintentional consequences, and produce a solution which is enforceable and takes account of careful consideration of the risks, costs and benefits.

## Impact assessment

All new policy initiatives, both regulatory and non-regulatory, that are likely to have an impact on dutyholders (businesses, charities and the public sector) need to be supported by an impact assessment. This:

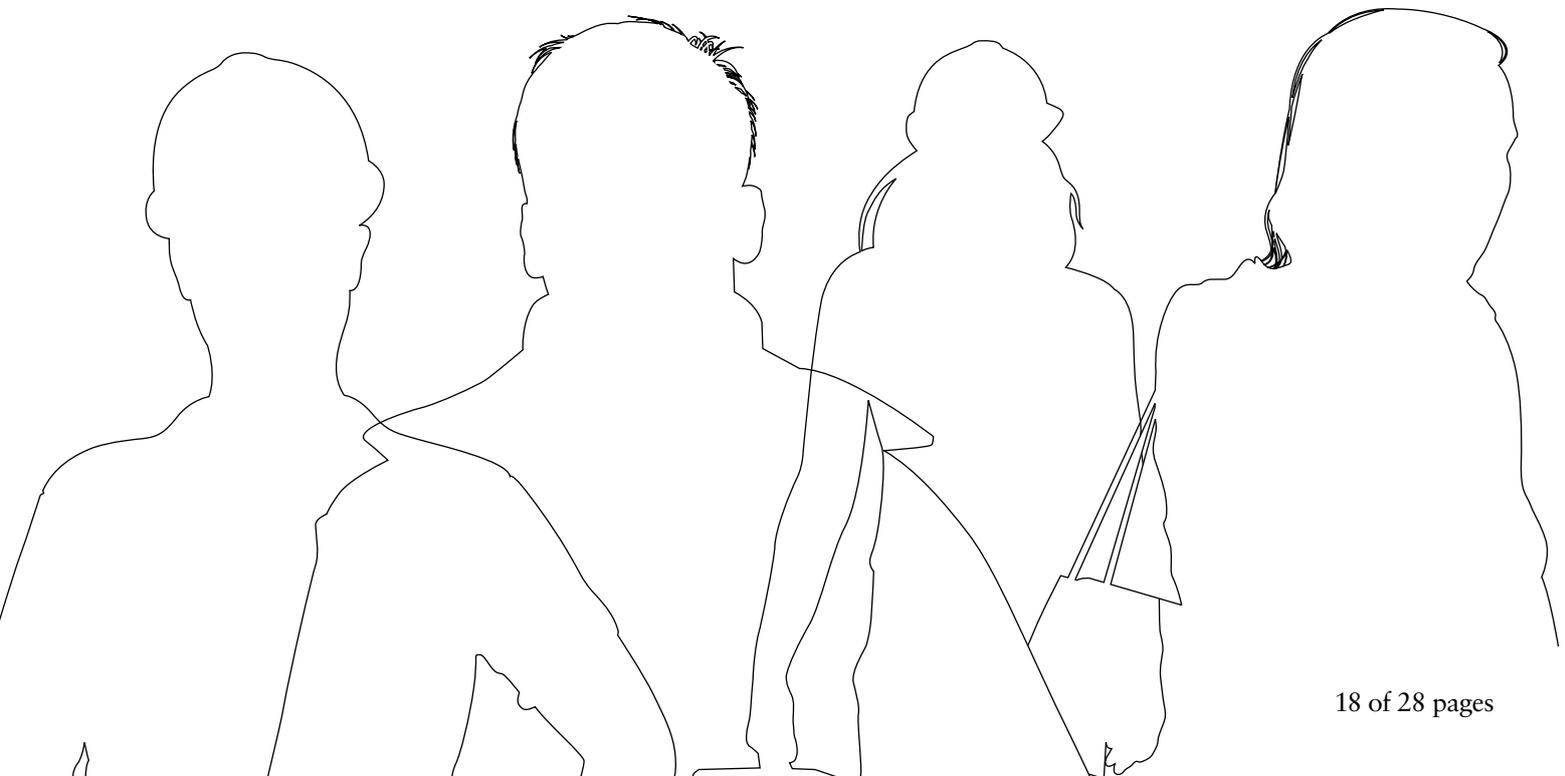
- identifies the rationale for government interventions and defines the specific objectives and intended outcomes of the initiatives;
- assesses the risks;
- assesses the benefits and costs for each option, including a 'do nothing' baseline case, in (where possible) monetary terms;
- summarises which sectors or groups of society will bear these costs and benefits, and identifies and assesses any issues of equity or fairness;
- assesses a range of other impacts, such as impact on small firms, on competition, on the environment, on carbon emission and on gender, race or disability equality;
- sets out the arrangements for securing compliance, with details of sanctions for non-compliance; and

- identifies how the policy will be monitored and evaluated, with results feeding back into the process of policy development.

The impact assessment develops throughout the policy process. A draft accompanies the consultative document and feedback is used to refine the analysis. The final results are presented to ministers or, depending on the type of initiative, other relevant parties who having read the impact assessment sign a statement which states they are satisfied that '...it represents a reasonable view of the likely costs, benefits and impact of the leading options'.

## Evaluation and review

Plans for evaluation of the impact of legislation are required before its introduction. These use the data gathered earlier in the process, which was used to justify the intervention, to contribute to a definition of a baseline and to allow the impact of the regulations to be quantified. The success of the legislation will be judged against how well it meets its objectives. Legislation, once introduced, is normally evaluated against a pre-announced timetable. The aim is to repeat this process at intervals to identify whether the legislation should be modified or repealed.



### Powers of inspectors

The HSW Act and related legislation are primarily enforced by HSE or local authorities, according to the main activity carried out at individual work premises. The Health and Safety (Enforcing Authority) Regulations 1998 allocate the enforcement of health and safety legislation at different premises between local authorities and HSE.

