



**HEALTH AND SAFETY EXECUTIVE FOR
NORTHERN IRELAND**

**RESPONSE TO
THE REVIEW OF PUBLIC ADMINISTRATION IN
NORTHERN IRELAND
FURTHER CONSULTATION MARCH 2005**

Statement by the HSENI Board

My fellow Board members and I are pleased to be able to respond to this the final phase of consultation on the Review of Public Administration (RPA) in Northern Ireland.

We view this as a unique opportunity to re-think how health and safety at work services can be more effectively and efficiently delivered to employers, employees, the self-employed and the general public.

Deaths, injuries and illnesses arising from work, apart from the human toll, place an unacceptable burden on our local economy. Research has shown that health and safety management failures that result in deaths, injuries, illnesses and near misses are costing the local economy £500 million per year.

The work that HSENI and the District Councils do together and in partnership with many stakeholders is beginning to bear fruit as we see downward trends emerging in reported workplace injuries. But more needs to be done, particularly in relation to workplace health.

In all of this what is paramount is delivering a concerted value for money professional service in a way that can make the biggest impact. This aim is undermined to some extent by the fact that currently delivery is spread across 27 regulators namely HSENI and the 26 District Councils. This sharing of regulatory duties has led to inefficiencies in the system. These can be overcome and the Review provides the opportunity to do just that.

What better then than to grasp the opportunity that this Review presents to deal appropriately and proportionately with the key issues of fragmentation and demarcation caused by delivery through a multi-agency approach.

The considered opinion of the HSENI Board is that HSENI should remain in operation but not within a status quo situation. Maintaining the status quo does nothing to improve the quality of the service. Therefore consideration must be given to those options that hold out the prospect of tackling the underlying causes of the present system's inefficiencies.

The first of these involves the transfer of all health and safety functions from District Councils to HSENI. This option is floated in the consultation document. This has received wholehearted support from a range of representative bodies including the IoD, CBI, Federation of Small Businesses and the Construction Employers Federation. Whilst it would offer substantial manpower savings there is a less radical and perhaps a more practical option which although it does not appear in the consultation document is worthy of consideration.

This second option would take the form of a partial transfer from District Councils to HSENI but only of businesses with a regional footprint i.e. those

with multiple sites spread across Northern Ireland. This would go a long way to eroding the fragmentation of delivery that applies in these situations. In addition the opportunity should be taken to carry out a root and branch review of the current allocation of premises between HSENI and the District Councils to remove arbitrary and nonsensical demarcations.

These options along with the others mooted in the consultation document are considered more fully in this response.

I would ask Ministers to reflect on the arguments presented and support our contention that on balance the best option for the people and the economy of Northern Ireland is to partially enhance the role of HSENI by transferring to it responsibility for all regional employers who currently fall under the jurisdiction of the District Councils and to sanction a review of the allocation of premises to remove inappropriate demarcation between HSENI and the District Councils.

On behalf of my Board I am pleased to present HSENI's final response to the consultation.

Professor Peter McKie CBE
HSENI Chairman
September 2005

1. Current Delivery Model

The Health and Safety Executive for Northern Ireland (HSENI) is the lead regional authority charged with the delivery of a broad range of health and safety services.

The Northern Ireland District Councils fulfil a health and safety enforcement role in respect of the service, leisure and entertainment sectors only.

Since 1999 HSENI has operated as an executive NDPB sponsored by the Department of Enterprise, Trade and Investment (DETI). It has a ten-member executive Board comprising representatives of employer organisations, trade unions and district councils (see Annex 1). HSENI currently operates with a budget of £4.1 million and a staff of 100.

HSENI operates from its Belfast Headquarters with front line inspection staff out-stationed in Enniskillen, Omagh, Cookstown and Coleraine. This sub-regional presence reinforces the fact that despite operating at a regional level all HSENI delivery is local in the factories, farms and other workplaces that comprise its duty holder client base.

HSENI's mission is to ensure that risks to peoples' health and safety arising from work activities are effectively controlled.

In taking this forward HSENI shapes regional policy, formulates strategic plans, sets standards, drafts new regulations, provides advice and information, undertakes compliance inspection and takes enforcement action. The breadth of the regional health and safety at work services provided by HSENI is illustrated in Annex 2.

