



National Audit Office

**MEMORANDUM FOR THE  
SCOTTISH AFFAIRS  
COMMITTEE  
FEBRUARY 2011**

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# The Health and Safety Executive's work in Scotland

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National Audit Office

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MEMORANDUM FOR THE SCOTTISH AFFAIRS COMMITTEE  
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The National Audit Office has prepared this memorandum in response to a request from the Scottish Affairs Committee to provide an overview of the work of the Health and Safety Executive in Scotland.

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# Summary

**1** The National Audit Office has prepared this memorandum in response to a request from the Scottish Affairs Committee to provide an overview of the work of the Health and Safety Executive in Scotland. Our analysis is based on the information provided by the Health and Safety Executive. Where we report 2009-10 statistics it should be borne in mind that these are provisional at time of writing.

**2** Overall responsibility for health and safety in Scotland remains a reserved issue and has not been devolved to the Scottish Parliament. The Health and Safety Executive is a non-departmental public body of the Department for Work and Pensions (the Department). The Health and Safety Executive operates nationally and thus does not have specific home nation targets and performance measures. In enforcing health and safety compliance, the Health and Safety Executive shares its role with local authorities. The 32 local authorities in Scotland carry out inspections and investigations upon 45 per cent of Scotland's workforce.

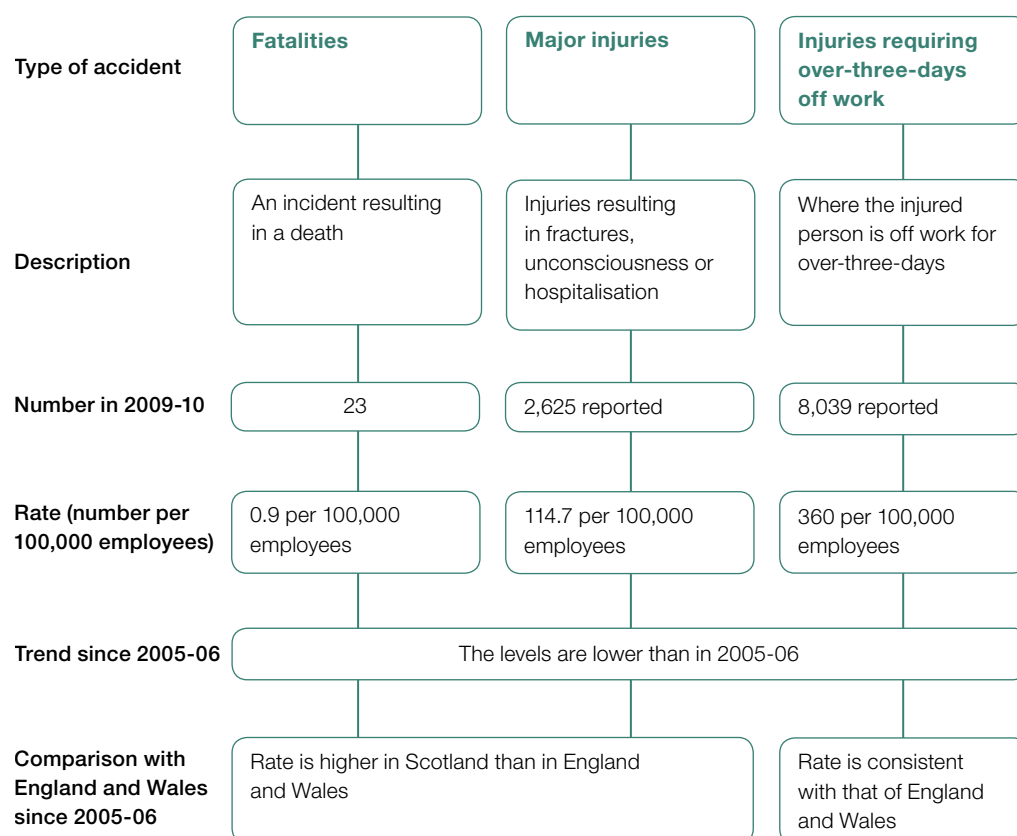
**3** In 2009-10, the Health and Safety Executive employed approximately 3,650 full time equivalent staff, of which approximately 270 (7 per cent) were based in Scotland. Sixty per cent of the staff based in Scotland were front line inspectors, but the boundaries are not straightforward as some staff based in Scotland have responsibilities covering England and Wales and vice versa.

**4** The majority of the Health and Safety Executive's funding is in the form of grant-in-aid from the Department, which in 2009-10 amounted to £239 million. It also received an income of £106 million, the majority of which came from fees and charges.<sup>1</sup> The level of grant-in-aid funding has been largely consistent in cash terms since 2005-06, but as a result of the 2010 Comprehensive Spending Review, the Chair of the Health and Safety Executive Board stated that its government funding will be reduced by 35 per cent by 2014-15.

**5** **Figure 1** summarises the trends in workplace accidents in Scotland.

**Figure 1**

A summary of the nature and trend of workplace accidents in Scotland in 2009-10



**NOTE**

1 The data for major injuries and injuries requiring over-three-days off work should be interpreted with caution as the Health and Safety Executive estimate that only just over half of non-fatal injuries to employees are reported.

Source: National Audit Office summary of data from the Health and Safety Executive

## Our key findings

There has been a reduction in the more serious reported workplace accidents in Scotland since 2005-06

**6 The Reporting of Injuries, Disease and Dangerous Occurrence Regulation 1995 specifies the workplace injuries which should be reported to the Health and Safety Executive.** All fatalities are reported, but the Health and Safety Executive estimate that they are notified of just over half of non-fatal incidents. There are three main categories of accident and our analysis of reported data shows that the number of accidents in Scotland has declined since 2005-06 (see Figure 1):

- **Fatalities:** this category refers to those incidents resulting in a death. The annual number of fatalities in Scotland has declined since 2005-06. There were 23 deaths in 2009-10 compared to an average of 30 per year since 2005-06.
- **Reportable major injuries:** this category refers to those incidents where an injury results in a fracture, unconsciousness, or a need for hospitalisation. The number of reported major injuries in Scotland has steadily declined. There were 2,625 reported major injuries in 2009-10, a reduction of 8 per cent since 2005-06.
- **Reportable over-three-day injuries:** such incidents are less serious than major injuries, but nevertheless result in the injured party being off work for more than three days. In 2009-10, the number of reported incidents resulting in over three days off work stood at 8,039, a reduction of 18 per cent since 2005-06.

The higher rate of fatalities and reported major injuries in Scotland, compared with England and Wales is largely due to the composition of the workforce

**7 The reported accident rates for fatalities and major injuries remain higher in Scotland than in England and Wales.** In order to make comparisons, the number of fatalities and accidents are weighted by the size of workforce to calculate a rate per 100,000 employees. In 2009-10, there were 0.9 fatalities in Scotland per 100,000 employees compared to 0.4 per 100,000 for England and Wales. For major injuries, there were 114.7 major injuries per 100,000 employees in Scotland, compared with 99.4 per 100,000 in England and Wales (see Figure 1). The differences in the rates of fatalities and major injuries between Scotland and England have remained statistically significant since 2005-06. It is important to bear in mind that there is a high level of under-reporting of major injuries across Great Britain, but there is no evidence to suggest that the different rates between Scotland and England are due to variations in reporting practices.



**8 The difference in the rate of fatalities and reported major injuries in Scotland compared to England and Wales can largely be attributed to differences in the composition of the workforce.** A study commissioned by the Health and Safety Executive in 2000 concluded that the higher accident rate in Scotland was due to a greater proportion of its workforce being employed in higher risk industries, such as agriculture and construction.<sup>2</sup> Our analysis of published data between 2005-06 and 2009-10 confirmed that in comparison to England and Wales, Scotland has a higher proportion of its workforce in the agriculture and construction sectors. We found that 83 per cent of the difference in fatalities and 97 per cent of the difference in reported major injuries over the last five years can be attributed to the different workforce profile in Scotland. The remaining differences (17 per cent and 3 per cent) are down to other factors unique to Scotland.

The Health and Safety Executive has undertaken research to find out why Scotland has a higher rate of major injuries in the construction industry compared to England and Wales, but it has not done so for the manufacturing sector

**9 Once the effect of the different workforce composition in Scotland is taken into account, there is limited information on what other factors might contribute to the higher accident rates in Scotland.** Between 2005-06 and 2009-10, the relatively low number of fatalities in Scotland meant we could not determine whether risks were more prevalent in some sectors than others. For major injuries, we found that there was a significantly higher rate of major injuries reported in the construction and manufacturing sectors in Scotland than in England and Wales. Research undertaken in 2006 on behalf of the Health and Safety Executive into fatalities and major injuries in the construction industry in Scotland concluded that the difference was almost entirely due to the differing occupational make up: a higher proportion of manual workers were employed by construction firms in Scotland than in England and Wales. We could find no evidence of any similar research to examine the difference in manufacturing.

The Health and Safety Executive prepared a 2010-11 Business Plan for how it will implement its strategy in Scotland, but it contains little information upon how issues specific to Scotland will be addressed

**10 The Scotland Business Plan is very closely linked to the overall plan for Great Britain and shares the same structure and objectives.** As a consequence, the plan specifies the same three priority sectors for Scotland (construction, agriculture and waste recycling) in order to improve the working environment, and there are no specific measures to target manufacturing.

**11 There are insufficient data for the Health and Safety Executive to monitor fully the effectiveness of its activities in Scotland.** We found that:

- The Health and Safety Executive has used a variety of media, such as events, podcasts and advertisements to draw attention to specific health and safety risks. It has evaluated the impact of some of these targeted initiatives in Scotland, but, because of the difficulties in isolating their impact from other factors, their impact upon health and safety outcomes is difficult to measure.
- Effective targeting depends upon keeping the Health and Safety Executive's database of organisations up to date. The Health and Safety Executive does not carry out checks upon how representative its interventions are against the total number of businesses in Scotland. Its management information system contains records of interventions carried out in the past twelve years which numbers 84,000 organisations in Scotland. The InterDepartmental Business Register shows 193,305 records for Scotland, albeit that these include premises such as restaurants and hotels, where responsibility for enforcing health and safety rests with the 32 local authorities. We were not able to establish whether the Health and Safety Executive had sufficient information across all relevant business activities in Scotland, but the Health and Safety Executive explained that their management information is used to enable it to focus on poor performing sectors and businesses.
- In England and Wales, the Health and Safety Executive is the prosecuting body. In Scotland, the Crown Office and Procurator Fiscal Service handle each case, with the Health and Safety Executive making recommendations as to which cases should proceed to a prosecution. In 2009-10, the Health and Safety Executive recommended 43 cases for prosecution in Scotland, compared to 75 in 2007-08 and 84 in 2008-09.<sup>3</sup> There was also a reduction in the proportion of major injury cases investigated in Scotland from 11 per cent of cases in 2007-08 to 6 per cent of cases in 2009-10. The Health and Safety Executive does not have information on what impact these reductions have had on the rate of compliance with the Health and Safety Act.