The main object of inspection is to stimulate compliance with health and safety legislation and to ensure that a good standard of protection is maintained. Inspectors have, and make use of, important statutory powers. They can enter any premises where work is carried on, without giving notice. They can talk to employees and safety representatives, take photographs and samples, and impound dangerous equipment and substances. If they are not satisfied by the levels of health and safety standards being achieved, they have several means of obtaining improvements:

- › verbal or written information and advice;
- › improvement or prohibition notices. An improvement notice requires a contravention to be remedied within a specified time. A prohibition notice is issued if there is, or is likely to be, a risk of serious personal injury, and it requires an activity to be stopped immediately or after a specified time unless remedial action is

taken. There is a right of appeal to an employment tribunal; improvement notices are suspended pending the hearing of the appeal but a prohibition notice remains in force unless the tribunal directs otherwise;

- › prosecution in the criminal courts. In England and Wales most cases are heard by magistrates who may, for serious offences, impose a maximum fine of £20 000. Some cases are referred to the Crown Court where there is no limit on the fine that may be imposed. In Scotland cases are taken in the sheriff courts either on summary procedure or on indictment procedure before a jury. Certain very serious offences by individuals may attract a prison sentence. A prosecution may be brought against individuals and corporate bodies;
- › in the case of a death resulting from a work activity, the need for a manslaughter investigation is always considered. Such manslaughter (in Scotland, culpable homicide), including corporate manslaughter (or in Scotland, corporate homicide), investigations are conducted by the police, with assistance from HSE or the local authority as appropriate; and
- › informal investigation of particular accidents or incidents, so as to learn lessons or prepare legal action. There are various means of disseminating the experience gained in such investigations, for example, by publishing studies and reports.



## Local authorities

Over 400 local authorities in England, Scotland and Wales have responsibility for the enforcement of health and safety legislation in over one million premises. These include offices, shops, retail and wholesale distribution, hotel and catering establishments, petrol filling stations, residential care homes and the leisure industry. More than 11 million people are employed at these premises which, by their nature, attract millions of members of the public through their doors every year.

While local authorities are the principal enforcing authority in these sectors, HSE may also have some enforcement responsibilities. Therefore a system of 'flexible warrants' was introduced in 2006 allowing local authority and HSE inspectors to enforce in each others' area of primary responsibility.

Inspectors in local authorities are typically environmental health officers. Environmental health departments discharge their HSW Act enforcement duties alongside other local authority enforcement responsibilities, including food safety, pollution, housing etc.

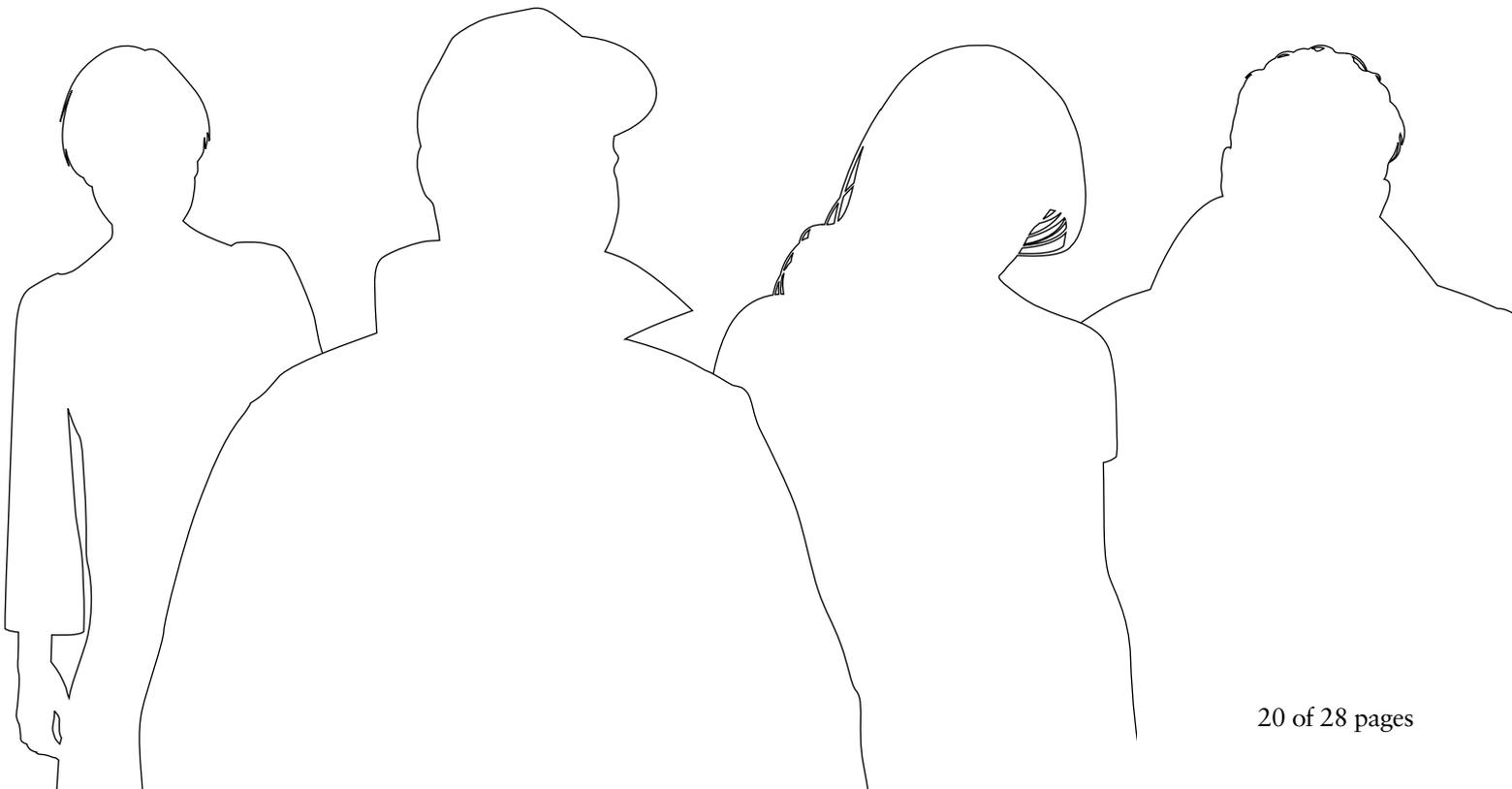
Each year some 1600 offences are prosecuted by HSE and local authority inspectors (by the Crown Office and procurators fiscal in Scotland). The number of notices issued by HSE and local authority inspectors in 2007/08 was 13 725.