HSENI has been particularly keen to move away from a simple inspection model to a mix of deliverables

- offering help and support in a non enforcement environment ,through its subsidiary *Health and Safety Works NI* , to start up and small businesses to enable them to get a foot hold on the health and safety ladder;
- recognising good performance and excellence in the management of health and safety by piloting the United States Department of Labor's Occupational Safety and Health Administration's Voluntary Protection Program in conjunction with OSHA and the Republic of Ireland's Health and Safety Authority and
- focusing and targeting the achievement of compliance with health and safety regulations on a risk assessment basis through dedicated multi disciplinary geographically based compliance teams that bring greater visibility , greater flexibility and greater productivity

As a regional authority HSENI has responsibility for a wide range of employment sectors including manufacture, farming, construction, quarrying, transport, emergency services, public utilities, gas and chemical safety, health and social services and education. Employment numbers covered are approaching 425,000. Inspection and enforcement in these work sectors is undertaken by HSENI's Inspector cadre which currently numbers 35. Details of HSENI's regional enforcement responsibilities and relationships are set out in Annex 3.

The Northern Ireland District Councils through the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 undertake compliance inspection and enforcement in lower risk work sectors such as shops, offices, catering and hotels. Here, employment numbers are approaching 250,000. This work is undertaken by 34 (Full Time Equivalent) Environmental Health Officers working within the Environmental Health Departments of the District Councils

HSENI manages the relationship with the District Councils through its Local Authority Unit which comprises HSENI inspectors and a secondee Environmental Health Officer and a specially constituted committee of the HSENI Board the Health and Safety Executive for Northern Ireland Local Authority Enforcement Liaison Committee better known as HELANI. In this way, and in an effort to ensure a consistency of approach by the Councils across Northern Ireland, HSENI issues mandatory guidance to the Councils and agrees with them a strategic work plan.

2. Seeking an Improved Delivery Model

At the heart of the Review of Public Administration lies the objective of ensuring a higher quality of service for the citizens of Northern Ireland. In the case of health and safety at work the primary end users of such a service are employees, employers and the general public. In the specific case of HSENI the consultation document points to three options for the future delivery of the health and safety at work service in Northern Ireland.

Option 1 – Disbandment

Firstly the consultation document poses the question as to whether "Quangos", which would include HSENI, should be disbanded with their operational functions transferring to a reduced number of larger District Councils and their policy and planning function transferring to their respective sponsor Department. Under this option HSENI would cease to exist.

Option 2 – Status Quo

Secondly although the consultation document is silent on the issue of the status quo being maintained it must be assumed as an option for the future. This would see HSENI continuing to operate but in partnership with a reduced number of larger Councils

Option 3 – Enhancement

Thirdly Appendix 6 of the consultation document proposes as one future option the enhancement of HSENI whereby it would subsume all the health and safety responsibilities presently discharged by the District Councils. Under this option District Councils would have no role in workplace health and safety.

HSENI would also see a fourth option that falls short of the wholesale transfer of functions from the District Councils.

Option 4 - Rationalisation

This would seek to sweep away much of the unnecessary fragmentation and demarcation caused by a multi-agency approach to the regulation of health and safety at work. Under this option both HSENI and the reduced number of larger Councils would jointly deliver the health and safety at work service but under a more efficient and effective framework.

These four options are considered in more detail in the following section.

3. Comparing the Options

Option 1 - Disbandment

Under this option the functions and responsibilities of HSENI would be shared out between a smaller number of larger councils and its sponsor Department the Department of Enterprise, Trade and Investment.

Enforcement and information and advisory services would be transferred to the councils and policy development, strategic planning and standard setting adsorbed by the Department.

Whilst this option would certainly achieve the goal of giving more functions to the councils it would be at a price.

Bill Callaghan the Chairman of the Health and Safety Commission/Executive in Great Britain attributes the success of the central government social partnership non departmental public body approach as followed by HSC/E as being built on an institutional model which combines both policy making and enforcement with policy making being informed by the direct experiences of inspectors on the ground.

The NDPB model was adopted when the Health and Safety at Work Act was introduced in Great Britain in 1974. The approach has received continued endorsement most notably by the Deputy Prime Minister's Review of 25 years of the Health and Safety at Work Act in 1999, by the House of Commons Select Committee on Work and Pensions in July 2004 and by the HM Treasury Report by Philip Hampton in March 2005.

Interestingly, in the Republic of Ireland a similar model has been followed with the establishment in 1989 of the Health and Safety Authority (HSA), a semi-state body the equivalent of a NDPB. Of note is the fact that in the Republic of Ireland HSA operates as the sole enforcing authority with no delegation to the sub-regional or county/city council level.

At a practical level, if each new larger Council had responsibility for all work sectors, then each would need, in consequence, to have at its disposal, the matching competence and expertise to deal with the full range of work sectors both public and private, the often complex technologies involved and the myriad of work practices it would encounter. Even working on a council group basis this would be a considerable undertaking and one prone to duplication of effort.