**12 The prosecution data held for Scotland and which is used in the published statistics are inaccurate.** For 2009-10, the Health and Safety Executive reported 512 prosecution cases in Great Britain, which included 43 cases recommended to the Crown Office and Procurator Fiscal Service in Scotland.<sup>4,5</sup> Of these 43 cases, 35 were the subject of criminal proceedings raised by the Crown Office and Procurator Fiscal Service. For the remainder, the Crown Office and Procurator Fiscal Service concluded that other proceedings were more appropriate or the situation meant they were unable to prosecute.

**13** Given the Health and Safety Executive does not have an accurate record of the outcome of each of their original recommendations, it cannot determine the conviction rate in Scotland. Using the Crown Office and Procurator Fiscal Service data, we established that the conviction rate in Scotland was 94 per cent in 2009-10, which is consistent with that for England and Wales.

**14** It is encouraging that the Business Plan for Scotland outlines plans for closer working between officials from the Health and Safety Executive and the Crown Office and Procurator Fiscal Service to complete cases more effectively. However, the inconsistency between the two sets of prosecution data points to the need for prosecution data to be better recorded by the Health and Safety Executive. Once cases are reported to the Crown Office and Procurator Fiscal Service, the Health and Safety Executive should liaise with them to track progress and update their records to monitor the effectiveness of enforcement activities.

# Part One

## The role of the Health and Safety Executive

**1.1** The National Audit Office has prepared this memorandum in response to a request from the Scottish Affairs Committee to provide an overview of the work of the Health and Safety Executive in Scotland. Our analysis is based on the information provided by the Health and Safety Executive. We have also consulted with the Crown Office and Procurator Fiscal Service, who are the prosecuting body in Scotland.

**1.2** This part of the memorandum covers the role of the Health and Safety Executive, and its organisational structure and funding.

### The role of the Health and Safety Executive

**1.3** The Health and Safety Executive is a non-departmental public body of the Department for Work and Pensions (the Department). The Health and Safety Executive's activities cover the whole of Great Britain and over the last decade it has specified performance targets and objectives for Great Britain. Overall responsibility for health and safety in Scotland remains a reserved issue and has thus not been devolved to the Scottish Parliament. In its review of devolution, the Calman Commission recommended in June 2009 that the Health and Safety Executive should develop a closer relationship with the Scottish Parliament.<sup>6</sup> In response to this, the Health and Safety Executive reported that it has arranged an event which is to be held at the Scottish Parliament to improve the understanding of working with the Scottish Government and Parliament, which will be attended by Health and Safety Executive policy staff from across Great Britain. They have also published the Business Plan for Scotland for 2010-11 and developed a Scottish section on their website.<sup>7</sup>

**1.4** The Health and Safety Executive is responsible for the regulation of the majority of the risks to health and safety arising from work-related activities. The Health and Safety Executive has two main types of activity:

- **Proactive work** includes inspections of premises, focused inspection initiatives and activities to raise awareness in health and safety. Alongside the Health and Safety Executive, local authorities also have a role in enforcing health and safety compliance through inspections and investigations of premises. The Health and Safety (Enforcing Authority) Regulations 1998, covering Great Britain, specify which premises the Health and Safety Executive enforces and those which fall to local authorities. In Scotland, 55 per cent of the workforce are employed in industries

which are enforced by the Health and Safety Executive and 45 per cent by the 32 local authorities, which is consistent with the ratio for the whole of Great Britain. The Health and Safety Executive in Scotland works with other devolved bodies, such as the Scottish Environmental Protection Agency, to regulate the onshore petrochemical and other high hazard industries.

- **Reactive work** involves investigations following a complaint made to the Health and Safety Executive or in response to a specific incident.

**1.5** The Health and Safety Executive's remit also includes compiling health and safety statistics and developing policy on fundamental and strategic health and safety issues. Whilst health and safety legislation is a non-devolved issue, the Scottish Government has a role in promoting good health and safety practice. For example, it funds the Scottish Centre for Healthy Working Lives, which provides service and advice to businesses to improve the health of the working age population.

**1.6** Between September and November 2010, the estimated workforce in Scotland comprised approximately 2.4 million people, with a further 225,000 unemployed and 780,000 economically inactive.<sup>8</sup> The employment and economically inactive rates were similar in Scotland to that for England and Wales.<sup>9</sup>

**1.7** **Figure 2** overleaf shows that a slightly higher proportion of Scottish workers are employed in agriculture and construction than in England and Wales. Although the profile of Scotland's workforce is slightly different, the Health and Safety Executive uses a national risk assessment to identify priority sectors and thus it has not specified any areas of focus for Scotland. The Health and Safety Executive has identified three work sectors in Great Britain, beyond the major hazard sectors such as oil and gas, at particular risk in relation to health and safety:<sup>10</sup>

- Construction
- Agriculture
- Waste and recycling<sup>11</sup>

**Figure 2**  
Profile of the Scottish economy

	Scotland		England and Wales	
	Proportion of total workforce (%)	Number of business units	Proportion of total workforce (%)	Number of business units
Services	81.2	146,495	82.9	2,077,215
Construction	7.3	19,110	6.7	252,755
Manufacturing	6.9	9,015	8.2	126,230
Agriculture	2.4	17,195	1.3	106,795
Extractive and utility supply	2.2	1,490	0.9	11,235

**NOTE**

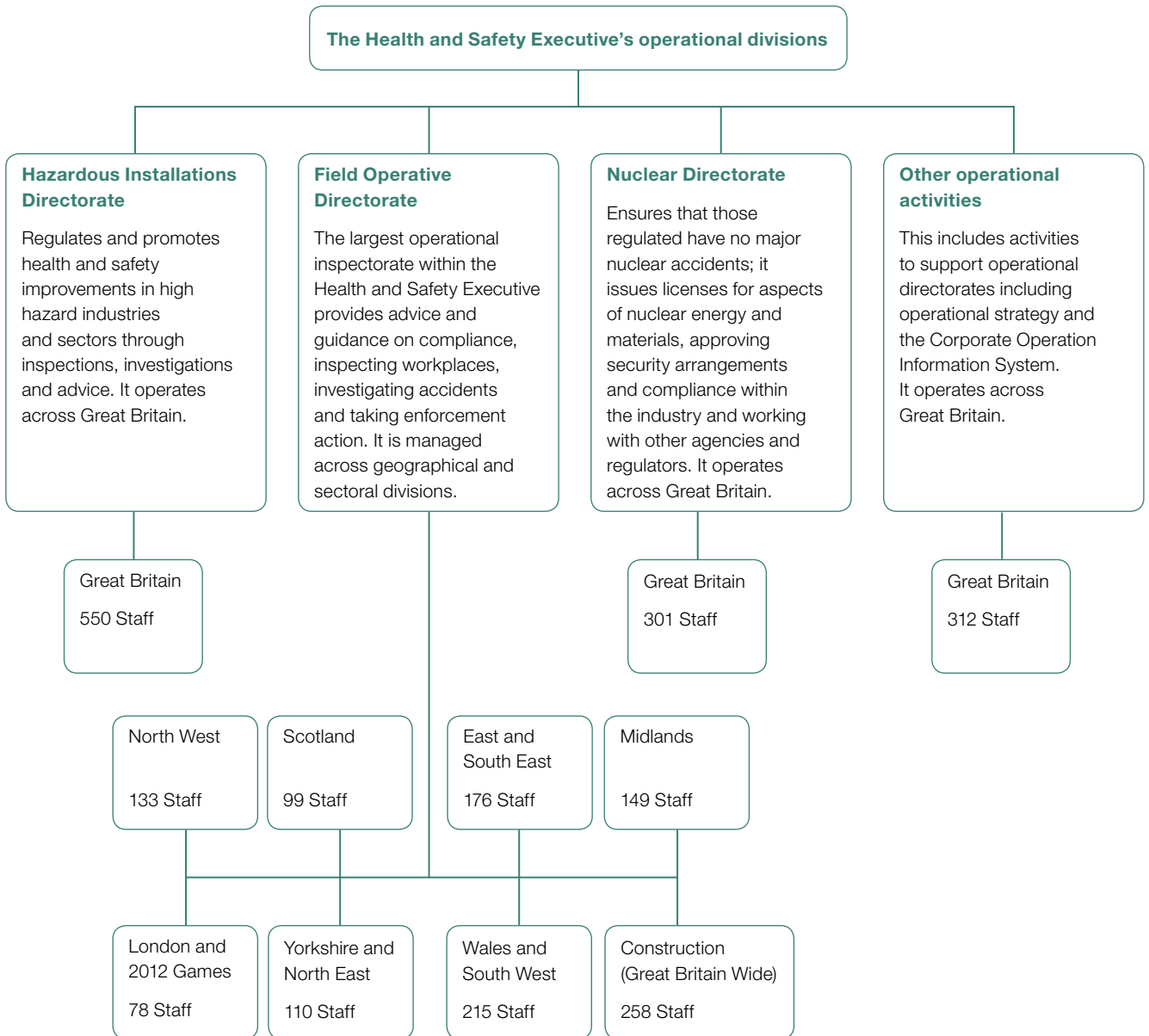
<sup>1</sup> Number of business units from a snapshot of the InterDepartmental Business Register taken on 22 March 2010.

Source: *Labour Market Statistics (December 2010)* and *UK Business: Activity, Size and Location – 2010 (September 2010)*

## The organisational structure and funding of the Health and Safety Executive

**1.8** As of April 2010, the Health and Safety Executive (including the Health and Safety Laboratory) employed 3,647 full time equivalent staff across Great Britain.<sup>12</sup> **Figure 3** shows that the Health and Safety Executive's operational work is divided between three Directorates. These Directorates represent 60 per cent of all staff, with the remaining staff working in a range of other functions such as the regulation of chemicals and pesticides, liaison with industry and other government departments, technical and forensic support to the operational Directorates as well as business support functions. Of the three operational Directorates, two cover Great Britain; thus specialists will work regularly in Scotland, but may be based elsewhere. For example, the Nuclear Directorate is based outside Scotland but covers installations in Scotland. Similarly, the team of quarries inspectors covers the whole of Great Britain, but it is led from within Scotland, and the Offshore Division is based in Aberdeen.<sup>13</sup> Only the Field Operations Directorate is divided in part by geographic area. The Health and Safety Laboratory, an internal agency of the Health and Safety Executive also provides forensic investigation and technical support for incidents and issues in Scotland as it does for England and Wales.