About 78% of offences prosecuted result in a conviction. HSE aims to be a firm but fair regulator and inspectors decide what enforcement action is appropriate in accordance with HSE's published Enforcement Policy Statement. The Enforcement Policy Statement drives proportionate and targeted interventions so that the highest risks and most serious offences attract the firmest enforcement action. HSE policy requires that enforcement action should be proportionate to the risk created, targeted on the most serious risks or where hazards are least well controlled, consistent and transparent.

HSE is empowered to carry out investigations falling within its remit and publish reports. It may also, with the consent of the Secretary of State, direct an inquiry to be held.

## Planned inspections

HSE's inspection visits may take place in response to a complaint from a worker, an inquiry by a member of the public, to follow up previous inquiries or to conduct investigations. But the majority, largely made without warning, are planned as part of a programme of preventive inspection designed to ensure that health and safety is properly managed and that the law is complied with. Inspectors will visit both fixed establishments and temporary worksites such as construction sites. Inspectors



may also visit the head offices of major national companies to discuss and secure improvements in the management of health and safety throughout the company.

Each regional office implements national intervention plans according to local need, focusing inspection towards workplaces and processes that present the highest risk. Risk is assessed by, among other things, an inspection rating system that takes account of previous performance and attitudes.

## A systems approach

Assessment of the quality of health and safety management is an important element in HSE's approach to inspection. Companies are obliged by law to set out their health and safety policies and are increasingly encouraged to define and monitor their management systems. HSE's inspectors are trained in how to assess management systems, and are able to carry out audits. HSE learns about beneficial developments in health and safety management, such as the relevance of the principles of quality management techniques, and provides guidance on their use.

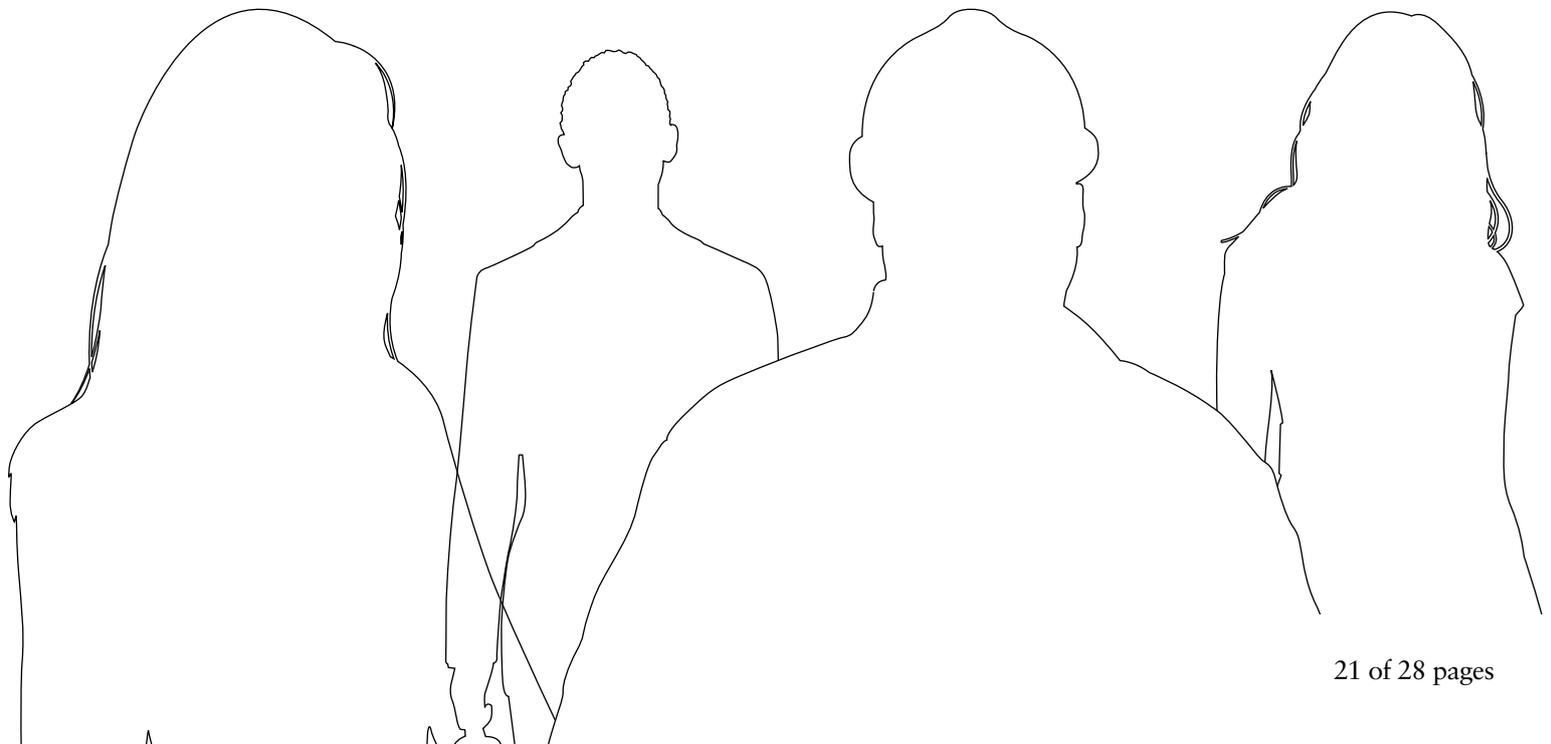
## Training inspectors

HSE places great emphasis on recruitment and training of all its staff, relying as it does on a wide range of

professional skills. Almost all HSE inspectors are graduates who undertake four years of training. This programme of field training under the supervision of experienced inspectors, together with HSE-led tutorials, is integrated with a specially designed academic course, which leads to the award of a post-graduate diploma in occupational health and safety. Following on from this, as with all HSE inspectors, there is ongoing access to programmes of competence-related mid-career training which keep them professionally well equipped and in tune with the latest thinking in HSE and outside. Guidance is also issued to local authorities on the training and competence of local authority enforcement officers.