It should be pointed out that HSENI recruits its professional staff at honours degree level from a wide range of scientific and engineering disciplines and provides them with specific post graduate training in health and safety followed by continual professional development. This approach has enabled HSENI to build up a broadly based pool of expertise that is capable of reacting professionally and competently to the many complex workplace health and safety issues that dominate the modern world of work. HSENI Inspectors are health and safety experts unencumbered by other regulatory functions or responsibilities.

This contrasts sharply with the situation at District Council level. Here the Councils health and safety regulatory responsibility rests with the Environmental Health Department which is staffed by Environmental Health Officers who apart from health and safety duties can be called upon to deliver a wide range of functions:-

Range of functions discharged by District Council Environmental Health Departments	
Food Safety Housing Complaints Consumer Safety Air, Land and Noise Pollution Health Development	Pest control Community Safety Emergency Planning Health and Safety Health in Ports

(Source: Environmental Health: Belfast City Council Health and Environmental Services Department)

HSENI takes the view that disbandment is not an option that should be pursued as it would fragment even further the delivery of this vital frontline service. It would also lose the vital link between frontline enforcement and the development of policy and regulation. Furthermore Northern Ireland would also lose the ability to communicate effectively both East West with the HSE in Great Britain and North South with the Health and Safety Authority and as a consequence fail to exploit the benefits of such relationships.

Option 2 - Status Quo

Under this option HSENI would continue as an NDPB but would work with a smaller number of larger Councils.

This option, even with a reduced number of Councils, would not tackle the issue of the fragmentation of the service and the potential for inconsistency of approach across council areas. It would most certainly continue to frustrate regional employers in those work sectors for which the Councils have responsibility who would be still left to deal with 7 or 11 or even 15 Council regulatory bodies.

One prime example of a regional employer who currently faces this problem is the Royal Mail. Its operation is province wide, and because it falls under the broad umbrella of office work, its premises are inspected at the sub-regional level by those District Councils within whose jurisdiction its mail centres and sorting offices are located. As an added complication its postmen, but only when delivering mail, come under the jurisdiction of HSENI who deal with all peripatetic staff.

HSENI would take the view that whilst the status quo option is viable it does not provide any real scope to improve the delivery of the service.

Option 3 – Enhancement

As an executive NDPB HSENI already meets the tests laid down by the RPA team for a body to be considered as a regional authority namely: -

- o Democratic Oversight and Accountability
HSENI is accountable to its sponsor Department (DETI), the Minister for Enterprise, Trade and Investment and the Assembly/ Parliament – it publishes Annual Reports and Statements of Accounts as well as three year Corporate and yearly Operating Plans. In addition it is open to scrutiny by a range of oversight bodies including the European Union, International Labour Organisation, NI Audit Office, the Criminal Justice Inspectorate, Ombudsman, Equality Commission and the Information Commissioner.

- Policy Development
HSENI, led by its executive Board, develops policy that supports and underpins its efforts to seek improvements in standards of health and safety in the workplace. Recent policy developments have included the development of a new outreach programme for small and start up businesses, the development of an enhanced investigatory and enforcement regime in line with the review of Criminal Justice in NI and to complement NI's Regional Public Health Strategy the development of a long term workplace health strategy – *Working for Health*.
- Strategic Planning
HSENI is deeply involved in strategic planning as evidenced by its work in spearheading the development and implementation of Northern Ireland's first comprehensive Workplace Health Strategy "Working for Health" and its work to bring about a nexus of key stakeholders in the high risk construction industry, including Government Clients, under the banner of BUILDSAFE-NI to effect positive change in the sector. HSENI publishes three year Corporate Plans and has fulfilled its lead role in respect of District Councils by overseeing the preparation of a strategic plan to help the Northern Ireland District Councils discharge their enforcement role in health and safety at work more effectively and with greater consistency.
- Setting Standards
HSENI prepares health and safety at work legislation to meet European Directives ensuring that the regulatory framework in Northern Ireland is kept on a par with that in Great Britain. It promulgates good practice by issuing Approved Codes of Practice and other publications that set standards and allow duty holders to understand and meet their legal obligations.

Thus in HSENI you have an integration of policy making coupled to strategy development and standard setting with the delivery of front line services on a regional basis, a proven and successful model.

This option proposes transferring all health and safety at work enforcement responsibilities currently allocated to District Councils to HSENI. Setting aside manpower considerations such a transfer would impose no particular technical or professional difficulties for HSENI.