**Figure 3**  
Operational divisions of the Health and Safety Executive



Source: The Health and Safety Executive

**1.9** Approximately 270 (7 per cent) of staff were based in Scotland in 2009-10 at the Health and Safety Executive's offices in Edinburgh, Glasgow, Aberdeen and Inverness. Sixty per cent of the staff based in Scotland were frontline inspectors. The remainder provide policy and administrative support.<sup>14</sup>

**1.10** The Health and Safety Executive is mainly funded by grant-in-aid from the Department and through fees and charges, such as for the licensing of nuclear installations. In 2009-10, the Health and Safety Executive received £239 million in grant-in-aid, and had an income of £106 million, sourced predominantly from fees and charges. Fee charging activities include charges for inspection, investigation and approvals at onshore major hazard sites, gas transportation pipelines, offshore oil and gas extraction, and the vast majority of its nuclear functions. It also recovers its costs for performing a wide range of statutory functions in areas such as licensing activity, approving equipment, chemical substances and pesticides. The Departmental funding has remained relatively consistent since 2005-06.

**1.11** **Figure 4** shows that in 2009-10, the Health and Safety Executive's expenditure was £335 million, 8 per cent higher than in 2008-09. The £14.4 million increase in staff costs was the main contributory factor. The full time equivalent staff numbers increased from 3,582 to 3,647 (an increase of 65) between 2008-09 and 2009-10, and the average cost of each member of staff increased by nearly 7 per cent.<sup>15</sup> As the Health and Safety Executive's funding is allocated on an operational rather than geographic basis, there are no separate figures for Scotland. Similarly, the Health and Safety Executive does not record the levels of expenditure in Scotland as resources are applied and work activity is undertaken across borders; thus we are unable to report related expenditure to activity in Scotland.

**1.12** The Chair of the Health and Safety Executive Board has stated that, as a result of the Spending Review in 2010, the Health and Safety Executive will make savings of a minimum of 35 per cent in its grant-in-aid funding by 2014-15. The difference could be delivered from improved efficiencies and increasing income from fee charging activities, although it is unclear what proportion of the reduction will be met by each of these options.<sup>16</sup> Income receipts (including those of the Health and Safety Laboratory) have increased in the past five years from £60 million in 2005-06 to £106 million in 2009-10. It is not yet clear what proportion of the planned efficiency savings will be made from the Health and Safety Executive's offices in Scotland.



**Figure 4**

Breakdown of expenditure of the Health and Safety Executive from 2005-06 to 2009-10

	2005-06 (£m)	2006-07 (£m)	2007-08 (£m)	2008-09 (£m)	2009-10 (£m)
<b>Administration costs</b>					
Staff	162	157	154	164	178
Other	101	99	92	111	113
<b>Programme costs</b>	42	38	33	36	44
<b>Total Expenditure</b>	305	294	279	311	335
<b>Income</b>	60	60	65	92	106
<b>Net operating costs</b>	245	234	214	219	229
<b>Grant-in-aid from the Department</b>	233	233	217	210	239

**NOTES**

- 1 Figures for administration and programme costs are gross expenditure.
- 2 The figures shown are those published in each year's Annual Accounts and presented in cash terms.
- 3 Administrative expenditure is defined as the cost of staff and the services necessary to support them, such as IT and accommodation.
- 4 Programme expenditure includes costs such as communication activity, including the production of publications and guidance, scientific support to, for example, incident investigation and research.
- 5 Other administration costs include accommodation, travel and subsistence and IT expenditure.
- 6 Net operating costs and grant-in-aid differ because the former includes non-cash costs and the latter is a cash figure.

Source: *The Health and Safety Executive's Annual Accounts*

# Part Two

## Work-related injury and illness statistics

**2.1** This part of the memorandum covers the incidence of work related injury and their estimated cost. Our analysis is based on the information provided by the Health and Safety Executive. Where we report 2009-10 statistics, it should be borne in mind that these are provisional at the time of writing.

**2.2** We have carried out statistical analysis on the rates of each type of work-related incident per 100,000 employees.<sup>17</sup> To avoid year-to-year fluctuations, we have analysed the rates over five years, between 2005-06 and 2009-10. Those differences found to be statistically significant at the 95 per cent or 99 per cent confidence levels have been reported. The terminology used for such findings is to describe them as being 'significantly' different.

**2.3** Since April 1996, the following types of work-related accidents must be reported to the Health and Safety Executive under the Reporting of Injuries, Disease and Dangerous Occurrence Regulation 1995:

- **Reportable deaths and major injuries** – an incident in which there is a death or injury such as fractures, unconsciousness, or a need for hospitalisation.
- **Reportable over-three-day injuries** – where the injured party is off work for more than three days.
- **Reportable disease** – where an employer is notified that an employee suffers from a reportable work-related disease.
- **Reportable dangerous occurrences (near misses)** – occurrence of incident in which a reportable injury does not result, but which clearly could have done.
- **Reportable gas incidents** – for those 'handling' flammable gas and an incident occurs in which someone has died or suffered a major injury in connection with the gas 'handled'.

**2.4** Reporting of Injuries, Diseases and Dangerous Occurrence Regulation 1995 data needs to be interpreted with care because non-fatal injuries are substantially under-reported. By comparing incident reporting through Reporting of Injuries, Diseases and Dangerous Occurrence Regulation 1995 with data collected through the Labour Force Survey, the Health and Safety Executive has estimated that currently just over half of non-fatal incidents are recorded (with this level being consistent across Scotland, England and Wales). Hence we use the term 'reported' to describe such statistics. All incidents involving a fatality are reported.

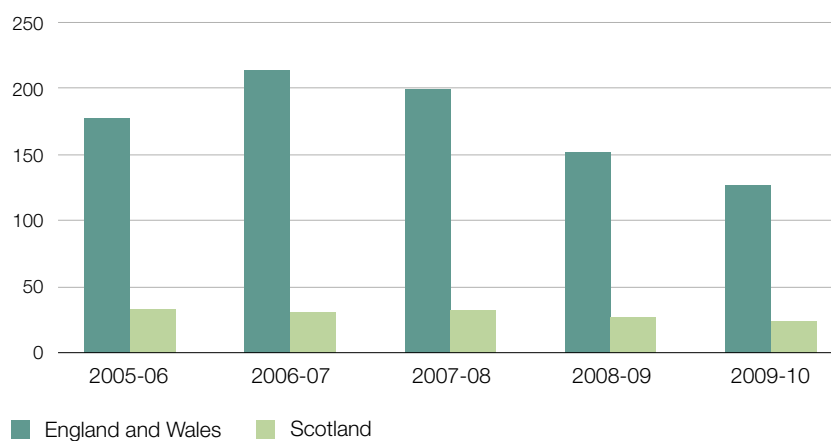
## Fatal Injuries

**2.5** There were 23 fatal accidents in Scotland in 2009-10 – see **Figure 5**. The number of fatalities in Scotland has reduced compared to earlier years (an average of 30 per year between 2005-06 and 2008-09).

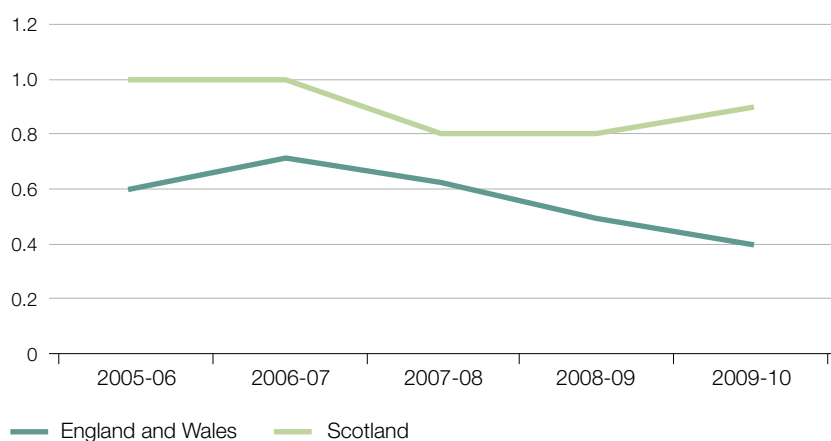
**Figure 5**

The number and incidence of fatalities in Scotland and England and Wales since 2005-06

### Number of fatalities



### Fatalities per 100,000 workforce



### NOTES

- 1 The counts include fatalities to both employees and the self-employed.
- 2 Rates shown are per 100,000 employees. They exclude incidents involving the self-employed.

Source: *The Health and Safety Executive*

**2.6** Between 2005-06 and 2009-10, the rate of fatal accidents per 100,000 employees in Scotland has been significantly higher than in England and Wales. Whilst no recent research has examined this pattern, a study commissioned by the Health and Safety Executive in 2000 found that the variations arose because Scotland has a greater proportion of its workforce employed in higher risk industries.<sup>18</sup>

**2.7** By adjusting the workforce profile in Scotland to match that of England and Wales, we established that this would account for 83 per cent of the differences in fatalities between 2005-06 and 2009-10. This is because a greater proportion of employees in England and Wales work in the services sector (where fatality rates are lower) than Scotland. Scotland has a higher proportion who work in agriculture and construction (where fatality rates are higher).

**2.8** Once the effect of the different workforce profile in Scotland is taken into account, the remaining 17 per cent difference in the fatality rate with England and Wales is due to other factors such as different working practices, the types of activities being undertaken and accessibility to emergency services. The relatively low number of fatalities in Scotland between 2005-06 and 2009-10 meant we were unable to determine whether risks were more prevalent in some sectors than others.

### **Reported major injuries**

**2.9** There were 2,625 major injuries reported in Scotland in 2009-10, compared to 22,774 in England and 1,479 in Wales – see **Figure 6**. The number of reported major injuries has steadily declined since 2005-06.