## Sharing experience

HSE encourages the sharing of regulatory best practice such as models of enforcement management, and develops and produces corporate operational policies and procedures. This provides a focus for inspection excellence, enables issues of common concern to all enforcing authorities to be identified and discussed and, through local authorities, ensures that HSE's objectives are achieved in the local authority enforced sector.



## Managing risk

Employers are required to set out their approach to managing risks to health and safety at the workplace. This should include a clear statement of who is responsible for doing what. HSE strongly believes that everyone has a part to play in managing health and safety at work and places a strong emphasis both on leadership by management, and the meaningful involvement of workers in managing their own health and safety.

Risk assessment ensures that the employer's response in managing risk is appropriate to the risk. The principle of risk assessment is implicit in the HSW Act. It is also explicit in the Management of Health and Safety at Work Regulations which (together with existing legislation) implemented the European health and safety Framework Directive (89/391/EEC). HSE is keen to ensure that risk assessment is a practical exercise that results in protection from real risks, not simply a paperwork exercise; it therefore places emphasis on keeping paperwork fit-for-purpose and ensuring that actions identified are implemented in practice. HSE does not stipulate a single risk assessment methodology, allowing organisations to use different methodologies according to the circumstances. However, its guidance *Five steps to risk assessment* sets out a straightforward methodology that SMEs and the self-employed can choose to use. The five steps are:

- identify the hazards;

- decide who might be harmed and how;
- evaluate the risks and decide on precautions;
- record the findings and implement them; and
- review your risk assessment and update if necessary.

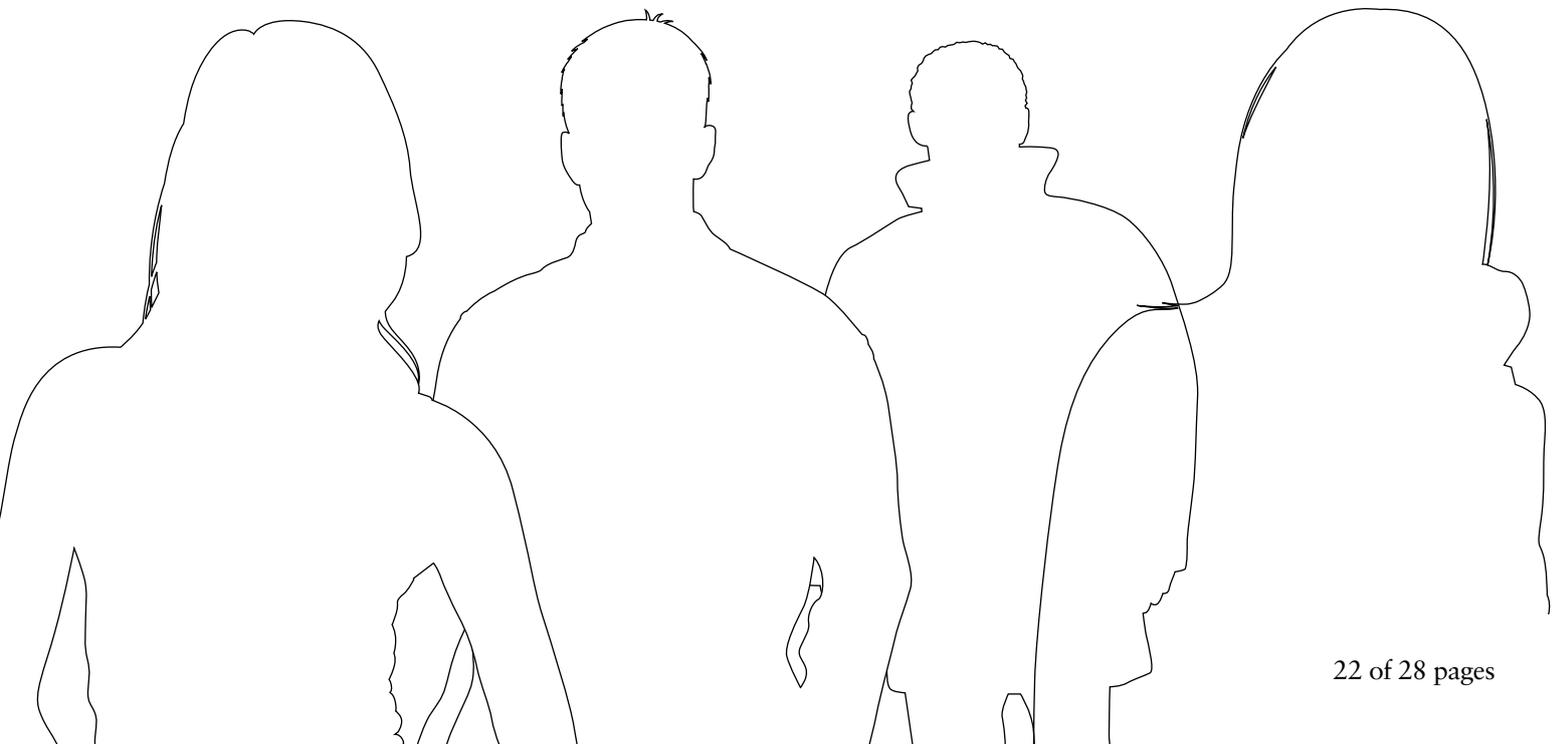
HSE's own approach to making policy decisions (eg whether regulations should be introduced, revoked or amended) is set out in its publication *Reducing risks, protecting people: HSE's decision-making process*. The document sets out the stages in decision making, as well as the factors to be taken into account and is based upon the principle of tolerability of risk.

## Consultation

In workplaces where trade unions are recognised, the unions have the right to appoint safety representatives to act on the employees' behalf in consultations with their employer about health and safety matters. Employers must consult with any employees not represented by an appointed safety representative either directly or through representatives elected by the employees concerned.