This simple step would create in Northern Ireland a single regional body responsible for health and safety at work in all work sectors. Removing the need to manage the HSENI/District Council interface would bring immediate efficiency savings with no need for HSENI's Local Authority Unit of the HELANI committee.

A consistent Province-wide standard of service delivery could then be established and maintained.

HSENI is confident that it could discharge these additional responsibilities at staffing levels much lower than those presently running in the Councils. The NI District Councils currently deploy 34 (full time equivalents) Environmental Health Officers to police the 250,000 employees to be found in the workplaces for which they have responsibility. HSENI with roughly the same number of field staff deal with 450,000 employees across a wide range of higher risk work sectors.

HSENI believes it could effectively police the current District Council work sectors with half the staff. This it would achieve by applying its present risk based approach to inspection which is predicated on inspecting where it can do the most good and concentrating on the riskier businesses.

Such an approach has the potential to free up annual running cost savings approaching £1.0 million per year to this can be added the savings that would accrue if the LAU and HELANI were stood down as a consequence of a single authority approach being adopted.

Setting aside the issues of efficiency such a move would fly in the face of the Hampton Review which saw merit in the HSE in Great Britain's partnership working with the Local Authorities. That said HSE is expending considerable effort at trying to improve the partnership and make it more productive. A balance needs to be struck and in the final analysis HSENI could not advocate such a wholesale change.

Option 4 – Rationalisation

What does concern HSENI are the institutionalised inefficiencies in the present system brought about by rigid fragmentation and demarcation anomalies. This option tries to address some of the major failings in the present system. Why an employer with a significant regional presence operating from multiple sites spread across many District Councils areas not be able to deal with one regulatory body? Already the Royal Mail has been identified as one example but there are many others such as:-

- Residential Care Homes for the Elderly – if there is no medical care provided they fall to the District Councils but HSENI already has responsibility for Nursing Homes as part of HSENI's broad remit for the Health and Social Services sector.
- Wholesale and Retail Multiples – here each outlet is policed by the District Council in which it is located – the logistical support for these sites however is dealt with by HSENI who has responsibility for harbour warehousing and road transport of goods and materials.

- Banks – again the enforcing authority will be the one in whose District Council the bank premises are located – HSENI deals with the security firms handling cash transfers but only on the road and up to the door of the bank.

Other examples of instances of unnecessary demarcation are highlighted in Annex 4.

These regional employers cover retailing, wholesaling/distribution, banking, care homes, postal services and account for about 50,000 employees.

HSENI would deal with these by slotting some into existing sector specific work groups e.g. Care Homes would go into its Health and Social Service Group and Banks into our Disciplined Services and Security Group. HSENI would also create a new work group to cover Wholesale and Retail Operations. Both here and for the other reassigned work areas HSENI propose that the staff designated to inspect these premises could come from the existing body of Environmental Health Officers seconded from their District Councils employer. Under such an arrangement they would continue to have the opportunity for career progression within the council system. Some would be located in HSENI offices while others could co-locate with council colleagues.

HSENI see this is a workable option that will deliver the benefits of an improved service, which after all is the goal of RPA. In addition it will maintain the valuable partnership with the District Councils who will continue to play a key role delivering on a local basis to local businesses.

4. Recommendation

This response clearly points to the imperative of maintaining at the regional level a body that has clearly demonstrated its ability to operate regionally and deliver locally having earned through its social partnership model credibility and the broad support of employers and trade unions alike. It also bears testament to the success as far as health and safety at work is concerned of combining policy making with enforcement with the policy making being informed by the direct experiences of inspectors on the ground. The disbandment of HSENI would be a retrograde step, undo a robust regional approach and lead to a breakdown in linkages with the health and safety regimes in Great Britain, Ireland, Europe and further field. In short it is unacceptable and must be rejected.

The status quo option could work but all that it does is perpetuate a system that many regard as inefficient and flawed because of its dependence on a multi-agency delivery.

The option that calls for an enhanced role for HSENI is on reflection perhaps a step too far. That said it could work and produce dramatic savings and efficiencies. On the other hand it would destroy a valuable partnership with the District Councils.

The option that offers the best hope of delivering an improved service whilst at the same time preserving the best aspects of the HSENI – District Council partnership is the partial enhancement of HSENI through the transfer of responsibility for all regional employers currently assigned to District Councils plus a root and branch review of the allocation of premises to weed out serious anomalies.

In conclusion Ministers are asked to endorse the considered view of the Board of the HSENI that this region would be served best by opting for the Rationalisation option.

HSENI
September 2005

HSENI Board

The ten person Board is appointed by DETI/Minister following the guidelines issued by the Office of the Commissioner for Public Appointments for Northern Ireland.