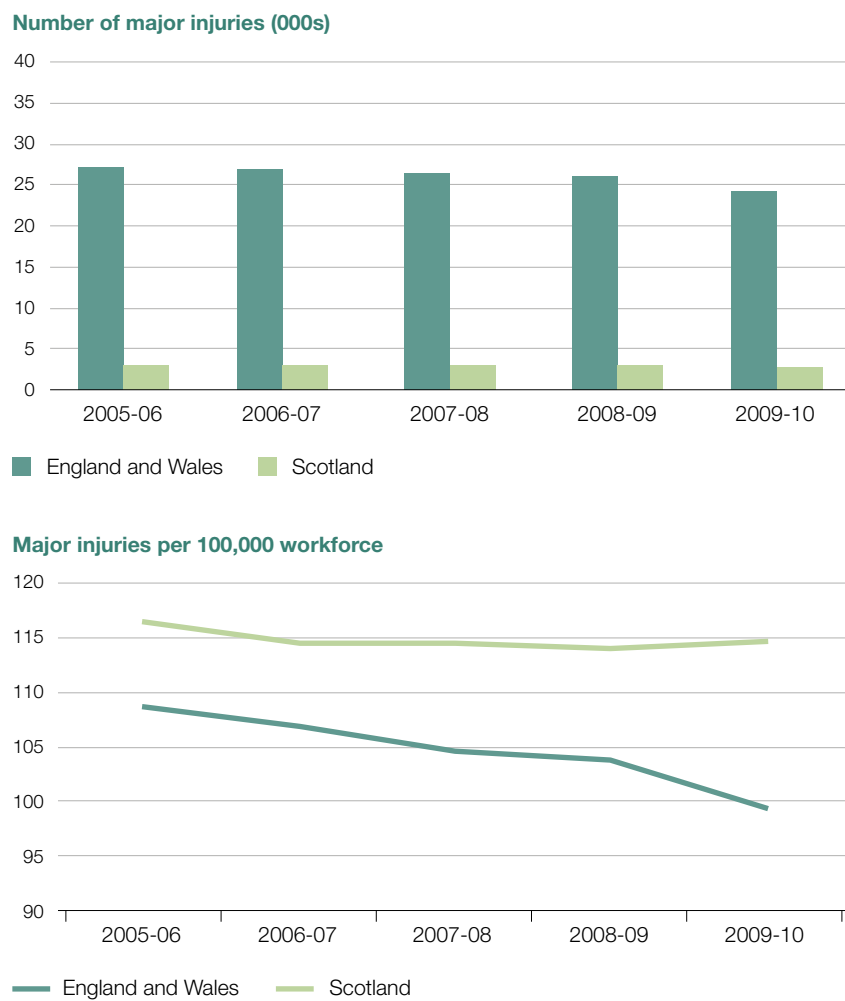
**2.10** Between 2005-06 and 2009-10, the rate of major injuries per 100,000 employees in Scotland has been significantly higher than that for England and Wales. There is a high level of under-reporting of non-fatal injuries across Great Britain, but there is no evidence to suggest that this has contributed to the difference in rates between Scotland and England and Wales.

**2.11** Around 97 per cent of the difference in rates between Scotland and England and Wales is due to the differences in the composition of the workforce. Only 3 per cent of the difference is therefore due to other factors such as different working practices, types of activity or accessibility to emergency services.

**2.12** Between 2005-06 and 2009-10, two sectors (construction and manufacturing) have had a significantly higher rate of major injuries in Scotland than in England and Wales – see **Figure 7**<sup>19</sup> overleaf.

**Figure 6**

The number and incidence of reported major injuries in Scotland and England and Wales since 2005-06

**NOTES**

- 1 The counts include major injuries to both employees and the self-employed.
- 2 Rates shown are per 100,000 employees. They exclude incidents involving the self-employed.
- 3 The data should be interpreted with caution as the Health and Safety Executive estimate that only just over half of non-fatal injuries to employees are reported.

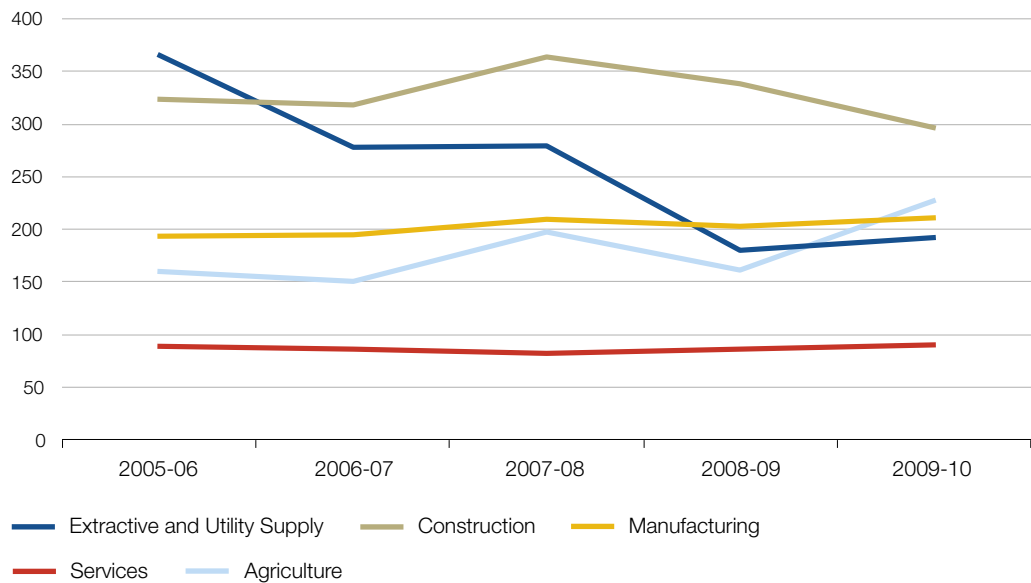
Source: *The Health and Safety Executive*

**Figure 7**

Incidence rates of major injuries by sector in Scotland and England and Wales since 2005-06

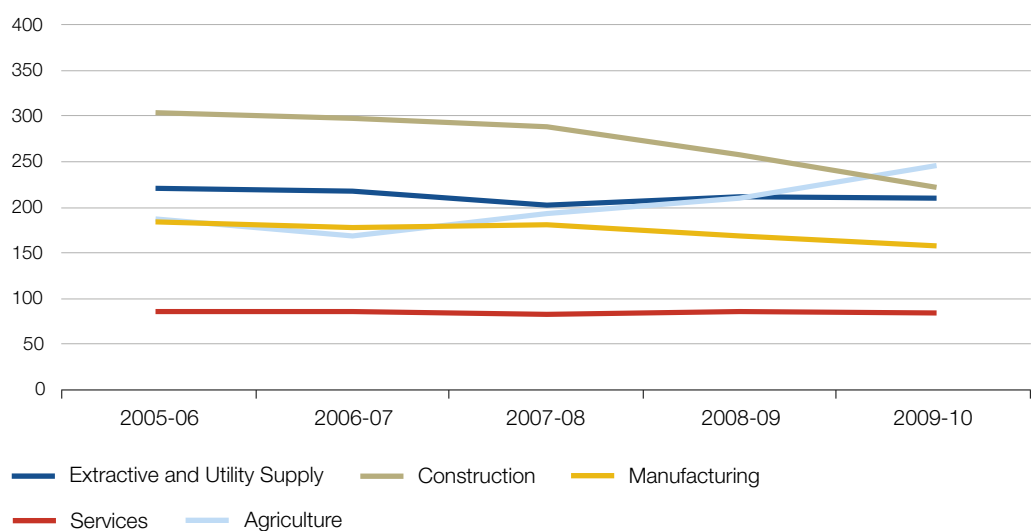
**Incidence rates of major injuries in Scotland by sector**

Incidence rate per 100,000 employees



**Incidence rates of major injuries in England and Wales by sector**

Incidence rate per 100,000 employees



**NOTES**

- 1 Rates shown are per 100,000 employees. They exclude incidents involving the self-employed.
- 2 The data should be interpreted with caution as the Health and Safety Executive estimate that only just over half of non-fatal injuries to employees are reported.

Source: *The Health and Safety Executive*

**2.13** In 2004, the National Audit Office examined the approach taken by the Health and Safety Executive to improve the health and safety performance of the construction industry. Assessing the impact of the Health and Safety Executive strategies was found to be difficult, partly because of the long-term nature of the intended impact and the need to account for the impact of other influences on health and safety performance; the difficulties in establishing baseline data; and the characteristics of the construction industry. We recommended that the Health and Safety Executive should improve the evaluations of its strategies in order to measure its own performance and that of the industry.<sup>20</sup> The Health and Safety Executive published research in 2006 into the difference in rates of injury in the construction industry.<sup>21</sup> The report concluded that the higher accident rate in Scotland was almost entirely due to the differing occupational make up of the construction industry, as there were proportionally many more manual (at risk) workers involved in construction in Scotland than in the rest of Great Britain. We found no evidence of any similar investigation into the different rates of reported major injuries for Scotland and England and Wales in the manufacturing sector.

## Reportable over-three-day injuries and illness

### Reportable over-three-day injuries

**2.14** There were over 8,000 reported injuries in Scotland in 2009-10 that required more than three days off work. **Figure 8** overleaf shows that the rate per 100,000 employees in Scotland was lower than in England and Wales. Since 2005-06, Scotland has seen a reduction of 18 per cent in the number of such incidents. This reduction is in line with England and Wales. Over the past five years, there has been no significant difference between Scotland and England and Wales for the overall rates of work-related incidents which required more than three days off work.

### Work-related illness

**2.15** The Health and Safety Executive estimates that the injuries and illness caused by work resulted in 2.5 million working (full time equivalent) days lost in Scotland in 2009-10. This equates to an average of 1.24 days lost per worker, which is consistent with England and Wales.<sup>22</sup> There is no significant difference in the rate of self-reported illness in Scotland since 2003-04 compared with that of England or Wales.

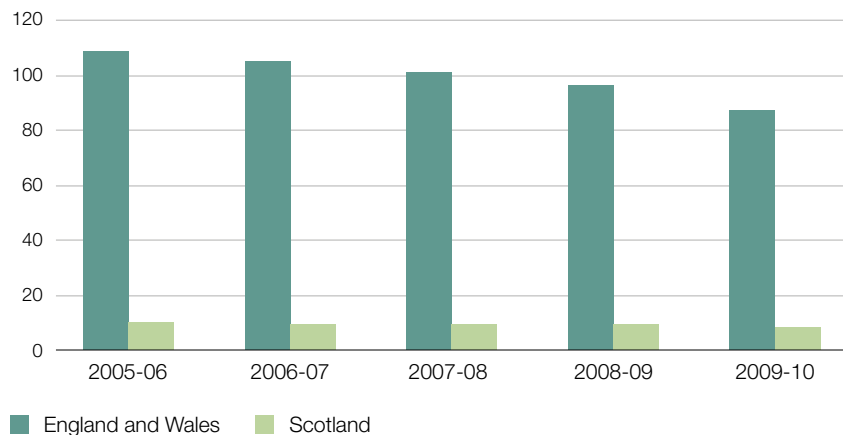
## The cost of work-related injury

**2.16** In 2001-02, the total cost of work-related injury to Great Britain society was estimated to be £6-£11 billion.<sup>23</sup> This is the most recent estimate and as it is such a wide estimate it cannot be disaggregated by geographic area. The Health and Safety Executive confirmed that it is currently undertaking research to update these estimates which it intends to publish, aggregated by geographic area, in 2011.