## Health and safety assistance

Employers must appoint one or more 'competent persons' to help them meet the requirements of health and safety law. A competent person is someone who has sufficient training and experience or knowledge and



other qualities that allow them to assist the employer properly. The level of competence required will depend on the complexity of the situation and the particular help the employer needs. When appointing people, it is advisable for employers to give preference to those in their own workforce who have the appropriate level of competence. In some circumstances, a combination of internal and external competence might be appropriate. For example, employers may need outside help in devising and applying measures identified in risk assessments that are needed to protect workers' health and safety. Employers may also need help from experts such as health professionals to advise on the health effects of particular work activities or to carry out procedures such as health surveillance.

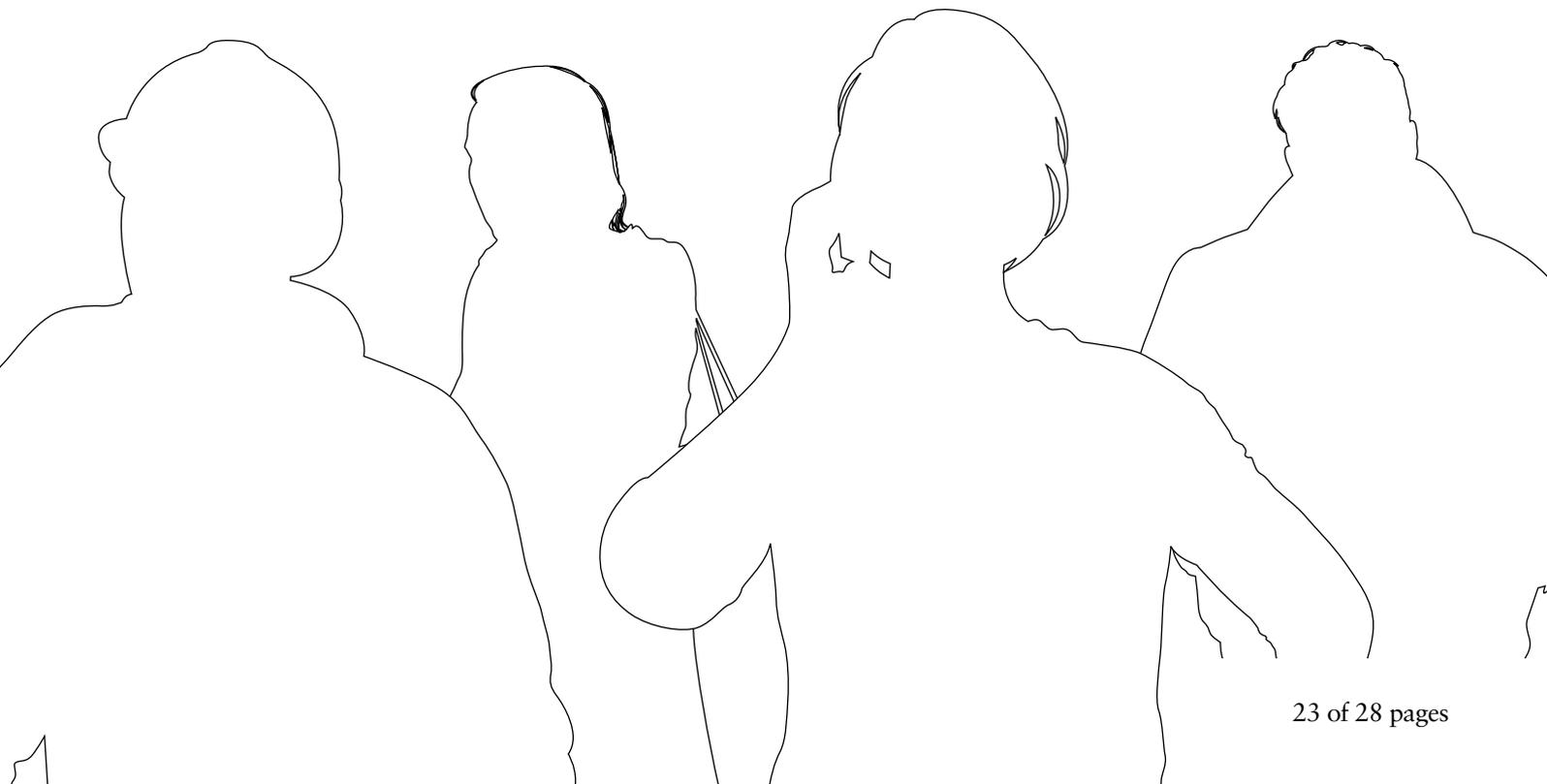
## Permissioning regimes

'Permissioning' regimes are those which involve a requirement for a dutyholder to gain the regulator's approval or permission for certain activities. They include testing, licensing, certification, approvals, exemptions and acceptance of notifications.

Licensing or approval regimes are reserved for areas where the nature of the risks or other potential effects demand detailed controls. For example, HSE's Nuclear Directorate ensures that nuclear

installations are designed, constructed, commissioned, operated, maintained and decommissioned to the highest standards of safety under a licensing scheme. Installations cannot operate without HSE issuing a site licence, to which conditions are attached. Other hazards covered by licensing include the manufacture and storage of explosives, work with asbestos, and running an adventure activity centre.

Safety reports/cases for major hazard installations identify and evaluate the hazards and describe the management system and the precautions designed to prevent, control or minimise the consequences of any significant accident. In the case of nuclear installations, permissioning decisions are based primarily on an assessment of these safety cases. In the case of offshore installations, an installation is not allowed to operate unless it has a current safety case which has been 'accepted' by HSE. Offshore safety cases have to include provision for internal audit to ensure that the arrangements are kept under regular review. In the case of onshore major hazard installations, the safety report must demonstrate that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and limit their consequences for people and the environment. The outputs from safety cases and safety report assessments are used by inspectors in all areas to determine



inspection priorities, and as a standard against which to judge the operator's performance.

In accordance with government policy, HSE recovers the costs involved in operating permissioning regulatory regimes. HSE's cost recovery policy applies to the major hazards industries – gas transportation, offshore and onshore petrochemicals and nuclear installations (including charges for generic design approval and the provision of advice to potential licence applicants). HSE also recovers its costs for conventional health and safety at most high-hazard sites.

Charges are made for inspection, investigations, the assessment of safety cases or reports, notifications, the issue of new licences and of amendments to existing ones.