The social partnership make up of the Board is encouraged by the Health and Safety at Work (NI) Order which specifically requires proactive consultation with employer bodies, trade unions and district councils to encourage suitable candidates to seek appointment.

The current make up of the HSENI Board is as follows:

Board Member	
Peter McKie -Chairman	Employer Body
Desmond Lowry- Deputy Chairman	District Council
Geraldine Alexander	Trade Union
Pat Archer	Trade Union
Roger Gillespie	Employer Body
Ashley Haslett	Employer Body
Barbara Martin	Trade Union
David Mills	Employer Body
Derrick Nixon	District Council
Alderman Gerri Rice	District Council

Annex 2

Regional Health and Safety at Work Services provided by HSENI
Information and Advisory Services
Interactive Website
Free Phone Helpline
Publishing Guidance and Approved Codes of Practice
Training and Awareness Programme
Campaigns e.g. <i>Child Farm Safety and BUILDSAFE NI</i>
Asbestos Licensing
Asbestos Advisory Service
Employment Medical Advisory Service
First Aid Training Organisation Approvals
Fire Certification of Crown Premises
<i>Health and Safety Works NI</i> - Small Business Advisory Service
On and Off Site Emergency Planning
Land Use Planning Advice
Firework Display Licensing
Shot Firers Licensing
Work on Genetically Modified Organism - Approvals

Annex 3

HSENI's Regional Enforcement Responsibilities and Relationships

Area	Responsibilities	Relationships
Construction	All construction and building operations BUILDSAFE NI Initiative	DFP Central Procurement Directorate, Construction Employers Federation, Construction Industry Training Board, UCATT, Professional Colleges e.g. Architects
Agriculture Forestry	All farms Child Safety on Farms Campaign Human Brucellosis Initiative	DARD, DHSSPS, Ulster Farmers Union, NI Agricultural Producers Association
Quarrying	All quarry and mineral extraction operations including blasting and advice on land use planning in vicinity of quarries	NIO (Explosives), DETI (Abandoned Mines), DOE (Land Use Planning) Quarry Products Association
Manufacturing	All manufacturing operations Small Business Advisory Service	Invest NI, CBI, IoD, Federation of Small Businesses (FSB), ICTU
Transport	Bus, Rail, Air and Harbours	DRD, Translink, Harbour and Airport Authorities, CAA, Maritime and Coastguard Agency, ATGWU
Public Utilities	Electricity, Gas, Water	DETI, DRD, Water Service, NIE, Phoenix Gas, BGE, Confederation of Registered Gas Installers
Disciplined Services	Police, Fire, Prison, Probation and Armed Services	MOD, NIO, Police Ombudsman, Fire Authority, Police Federation, Prison Officers Association
Major Hazards	Major Hazard Sites containing significant quantities of toxic, flammable or explosive substances	Home Office, NIO, OFMDFM (Emergency Planning) DoE (Land Use Planning)
Health and Social Services	All hospitals, clinics, surgeries, nursing homes	DHSSPS, Health and Social Services Boards and Trusts, Unison

Education	Primary, Secondary and Tertiary Education	DoEd, Education and Library Boards, CCMS, NI Teachers Council
Central and local government	Government Departments , District Councils	All Departments and all District Councils
Workplace Health	Regional Workplace Health Strategy Asbestos Advisory Service	DHSSPS, DEL, ICTU, CBI, FSB, NIHE, NISRA

RESIDENTIAL CARE HOMES	LA	Where main activity is residential accommodation except for LA homes which fall to HSE. The allocation of dual- registered homes would be determined on a case by case basis following a determination of the balance between residential and nursing care.
POST OFFICES	LA/HSE	Letter sorting LA- Parcel sorting HSE.
POSTAL DELIVERIES	HSE	Except road traffic accidents (police) or accidents on LA enforced premises.
SKI SLOPES	HSE	Although recreational HSE deals with all activities associated with the ski slope – lift, tow or cable car.
STUDENT RESIDENCE	LA	Except when on campus when it falls to HSE.
TATTOOING	LA	Except when in domestic premises.
TELEPHONE EXCHANGES	LA HSE	Manual exchanges Automatic exchanges
WAREHOUSES	LA	Including warehouses which are part of a business of a transport undertaking. Deciding main activity at some transport company premises can be difficult. Where premises are used as a vehicle garage and general haulage depot the main activity is unlikely to be storage for wholesale or retail purpose and HSE will enforce.

(Source- HSE Operational Circular – Health and Safety (Enforcing Authority Regulations 1996 – A-Z Guide to Allocation.)