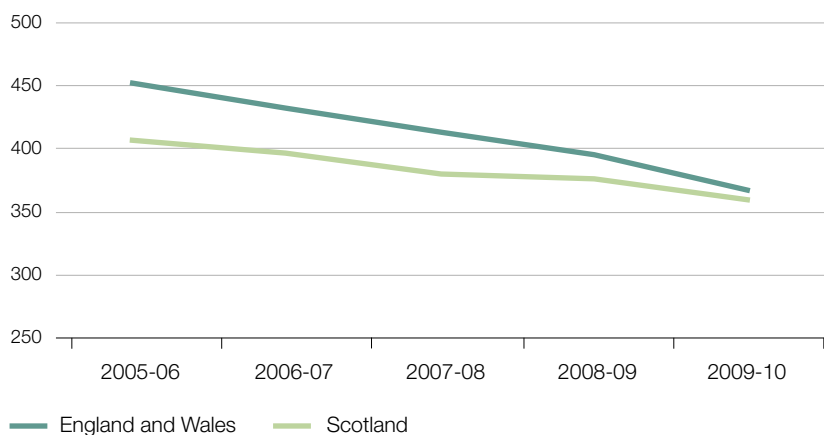
**Figure 8**

The number and incidence of reported over-three-day injuries in Scotland and England and Wales since 2005-06

**Number of over-three-day injuries (000s)**



**Over-three-day injuries per 100,000 workforce**



**NOTES**

- 1 The counts include injuries to both employees and the self-employed.
- 2 Rates shown are per 100,000 employees. They exclude incidents involving the self-employed.
- 3 The data should be interpreted with caution as the Health and Safety Executive estimate that only just over half of non-fatal injuries to employees are reported.

Source: The Health and Safety Executive



**2.17** The Health and Safety Executive has also developed an estimated 'unit cost to society' for workplace accidents and ill health. These cost estimates can only be an averaged approximation, but as **Figure 9** shows, there are estimated costs for each fatality and workplace injury. The overall unit cost is divided into the following component costs:

- Human cost – the cost of pain, grief and suffering to the casualty, relatives and friends.
- Resource cost – includes cost of medical treatment, business administration costs, insurance administration costs, recruitment costs and costs to government.
- Lost output – is assumed to be equal to the labour cost that is normally incurred in employing the absent worker, together with any sick pay.

**2.18** When the costs presented in Figure 9 are applied to the number of work-related incidents, the estimated cost to Great Britain society is £1.6 billion. This is substantially below that reported in 2001-02 and reflects the more closely defined methodological approach used. Using the unit costs in Figure 9, the 23 fatalities, 2,625 reported major injuries and 8,039 reported injuries over three days across Scotland in 2009-10 would have cost approximately £187 million (representing approximately 10 per cent of the Great Britain total). In 2009, the Health and Safety Executive undertook a review of the methodologies behind the two approaches which revealed limitations in both the methods and sources of data used to derive each of the estimates. As a result, the Health and Safety Executive has commissioned a project to produce new estimates of these aggregate and unit costs in 2011.<sup>24</sup>

**Figure 9**  
Unit costs to society for workplace accidents and ill health

	Human cost (£)	Lost output (£)	Resource cost (£)	Total (£)
Fatality	991,200	520,700	900	1,500,000
Major injury	18,400	16,200	5,800	40,400
Over-three-day injury	2,700	2,600	500	5,800
Minor injury	200	100	50	350
Average case of ill health	6,700	2,700	800	10,200

Source: The Health and Safety Executive, 2008 Economic Analysis Unit appraisal values 2008: an overview, [www.hse.gov.uk/economics/eauappraisal.pdf](http://www.hse.gov.uk/economics/eauappraisal.pdf)

# Part Three

## Objectives and targets of the Health and Safety Executive

**3.1** This part of the memorandum outlines the Health and Safety Executive's objectives and targets and how they apply to Scotland.

### The Health and Safety Executive's strategic objectives

**3.2** In June 2009, the Health and Safety Executive launched *Be Part of the Solution*, a new strategy for the health and safety system in Great Britain. It followed consultation with a range of industry and employee representatives and other organisations, which included workshops held in Scotland. The overriding aim is to prevent the death, injury and ill health of those at work and those affected by work activities. In order to meet this aim, it specified four objectives for the health and safety of Great Britain:

- to reduce the number of work-related fatalities, injuries and cases of ill health;
- to gain widespread commitment and recognition of what real health and safety is about;
- to motivate all those in the health and safety system as to how they can contribute to an improved health and safety performance; and
- to ensure that those who fail in their health and safety duties are held to account.

**3.3** In July 2010, the Health and Safety Executive published a Business Plan for its work in Scotland.<sup>25</sup> This plan shows how the Health and Safety Executive will work in Scotland to lead, motivate and support those involved in improving health and safety at work. The Business Plan is very closely linked to the overall plan for Great Britain and shares the same structure and objectives. It does not contain any targets or performance measures specific to Scotland. The main differences in the business plans are in the local initiatives and targeted work derived from consulting with local stakeholders. The main consultative forum in Scotland, established in 2005, is the Partnership for Health and Safety in Scotland. It meets three times a year to assist the Health and Safety Executive in delivering its strategy in the context of Scotland's economy, industrial make-up and culture.

## The Health and Safety Executive's performance targets

**3.4** We assessed the performance of the Health and Safety Executive against existing targets. In particular:

- The Health and Safety Executive's *Revitalising Health and Safety* strategy statement, launched in June 2000, set three national targets to improve occupational health and safety outcomes by 2010. The targets were across Great Britain and **Figure 10** summarises the progress made by the Health and Safety Executive.<sup>26</sup>
- The Department's Departmental Strategic Objective 3 *Improving health and safety outcomes* specified three indicators relevant to the Health and Safety Executive. In examining performance against these indicators it is important to bear in mind that the Coalition Government announced in June 2010 that these indicators would be discontinued.

a) Targets specified in the *Revitalising Health and Safety* strategy

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### Figure 10 Progression against national targets

#### Target

To reduce the number of working days lost per 100,000 workers from work-related injury and ill health by 30 per cent.

To reduce the incidence rate of fatalities and major injury accidents by 10 per cent.

To reduce the incidence rate of cases of work-related ill health by 20 per cent.<sup>4</sup>

#### Progress

The Health and Safety Executive reported that working days lost through work-related ill health and injury fell by an estimated 30 per cent between 2001-02 and 2009-10.

The Health and Safety Executive's adjusted data<sup>1</sup> show an estimated fall of 22 per cent between 2001-02 to 2009-10.<sup>2</sup>

The data<sup>3</sup> show that ill health fell by an estimated 15 per cent between 2001-02 (the earliest available year for which data is available) and 2009-10.

#### NOTES

- 1 In 2003-04, there were changes to the recording systems. These resulted in some types of injuries being classified as major that would previously have been classified as over-three-day.
- 2 There have been revisions to the Office for National Statistics employment estimates covering the period 2001-02 to 2008-09. This has changed the reported rates when compared to previous publications, although the actual changes are relatively minor.
- 3 This covers a range of possibilities: a 95 per cent confidence interval – from 7 per cent to 23 per cent.
- 4 The Health and Safety Executive does not have a large degree of influence on improved outcomes in this area.

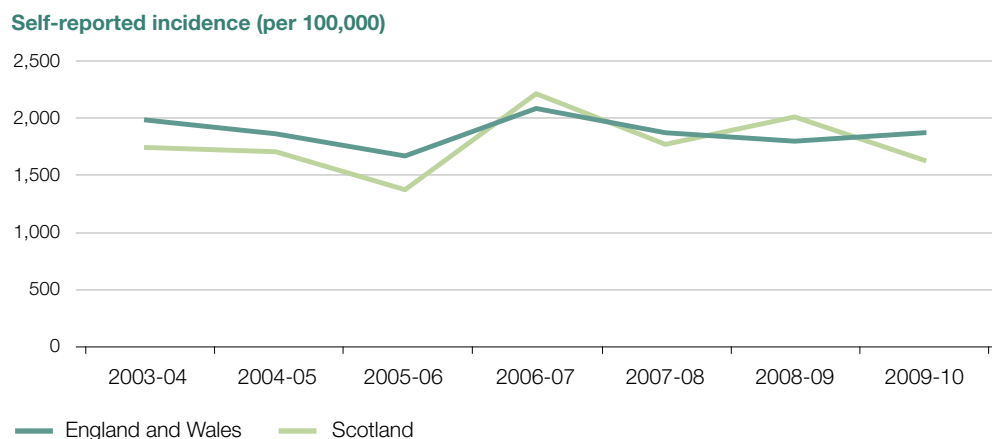
Source: *The Health and Safety Executive*

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**3.5** There are no separate performance targets for Scotland. We have therefore drawn on the data available to compare performance in Scotland with England and Wales as a whole. Performance is largely the same for two indicators, but the reduction in the rate of fatalities and major injuries in England and Wales has not been matched in Scotland. We found that:

- The average number of days lost per worker in Scotland was lower in 2009-10 (1.2 days) than in 2003-04 (1.9 days). This reduction is greater than for England and Wales as a whole, where the average number of days lost per worker fell from 1.7 days in 2003-04 to 1.2 days in 2009-10. Over this period, there is no significant difference between the nations in terms of average days lost.
- Our analysis of the incidence rate of fatalities and major injuries in Scotland found the level to have remained consistent since 2005-06 (a 2 per cent reduction to 115 incidents per 100,000 employees in 2009-10), but for England and Wales over the same period, the rate fell significantly by 9 per cent to 100 incidents per 100,000 employees in 2009-10. Since 2005-06, this rate has been significantly higher in Scotland than that for England and Wales.
- The rates of self-reported work-related ill health in Scotland increased by 9 per cent between 2001-02 and 2009-10, which contrasts sharply with a 17 per cent reduction for England and Wales. However, since 2003-04 there has been no significant difference between the rates of work-related ill health in Scotland compared with that for England and Wales. **Figure 11** suggests the reason for this is due to year-on-year fluctuations for work-related ill health.

**Figure 11**  
Incidence rates of self-reported work-related ill health in Scotland and England and Wales since 2003-04



**NOTE**

1 No data is available for 2002-03, hence rates are shown since 2003-04.

Source: *The Health and Safety Executive*

b) Departmental Strategic Objective indicators

**3.6** The national targets outlined within the *Revitalising Health and Safety* strategy formed the basis of the Departmental Strategic Objective 3 *Improving health and safety outcomes*.<sup>27</sup> The indicators are:

- The incidence of fatal and major injuries in workplaces.
- The incidence of work-related ill health.
- The number of dangerous events in the nuclear industry, and in the offshore and onshore oil and gas sector.