Well-developed means of communication are used to inform dutyholders about cost recovery issues. In the larger schemes, tripartite Charging Review Groups for each of the industry sectors oversee the effectiveness and efficiency of the cost recovery schemes.

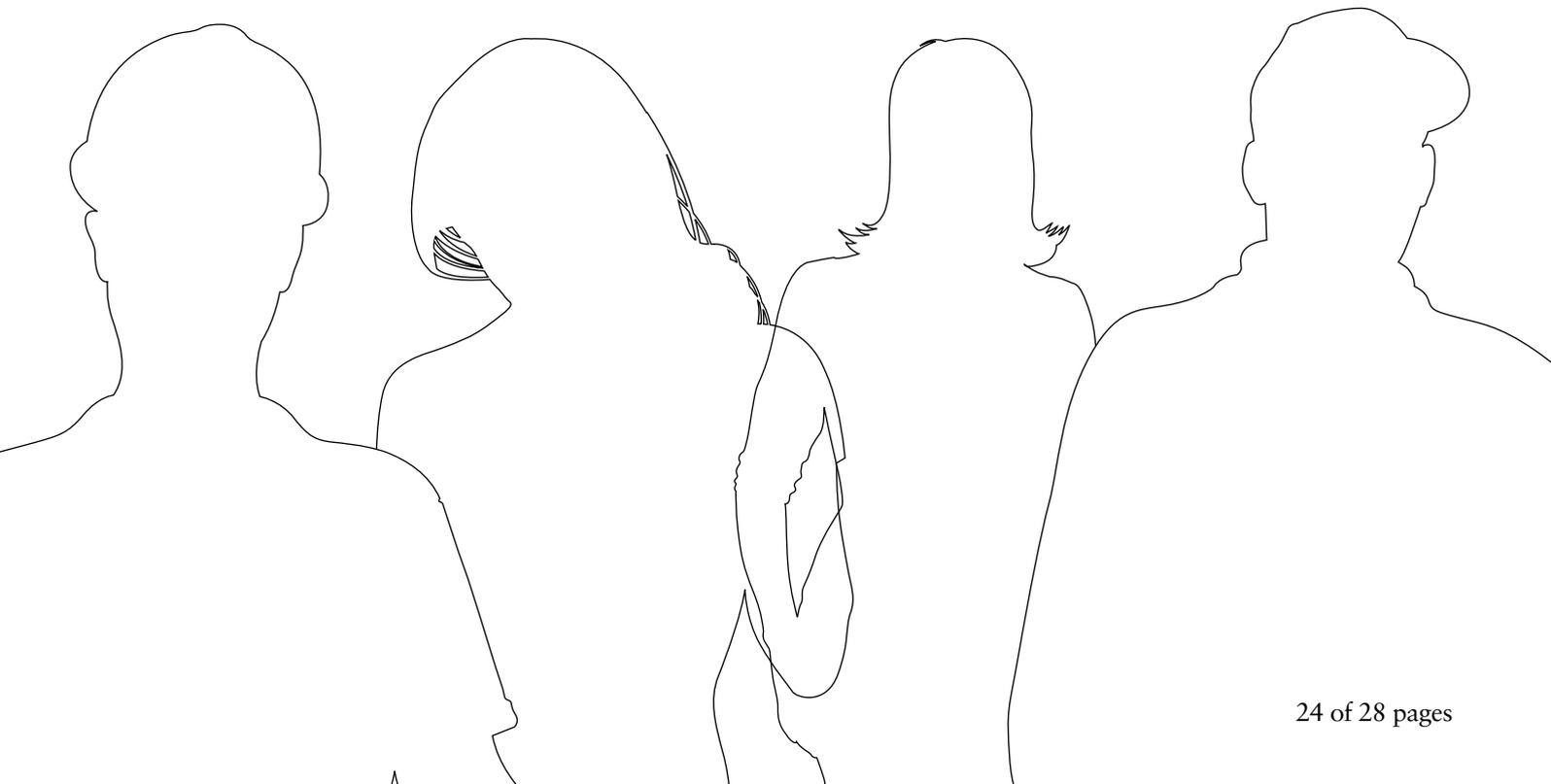
## Insurance and compensation

Employees who are injured or made ill at work because of an act or omission by their employer may be entitled to bring a claim for damages in the civil courts. Employers are required by law to take out compulsory insurance against their civil liabilities in respect of

injuries or disease sustained by their employees at work. Some employers are exempt from this provision – most public organisations for example – see *Employers' Liability (Compulsory Insurance) Act 1969: A guide for employers*. This does not give the employee an automatic right to compensation but, if the employee's civil action succeeds, the insurance policy will ensure that the employee is compensated. The insurance policy must provide cover of at least £5 million arising out of any one occurrence.

The insurance is provided by private insurance companies who in some cases also provide some preventive services such as testing and inspecting high-risk plant. Such tests and inspections are required by law for plant such as pressure systems and lifting machinery and equipment.

Any employee who is injured or made ill at work is also entitled to treatment from the National Health Service and, in certain circumstances, to claim benefits under the state social security system. The Industrial Injuries Scheme provides preferential social security benefits for disablement caused by an accident or a prescribed occupational disease arising out of or in the course of employment. It is not necessary to have paid National Insurance contributions to be eligible for these benefits. Benefit is paid irrespective of fault on the part of the employer; it can be paid even if the employee was at fault.