**3.7** The indicators on fatal and major injuries, and on the incidence of work-related ill health are based on the same performance data as the targets specified by the Health and Safety Executive in its *Revitalising Health and Safety* strategy. The third indicator comprises three sub-indicators, these being:

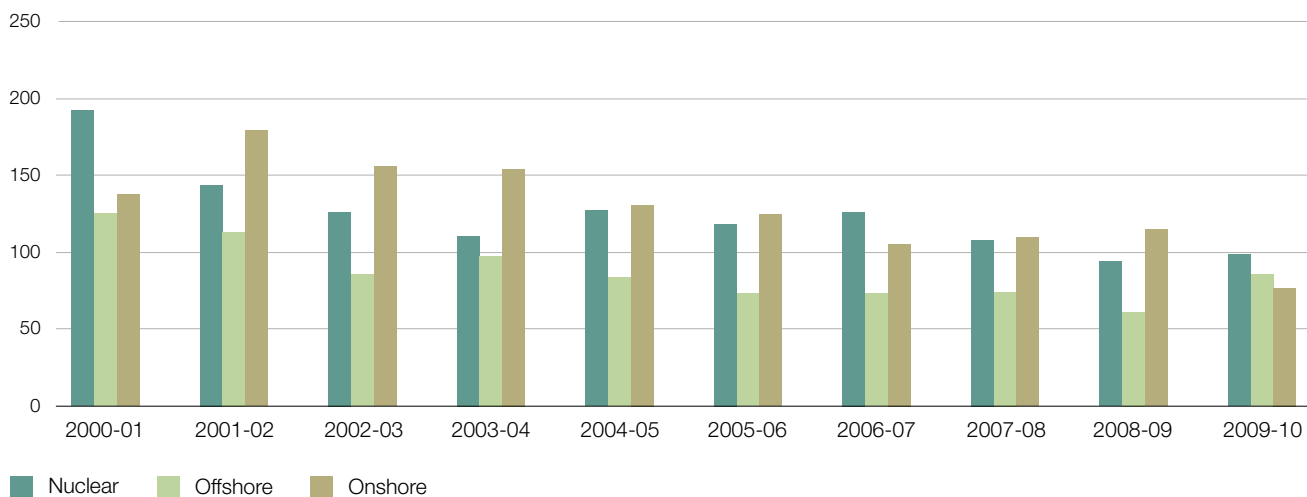
- Events reported by licence holders which are judged to have the potential to challenge a nuclear safety system;
- Major and significant hydrocarbon releases in the offshore oil and gas sector; and
- Relevant reportable dangerous occurrences in the onshore sector as defined by the Reporting of Injuries, Disease and Dangerous Occurrence Regulation 1995.

**3.8** **Figure 12** overleaf shows that since 2000-01, there has been a downward trend in the numbers of associated events and dangerous incidents in the nuclear, offshore oil and gas sector and onshore oil and gas industries, although there is some fluctuation between the years. In 2009-10, there were 98 potentially dangerous events reported from within the nuclear industry, 85 from the offshore oil and gas sector and 76 from the onshore oil and gas sector. The data is collected at a national level and hence we are unable to report the figures for Scotland separately.<sup>28</sup>

**3.9** In February 2010, the National Audit Office examined the data systems used by the Department to monitor and report performance against the Departmental Strategic Objectives.<sup>29</sup> We found that potentially dangerous occurrences within the nuclear sector are reported by nuclear licence holders who operate nationally. Their reports are assessed on a monthly basis within the Health and Safety Executive's Nuclear Directorate.

**Figure 12**

Number of incidents in the nuclear, offshore and onshore oil and gas sector

**Number of events and dangerous incidents**Source: *The Health and Safety Executive*

**3.10** For offshore events, the Hydrocarbon Release database has been used to record the number of dangerous occurrences. All releases of petroleum hydrocarbon, actual or potentially dangerous, by an offshore installation must be reported by law. Inspectors meet quarterly to review and confirm the grading allocated to events.

**3.11** In our examination, we found that the text of the indicator specifies 'dangerous events', and while this includes hydrocarbon releases, it also extends to a much wider range of events which are currently excluded.

**3.12** Similarly, we found that the onshore sub-indicator specifically refers to the 'onshore oil and gas sector', whereas the data reported goes beyond the oil and gas sector to include all events with a major accident hazards potential, thus other industry sectors are included which are not currently identified in this indicator.

**3.13** The Health and Safety Executive intends to retain this performance indicator after the Departmental Strategic Objectives are phased out. It is consulting with the Department to change the description from 2011-12, and in so doing, give it a more accurate reflection of the current data that is collected.

# Part Four

## The Health and Safety Executive's actions to minimise risks

**4.1** This part of the memorandum examines the Health and Safety Executive's activities to minimise the risks to health and safety in the workplace across Scotland. The Health and Safety Executive's approach to controlling work-related incidents involves a wide range of interventions, which are generally categorised as being either proactive or reactive. Proactive work includes inspections and targeted awareness campaigns. Reactive work includes the investigation of a complaint or an incident.

**4.2** A recent report by the Northern Ireland Audit Office<sup>30</sup> on the Health and Safety Executive in Northern Ireland noted that 'the balancing of resources', that is, the number of full-time staff deployed on proactive and reactive work, had been a prominent feature in recent reviews of health and safety practice undertaken by Hampton<sup>31</sup> and Macrory.<sup>32</sup> In December 2010, the balance of resources for staff based in Scottish offices was approximately 55 per cent proactive and 45 per cent reactive. The Health and Safety Executive in Scotland told us that it had considered the optimal split to be 60:40. Achieving this optimal split has proved difficult because of the need to investigate fatal and serious incidents, which in themselves are often unpredictable, and take appropriate enforcement action whenever serious breaches of legislation are found.

**4.3** In 2008, the Scottish component of the Field Operations Directorate published a paper which sought to better control increasing reactive workloads and to maintain existing proactive tasks with the limited Inspectorate resources available. The paper put forward a number of suggestions, including stronger active management of investigation direction, increased pace of investigation and quicker decision-making where no enforcement was likely. In April 2010, these improvements were assessed through a peer review exercise which found that the Health and Safety Executive in Scotland had better control and management of increasing reactive workloads and proactive work.<sup>33</sup>

## Proactive activities

**4.4** The Health and Safety Executive uses a Corporate Operation Information System (COIN) to record its interventions with businesses throughout Great Britain within the last 12 years. The system is not automatically updated by any external business registers, but staff cross-check company details on the database with other information sources such as the Companies House register when adding new records, and the system uses the Post Office's Quick Address System to populate addresses where these have postcodes. The Health and Safety Executive's Field Operations Directorate in Scotland uses the Scottish Assessors Association website to cross-check information on businesses already in, or who they wish to enter, on the COIN database.<sup>34</sup>

**4.5** The Health and Safety Executive confirmed that it uses the COIN database to record its interventions; licences and consents, incident and complaint investigations, inspection and enforcement work. The performance data on each site visited enables the Health and Safety Executive to target poor performing organisations and to contact new additions to the database. In 2009-10, 6 per cent of the Field Operations Directorate's poor performers were located in Scotland.

**4.6** In particular, the data are used to:

- inform upon previous work prior to undertaking further activity;
- commission further work by specialist inspectors in support of investigations; and
- trigger inspection work to ensure major hazards are being managed.

**4.7** The Field Operations Directorate has carried out a benchmarking exercise to test the accuracy of the information held.<sup>35</sup> A business register was used to identify a random sample of manufacturing premises that were representative of that sector. The Executive explained that the information was found to be reliable. We compared the number of businesses recorded on the COIN database in Scotland with data from the Inter-Departmental Business Register. The Register is maintained by the Office for National Statistics and draws on data from HM Revenue & Customs and Companies House to keep it up to date. Its records thus also include premises such as retail outlets and offices which are the responsibility of local authorities.

**4.8** The Health and Safety Executive has explained that they do not have access to the Interdepartmental Business Register for operational purposes. They told us that the data which forms the basis for the register is collected under the Statistics of Trade Act, and can only be used for statistical purposes, such as being used as a sample frame for a survey. The Health and Safety Executive does not carry out checks upon the representativeness of its interventions against the total number of businesses in Scotland.



**4.9** The Health and Safety Executive told us that there are 825,000 site records on COIN, of which 84,000 are in Scotland. The Interdepartmental Business Register records 193,305 businesses in Scotland, which include premises such as restaurants and hotels, where responsibility for enforcing health and safety rests with the 32 local authorities. The Health and Safety Executive explained that their management information is not intended to be representative of the Scottish economy, rather it used it to target poor performing sectors and businesses. We have not examined the extent to which this has been achieved, but the Health and Safety Executive explained that they are confident that poor performers are covered by their interventions.

### Proactive work

**4.10** The Health and Safety Executive's proactive work comprises a suite of interventions which include communication activities and inspections. For example, promotional activity may be used instead of proactive inspection as a key method of intervention.

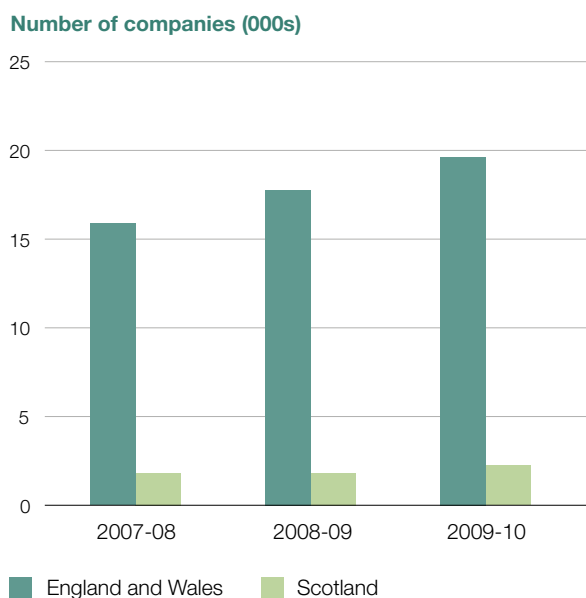
**4.11** **Figure 13** overleaf shows the number of organisations which have been inspected, in Scotland and England and Wales, since 2007-08. Over the three years, organisations in Scotland represent around one in ten of those inspected by the Health and Safety Executive.

**4.12** In June 2010, a moratorium was placed across government upon communications and marketing spend. Prior to June 2010, the Health and Safety Executive had undertaken a number of campaigns to promote health and safety. **Figure 14** on page 33 shows examples of such campaigns, some of which were national and others targeted at Scottish audiences. The Health and Safety Executive has also used external events to reach out and convey its health and safety messages to those at risk or those managing the risks. Examples of events attended by the Health and Safety Executive in Scotland include the country and agricultural showcase the Royal Highland Show, the oil and gas conference Offshore Europe and the entrepreneurial exhibition New Start Scotland.<sup>36</sup> In Scotland, the Health and Safety Executive works with the Central Office of Information Scotland to disseminate messages via local and national media.<sup>37</sup>

**4.13** The Health and Safety Executive has also used new media, such as podcasts, newsfeeds and text messaging, to promote health and safety. It has used health and safety bulletins to issue alerts and notices to inform industry, workers and the public of possible risks and/or appropriate procedures. In 2009, the Health and Safety Executive had 221,000 subscribers to its health and safety e-bulletin service, of which nearly 2,000 had subscribed to e-bulletin service of the Health and Safety Executive in Scotland. The Health and Safety Executive's website received around 22 million visits in 2010, which is at a similar level as the previous two years. The Health and Safety Executive's website has a dedicated section on health and safety in Scotland, outlining its activities, performance and delivery partners. It received over 41,000 visits in 2010.

**Figure 13**

The number of companies inspected in Scotland and England and Wales

**NOTES**

- 1 The Health and Safety Executive do not have a breakdown of companies inspected by sector. This is due to the sector being identified by the economic activity at the company's site. As a result, a number of the companies inspected will span different sectors as a result of their site information. The Health and Safety Executive does not have sufficient information to enable the assignment of the primary economic activity when there is more than one Standard Industrial Classification code at one premises.
- 2 Scotland inspection figures are based on predominately land-based inspection. Most of the Health and Safety Executive's offshore inspection recorded is within figures for Great Britain.
- 3 Where a company has several sites, then an entry on the system indicates that one or more such sites has been inspected, and if a company has been inspected at sites within Scotland and elsewhere in Great Britain, the company is included in both sets of figures.

Source: *The Health and Safety Executive*

**4.14** The effectiveness of the Health and Safety Executive's targeted activities designed to raise health and safety standards (or to secure compliance with health and safety law) have not routinely been evaluated. The Health and Safety Executive consider that to isolate the impacts of such a campaign away from other factors is difficult because the impacts of such activity may be borne out over several years. Ultimately, the Health and Safety Executive consider that the overall impact of its interventions is measurable through changes to the levels of work-related injury and illness, as set out in the national targets.

**Figure 14****Examples of communication campaigns undertaken by the Health and Safety Executive in Scotland and Great Britain****Great Britain****Make the Promise, Come Home Safe**

Award-winning campaign using a multi-channel approach to raise awareness about the risks faced by farmers. Communication methods included BBC Farming Today and Countryfile programmes as well as direct mail and trade advertising.

**Asbestos – Hidden Killer**

Worked with local authorities, trade unions, DIY stores and trade associations to raise awareness of the risks of asbestos and managing the risks. Communication methods included victims' stories on radio, trade press advertising and a public relations programme.

**Slips and Trips – Shattered Lives**

Substantial media presence including broadsheets as well as technical and trade media to raise awareness of the causes of slip and trip accidents. Other activities included targeted inspection activity and provision of tailored advice, guidance and research.

**Safety Health and Awareness Days**

These awareness days provide practical demonstrations and guidance to farmers about the key topics that most commonly result in death and injury and an opportunity to raise awareness of issues. It is a significant means of face-to-face contact with those working in farming. Over the last decade there have been around 180 of these events.

**NOTE**

1 The campaigns in the offshore industry and on liquid petroleum gas are not specific to Scotland, although given the geographic concentration of the industry they may apply to a greater extent in Scotland.

Source: *The Health and Safety Executive*

**Scotland****Safe use of all-terrain vehicles**

Raised awareness of the risks of using all-terrain vehicles, such as quad bikes, among farmers to prevent unavoidable injuries and deaths.

**Safety standards in the offshore industry**

Hosted conference with North Sea Offshore Authorities Forum that brought together senior executives of all major oil companies operating in the North Sea.

**Liquid petrol gas**

Safety campaign targeted at businesses and residents of sites likely to use liquid petroleum gas to inform them of responsibilities and likely problems.

**Health and safety in small businesses**

Road show events around the country to promote key messages, including health and safety leadership in small businesses. These draw upon the resources of the Health and Safety Executive's partner organisations in Scotland, something we were told makes this intervention unique to Scotland.

## Reactive work

**4.15** On an operational level, the Health and Safety Executive has evaluated the effectiveness of some of its proactive work although all are at a national level and hence not specific to Scotland. In 2010, the Health and Safety Executive commissioned an evaluation of its Agriculture Safety and Health Awareness programme of interventions. The evaluation showed that 12 per cent of farmers had attended a Safety Health and Awareness Day and 48 per cent had found it very helpful. It indicated there is still a large untapped pool of farmers to reach. In 2010, the Health and Safety Executive also evaluated the Shattered lives campaign, finding that 53 per cent of those surveyed were able to recollect the campaign.

**4.16** The Health and Safety Executive's reactive work includes responding to work-related incidents. Such work can involve:

- dealing with complaints;
- investigating incidents; and
- enforcement notices, prosecutions and convictions.

### a) Complaints

**4.17 Figure 15** shows the number of complaints made to the Health and Safety Executive together with the proportion that were investigated, and their outcome for Scotland and England and Wales since 2007-08. The number of complaints made to a Health and Safety Executive office in Scotland has fallen by 35 per cent since 2007-08, this being greater than the comparable figure for England and Wales (22 per cent). We asked the Health and Safety Executive the reason for the reduction. They explained that previously it was difficult to distinguish between requests for advice or information from actual complaints, thus meaning complaints may have been over-counted. The Health and Safety Executive told us that it has recently put in place a more robust handling process for complaints. This has resulted in a better definition of what constitutes a real complaint and may explain the reduction. The Health and Safety Executive were unable to provide a robust response as to why the reduction was greater in Scotland. They considered that it may be on account of the greater variation in the way that complaints were recorded in different parts of Great Britain, before the introduction of the new process.

**4.18** In January 2009, the Health and Safety Executive changed its complaints investigation procedure to a proportionate risk-based approach. This involved the creation of a dedicated complaints handling team in each division. In January 2010, the Health and Safety Executive Board concluded that the change in complaints handling had been successful and agreed that it should be adopted as a permanent procedure.

**Figure 15**

Number of complaints received and the proportion investigated that result in either a prosecution or an enforcement notice

Year	Number of complaints in Scotland	Number of complaints in England and Wales	Percentage of complaints investigated resulting in prosecution or enforcement notice	
			Scotland (%)	England and Wales (%)
2007-08	1,878	14,936	3.8	4.7
2008-09	1,459	13,126	3.5	4.9
2009-10	1,229	11,639	2.9	4.3

**NOTES**

- 1 The figures are current as of 6 December 2010. These are subject to change as further investigation and enforcement activity is undertaken on these complaints.
- 2 The enforcement figures are expressed as the number of complaints investigated which have resulted in at least one enforcement notice being issued, and those investigated which have resulted in at least one duty holder being prosecuted. In some instances an investigation will result in both notice and prosecution action.

Source: *The Health and Safety Executive*

**4.19** Scotland accounts for around one in ten of all complaints received in Great Britain by the Health and Safety Executive. Since 2007-08, over 99 per cent of complaints have been investigated each year and the proportion which led to an enforcement notice or a prosecution is consistent between Scotland (3 per cent) and England and Wales (4 per cent). The number of appeals against a decision not to investigate a complaint remains low, accounting for less than 0.5 per cent of complaints received.<sup>38</sup>

#### b) Investigations

**4.20** On learning of a work-related incident, the Health and Safety Executive bases its investigations, and the level of resource to be used, upon the following criteria;<sup>39</sup>

- Severity and scale of potential or actual harm;
- Seriousness of any potential breach of the law;
- Duty holder's known past health and safety performance;
- Enforcement priorities;
- Practicality of achieving results; and
- Wider relevance of the event, including serious public concern.

**4.21 Figure 16** summarises the proportion of reported work-related incidents in Scotland which have been investigated since 2007-08. Over this period, the Health and Safety Executive investigated all fatalities but the proportion of major incidents investigated in Scotland has fallen each year.

**4.22** As the number of major incidents in Scotland has remained consistent since 2005-06 (see paragraph 3.5), we asked the Health and Safety Executive why a smaller proportion were investigated in 2009-10 than previous years. They explained that the reduction was on account of the Health and Safety Executive now exercising greater discretion when deciding which incidents are selected for investigation.

### Figure 16

Rate of reportable incidents and subsequent investigations in Scotland and England and Wales since 2007-08

Severity of incident	Year	Percentage of incidents reported that are investigated		Percentage of incidents investigated that result in a prosecution or enforcement notice	
		Scotland (%)	England and Wales (%)	Scotland (%)	England and Wales (%)
Fatality	2007-08	100	100	70	56
	2008-09	100	100	65	51
	2009-10	100	100	54	38
Major injury	2007-08	11	7	26	25
	2008-09	8	5	24	25
	2009-10	6	5	21	25
Over-three-day injury	2007-08	3	1	19	16
	2008-09	1	1	12	20
	2009-10	2	1	13	14

#### NOTE

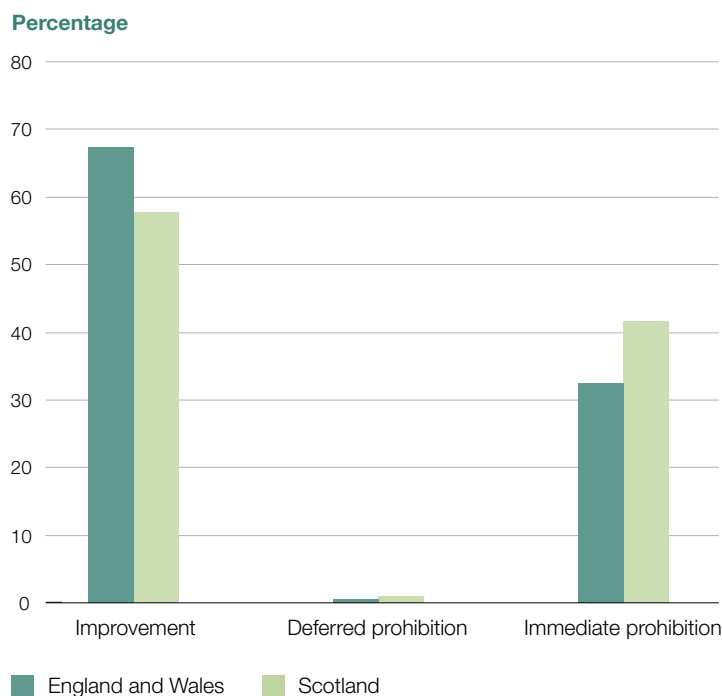
1 The figures are current as of 6 December 2010. These are subject to change as further investigation and enforcement activity is undertaken.