### Key legislation

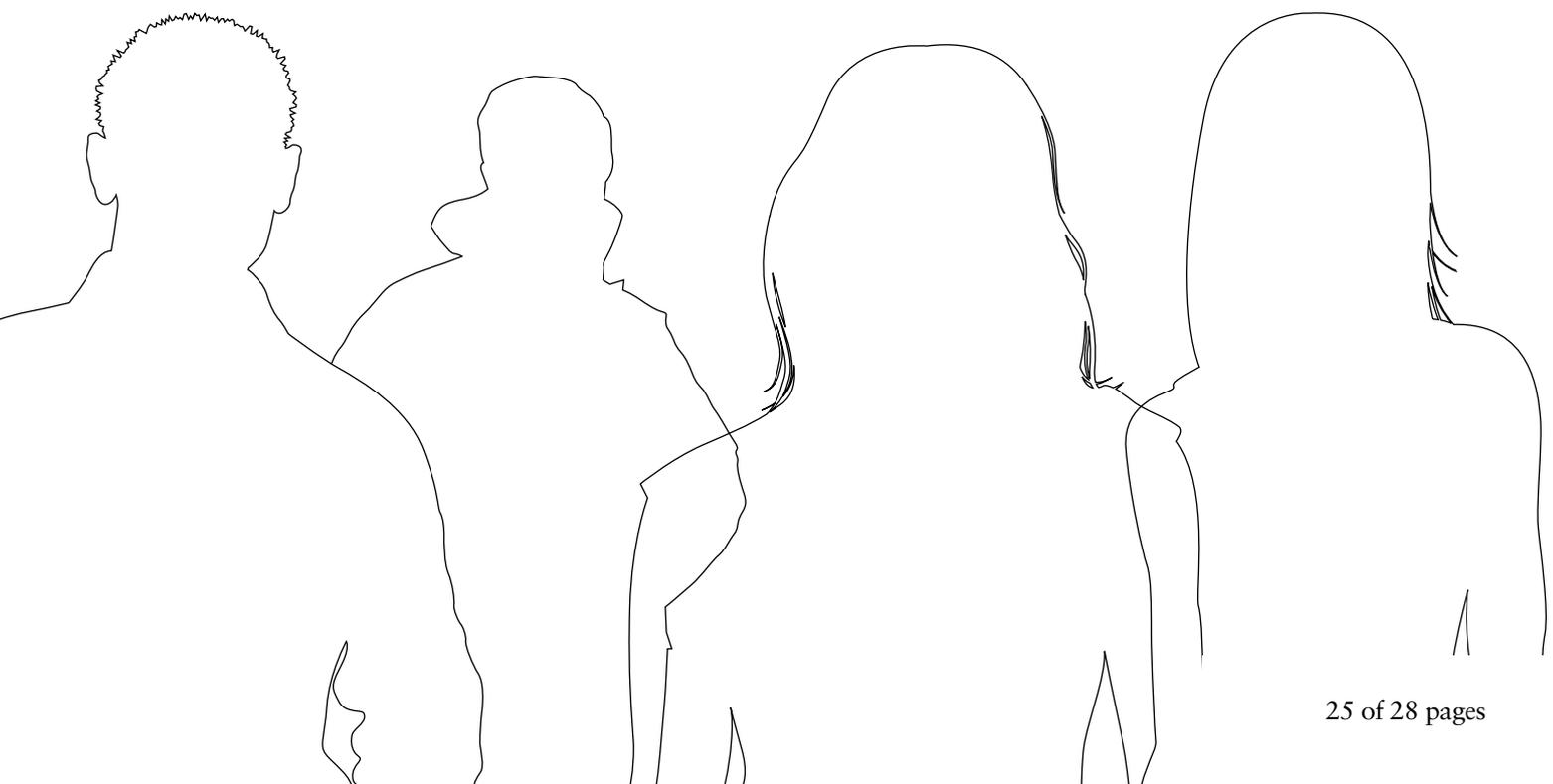
*Health and Safety at Work etc Act 1974 (c.37)* The Stationery Office 1974 ISBN 978 0 11 141439 1 (as amended by the *Legislative Reform (Health and Safety Executive) Order 2008 SI 2008/960* The Stationery Office 2008 ISBN 978 0 11 081339 4 and the *Health and Safety (Offences) Act 2008 (c.20)* The Stationery Office 2008 ISBN 978 0 10 542008 8)

*Management of health and safety at work. Management of Health and Safety at Work Regulations 1999. Approved Code of Practice and guidance L21* (Second edition) HSE Books 2000 ISBN 978 0 7176 2488 1 explains the duties of employers under the Regulations.

*Health and Safety (Enforcing Authority) Regulations 1998 SI 1998/494* The Stationery Office 1998 ISBN 978 0 11 065642 7

### The health and safety system

*Reducing risks, protecting people: HSE's decision-making process* HSE Books 2001 [www.hse.gov.uk/risk/theory/r2p2.pdf](http://www.hse.gov.uk/risk/theory/r2p2.pdf) sets out the overall framework for decision taking by HSE to ensure consistency and coherence across the range of risks falling within the scope of the HSW Act.



## Guidance

HSE has an extensive range of guidance on health and safety issues. A sample is given here.

*Essentials of health and safety at work (Fourth edition)* HSE Books 2006 ISBN 978 0 7176 6179 4 explains what the law requires and helps employers put it into practice.

*An introduction to health and safety: Health and safety in small businesses* Leaflet INDG259(rev1) HSE Books 2003 (single copy free) [www.hse.gov.uk/pubns/indg259.pdf](http://www.hse.gov.uk/pubns/indg259.pdf) provides guidance to small businesses by showing the kind of things that cause the more common accidents and harm to people's health.

*Five steps to risk assessment* Leaflet INDG163(rev2) HSE Books 2006 (single copy free or priced packs of 10 ISBN 978 0 7176 6189 3) [www.hse.gov.uk/pubns/indg163.pdf](http://www.hse.gov.uk/pubns/indg163.pdf) provides guidance to employers and the self-employed in the commercial and light industrial sectors on assessing health and safety risks in the workplace.

*Involving your workforce in health and safety: Good practice for all workplaces* HSG263 HSE Books 2008 ISBN 978 0 7176 6227 2 is for employers who need to consult and involve their employees on health and safety matters.

*Leading health and safety at work: Leadership actions for directors and board members* Leaflet INDG417 HSE Books 2007 (single copy free or priced packs of 5 ISBN 978 0 7176 6267 8) [www.hse.gov.uk/pubns/indg417.pdf](http://www.hse.gov.uk/pubns/indg417.pdf) sets out an agenda for the effective leadership of health and safety. It is designed for use by all directors, governors, trustees, officers and their equivalents in the private, public and third sectors. It applies to organisations of all sizes.

*Leadership for the major hazard industries* Leaflet INDG277(rev1) HSE Books 2004 (single copy free or priced packs of 15 ISBN 978 0 7176 2905 3) [www.hse.gov.uk/pubns/indg277.pdf](http://www.hse.gov.uk/pubns/indg277.pdf) aims to help senior managers refresh their knowledge of effective health and safety leadership, reflect on how they currently operate and challenge them to continuously improve health and safety performance.

*Employers' Liability (Compulsory Insurance) Act 1969: A guide for employers* HSE40(rev3) HSE Books 2008 (single copy free or priced packs of 15 ISBN 978 0 7176 6331 6) [www.hse.gov.uk/pubns/hse40.pdf](http://www.hse.gov.uk/pubns/hse40.pdf) gives general guidance on the Act and the requirement for adequate and valid insurance cover.



*Successful health and safety management* HSG65 (Second edition) HSE Books 1997 ISBN 978 0 7176 1276 5 provides guidance for directors, managers, health and safety professionals and employee representatives who want to improve health and safety in their organisations.

*HSE statement to the external providers of health and safety assistance* HSE 2007 [www.hse.gov.uk/pubns/externalproviders.pdf](http://www.hse.gov.uk/pubns/externalproviders.pdf) explains that providers need to be competent to provide a good-quality service that is fit for purpose and helps employers manage risk sensibly.

Other guidance and information is available on the HSE website: [www.hse.gov.uk](http://www.hse.gov.uk).

### Subscription services available from HSE

*Health and Safety Newsletter* is issued six times a year. It provides up-to-date information on UK and European health and safety issues. Each edition features HSE's latest campaigns and news including court cases. Regular features also include typical accidents, expert advice, new publications and the latest news from Europe. Contact HSE Books to subscribe.

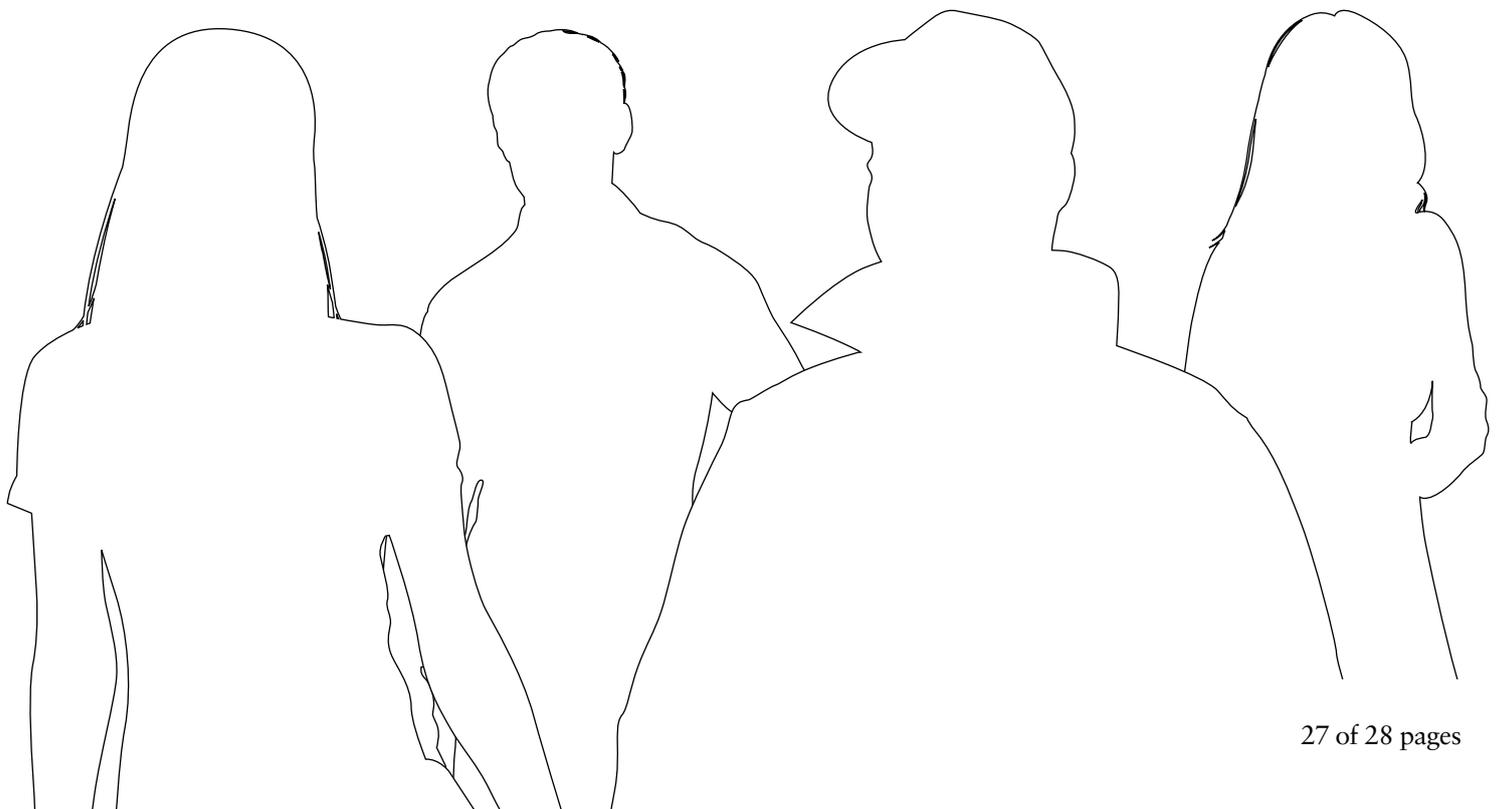
Free HSE e-mail newsletters covering a wide range of subjects are available from [www.hse.gov.uk/news/ebulletins](http://www.hse.gov.uk/news/ebulletins).

### HSE Books

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### The Stationery Office

The Stationery Office publications are available from The Stationery Office, PO Box 29, Norwich NR3 1GN Tel: 0870 600 5522 Fax: 0870 600 5533 e-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk) Website: [www.tso.co.uk](http://www.tso.co.uk) (They are also available from bookshops.) Statutory Instruments can be viewed free of charge at [www.opsi.gov.uk](http://www.opsi.gov.uk).





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