Source: *The Health and Safety Executive*

## c) Enforcement notices, prosecutions and convictions

**4.23** An investigation or inspection may result in an enforcement notice (improvement or prohibition) or a prosecution.<sup>40</sup> In Great Britain, enforcement notices are issued by three organisations: the Health and Safety Executive, Local Authorities and the Office of Rail Regulation.<sup>41</sup> In 2009-10, the Health and Safety Executive issued approximately 1,400 enforcement notices. **Figure 17** shows that the majority of these were improvement notices (815 notices, 58 per cent of all notices issued) and there were 589 immediate prohibition notices (42 per cent of notices issued). Deferred prohibition orders are rarely used. Whilst less than half of the improvement notices in Scotland originated from the Health and Safety Executive, they issued over 70 per cent of the notices of immediate prohibition. The percentages are similar in England and Wales and reflect the greater seriousness of the incidents investigated by the Health and Safety Executive compared with local authorities. The balance of prohibition to improvement notice varies by sector; the Health and Safety Executive told us that in construction more prohibition notices have to be served to stop work which presents serious or imminent danger.

**Figure 17**  
Proportion of enforcement notices by type in  
Scotland and England and Wales (2009-10)



Source: The Health and Safety Executive

## Prosecutions

**4.24** According to the Health and Safety Executive, prosecutions are used to bring duty holders to account for alleged breaches of the law. A prosecution may ensue when either of the following circumstances apply:

- As a way to draw general attention to the need for compliance with the law and conviction may deter others from similar failures to comply.
- Significant risk has continued despite relevant warnings from employees or others affected by a work activity.

**4.25** In England and Wales, the Health and Safety Executive is the prosecuting body. In Scotland, the Crown Office and Procurator Fiscal Service is the sole public prosecution authority. Here, the Health and Safety Executive make recommendations to the Crown Office and Procurator Fiscal Service and employees will normally be witnesses in any case proceeding to trial. The Crown Office and Procurator Fiscal Service has the sole responsibility for determining what action is appropriate in the public interest in respect of any allegation of criminal conduct. In reaching this decision, the Procurator Fiscal will consider whether there is a sufficiency of evidence to support the charges suggested. Where the Procurator Fiscal is satisfied that there is a sufficiency of evidence, he will consider what action, if any, is required in the public interest. In reaching this decision, the Procurator Fiscal has regard to a number of factors which include an assessment of the seriousness of the offence, the length of time since the offence took place, the interests of victims or other witnesses, any previous convictions or enforcement history.

**4.26** In 2009-10, there were 469 health and safety prosecution cases heard in England and Wales as a consequence of investigations or recommendations. In Scotland, the Health and Safety Executive recommended 43 cases to the Crown Office and Procurator Fiscal Service for prosecution.<sup>42</sup> This represents a reduction of 46 per cent from the previous year. The Health and Safety Executive explained that following the establishment of the specialist Health and Safety Division within the Crown Office and Procurator Fiscal Service in March 2009, the Health and Safety Executive were requested to review older cases which took up additional resources.<sup>43</sup>

**4.27** In 2009-10, the Crown Office and Procurator Fiscal Service prosecuted in 35 of the 43 cases recommended to them by the Health and Safety Executive. The Crown Office and Procurator Fiscal Service did not proceed with the eight cases either due to the fact that there was insufficient evidence to justify a prosecution, another form of proceedings was determined to be appropriate or that the companies reported for prosecution had gone into liquidation. For the 35 prosecution cases in 2009-10, the rate of conviction in Scotland was 94 per cent, which is consistent with that for England and Wales.

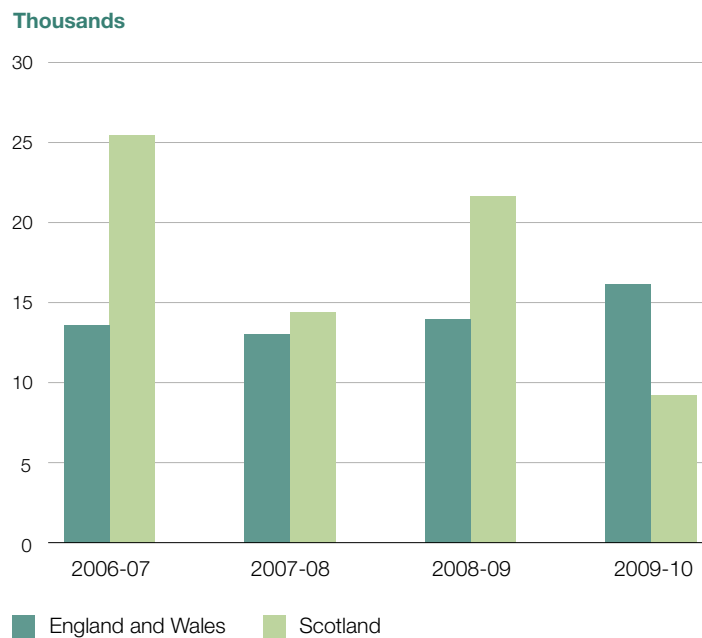


**4.28** Fines awarded by the Courts vary from case to case and year-to-year, depending on the nature of the incidents that incur a penalty. For instance, the Health and Safety Executive's Annual Report for 2005-06 describes a £15 million fine against Transco, which accounts for the vast majority of the £16.2 million recorded for that year.<sup>44</sup>

**Figure 18** shows the average fine imposed per conviction in Scotland and England and Wales since 2006-07, but the variations in the extent of fines make comparisons difficult. Unlike in England and Wales, costs cannot be recovered from successful prosecutions in Scotland.

**Figure 18**

Average fine imposed per conviction



**NOTE**

1 The figures show the average fines imposed for Health and Safety offences in Scotland and England and Wales. We have not compared this with the amount that has actually been recovered.

Source: *The Health and Safety Executive*

# Endnotes

- 1 *The Health and Safety Executive Annual Accounts 2009-10.*
- 2 *An Analysis of Temporal and National Variations in Reported Workplace Injury Rates 2000*, Institute for Employment Research.
- 3 For 2009-10, the Health and Safety Executive records 45 cases which were recommended for prosecution. We have excluded two from this figure because whilst the offence took place in Scotland, the hearing was carried out in England.
- 4 *The Health and Safety Executive statistics 2009-10.*
- 5 *Serving Scotland Better: Scotland and the United Kingdom in the 21st Century*, Commission on Scottish Devolution, June 2009.
- 6 [www.hse.gov.uk/scotland/businessplan.pdf](http://www.hse.gov.uk/scotland/businessplan.pdf)
- 7 Health and Safety Executive data shows that for 2009-10, there were 45 cases recommended in Scotland. However, these include two cases for which while the offence took place in Scotland, the hearing was carried out in England. Hence these have been discounted from the Scottish figures.
- 8 Relates to those aged 16 to 64 years old.
- 9 Office for National Statistics, Labour Market Statistics January 2011.
- 10 The Health and Safety Executive Scotland Business Plan 2010-11.
- 11 Although identified as a priority sector, work-related incident statistics upon waste and recycling have not been published.
- 12 *The Health and Safety Executive Annual Report 2009-10.*
- 13 *The Health and Safety Executive Scotland Business Plan 2010-11.*
- 14 *The Health and Safety Executive Scotland Business Plan 2010-11.*
- 15 *The Health and Safety Executive Annual Accounts 2009-10.*
- 16 Speech of Chair of the Health and Safety Executive Board, (7 December 2010) Health and Safety after the Young Review, [www.hse.gov.uk/aboutus/speeches/transcripts/hackitt071210.htm](http://www.hse.gov.uk/aboutus/speeches/transcripts/hackitt071210.htm)
- 17 A t-test was carried out on Health and Safety Executive data.
- 18 *An Analysis of Temporal and National Variations in Reported Workplace Injury Rates 2000*, Institute for Employment Research.

- 19 There was no statistical significance between Scotland and England within other sectors.
- 20 *Improving health and safety in the construction industry*, National Audit Office, 2004.
- 21 *An analysis of the significant causes of fatal and major injuries in construction in Scotland*, The Health and Safety Executive, 2006.
- 22 The number of working days lost is a central estimate of a range between 1,781,000 and 3,258,000.
- 23 *Costs to Britain of Workplace Accidents and Work-Related Ill Health*, The Health and Safety Executive, 2000-01.
- 24 *The costs of workplace injuries and work-related ill health in the UK*, Dr Stavros Georgiou et al, The Health and Safety Executive, 2009.
- 25 *The Health and Safety Executive Scotland Business Plan 2010-11*.
- 26 *The Health and Safety Executive Business Plan 2009-10*.
- 27 The Government announced in June 2010 that Departmental Strategic Objectives are to be discontinued.
- 28 Onshore events include all with major accident hazards potential, and hence not just those for the oil and gas sector. Similarly offshore events are limited to those involving a release of petroleum hydrocarbon.
- 29 Department for Work and Pensions – *Validation of the data systems for the 2008-11 Departmental Strategic Objectives* (February 2010).
- 30 *Review of the Health and Safety Executive for Northern Ireland*, Northern Ireland Audit Office, September 2010.
- 31 Hampton Review – *Reducing administrative burdens: effective inspection and enforcement*, HM Treasury, March 2005.
- 32 Macrory Review – *Regulatory Justice: Making sanctions Effective*, Better Regulation Executive, Cabinet Office, November 2006.
- 33 Field Operative Directorate Management Board Paper Scotland Division Regulatory Decision-Making peer review April 2010.
- 34 [www.saa.gov.uk](http://www.saa.gov.uk)
- 35 A follow-up exercise is planned for 2012-13.
- 36 Since the Comprehensive Spending Review and ensuing budgetary cuts, the Health and Safety Executive has stopped this type of activity.
- 37 Central Office of Information advises government departments and the public sector on best practice and cost effectiveness in informing, engaging and influencing citizens.

- 38 *Implementation of a risk-based approach for selecting complaints about dutyholders* (December 2010).
- 39 The Health and Safety Executive Enforcement Policy Statement.
- 40 An improvement notice will order the duty holder to make improvements allowing them time to comply. A Prohibition notice will result in an activity being prevented until remedial action has been taken.
- 41 Since 1 April 2006 enforcement of railway safety has been the responsibility of the Office of Rail Regulation.
- 42 The Health and Safety Executive records that for 2009-10, there were 45 cases recommended in Scotland. However, these include two cases for which while the offence took place in Scotland, the hearing was carried out in England.
- 43 The specialist Health and Safety Division was established in March 2009.
- 44 *Health and Safety Commission Annual Report and the Health and Safety Commission/Executive Accounts 2005-06.*



