

FROM SIR LEO PLIATZKY

CONFIDENTIAL

MR PATTISON

HEALTH AND SAFETY COMMISSION AND HEALTH AND SAFETY EXECUTIVE

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1. I enclose a note on the Health and Safety Commission and Executive, to be added to the notes on the other Department of Employment bodies which I sent you on 1 November. Like the other notes, it is designed to form part of the published report, but it should also be useful as further briefing for the Prime Minister's visit to the Department. Notwithstanding my critical approach, I have had every help from the Department in the fairly extensive enquiries which have gone into the note.
 2. The CPRS exercise on the compliance costs to the private sector of industry can now take up where my exercise leaves off.
 3. I am sending copies of this to Sir Ian Bancroft and Sir Derek Rayner.

h.p.
LEO PLIATZKY

19 November 1979

CONFIDENTIAL



HEALTH AND SAFETY COMMISSION AND HEALTH AND SAFETY EXECUTIVE

1. The Health and Safety Commission and the Health and Safety Executive were set up under the Health and Safety at Work etc Act 1974. This gave effect to the major proposals in the Report of the Committee on Safety and Health at Work (Cmnd. 5034) under the chairmanship of Lord Robens.

2. The Act brought together a mass of provisions on health and safety previously scattered among a great many different statutes, but it also added important new requirements and brought within its scope many occupations not previously affected. It brought together under the Commission responsibilities which had previously been spread over a number of government Departments; several previously separate inspectorates were brought together under the Executive, and the Act also paved the way for a considerable increase in staff to match the new policies designed to improve standards of health and safety.

3. The number of staff rose from 1,992 immediately after the hiving off in January 1975 to 4,286⁽¹⁾ on 1 April 1979, but this increase was partly accounted for by the transfer of 1,100 posts from other Departments. The true increase was therefore 1,200. There will now be some reduction because of the cuts in civil service staffs, but not to the same extent as in other parts of the Department of Employment group.

4. The expenditure involved, at 1979 Public Expenditure Survey prices, has risen from £34 million in 1975-76 to an

(1) including 209 industrial and casual employees



estimated £48 million in the current financial year. This is financed by grant in aid from the Department of Employment, and the arrangements for administering it are on all fours with those for the MSC. However, whereas the MSC is to some extent a channel for passing money on to others, the expenditure of the Health and Safety Commission and Executive is confined to the direct cost of their own activities.

5. Like the MSC the Health and Safety Commission involves both sides of industry in oversight of the organisation, but there are structural differences as compared with the MSC. Although the Commission is appointed by the Secretary of State for Employment, and in general reports to him, it also reports to certain other Ministers with responsibilities in specific fields, such as nuclear power or the environment or transport, and has to obtain their approval for regulations affecting those fields. However, the Executive has enforcement functions over all these fields and, though it is in general the Commission's executive arm, the Executive is formally a separate statutory body, and has responsibility on its own account for enforcement as well as other responsibilities delegated to it by the Commission.

6. The Commission do not proceed solely by means of regulations but also, and to a much greater extent, by less formal guidance including codes of practice. Much of the initiative in these matters comes from the Executive, but the procedures also entail a great deal of consultation with both sides of industry and depend in practice on agreement between both sides at various stages, including the stages which involve the Commission itself. The application of the provisions of the Act and of regulations and of standards set under it also rests a great deal on the judgment of the inspectorates.



7. Among the Act's new provisions were wide-ranging general obligations on employers to do everything "reasonably practicable" to avoid endangering the health or safety both of their own workpeople and of the general public. As one of the means of implementing the Act's provisions, regulations have been made under which Trade Unions nominate health and safety representatives in places of work.

8. These developments have naturally entailed considerable extra costs for industry, which of course are not reflected in the Commission's own expenditure figures. This was inherent in the Act and would have taken place even if the framing of new objectives and obligations had not been accompanied by the creation of a new organisation. However, the new organisation has clearly brought considerable impetus to the new policies, as it was intended to do.

9. It would not have been feasible in a review of this kind to make enquiries at first hand into the question of the "compliance costs" to the private sector of industry and the corresponding gains in lives saved, illness avoided or reduced, and so on, and the literature available from the Commission throws little light on this subject. A certain amount appears to depend on the practical handling of these matters by individuals. It is clear that the Trade Unions attach value to the joint involvement of both sides of industry and government; on important issues representatives of employers also appear to find safeguards in the system of proceeding by agreement.



10. When we turn to the public services - including government establishments, local authorities and the National Health Service - a new situation was created by the fact that the 1974 Act brought ^{them} fully within the scope of arrangements of this kind for the first time, when previously only part of these activities had been affected. The review has brought to light mixed experiences and attitudes.

11. Local authorities, hard pressed financially, find it irksome to have to allocate resources for activities which do not demonstrably bring commensurate benefits, and which in their view were primarily designed for industrial and commercial activities; relief from these obligations would be welcome. There is some feeling among Departments that insufficient account is taken of the special circumstances of, for instance, schools or fire service operations and training; the Ministry of Defence see difficulty in reconciling oversight of certain activities by the Commission and Executive with their own special responsibility for the external safety of the State. Some Departments, in their policy roles rather than in their capacity as employers, find drawbacks in the chain of responsibility involving the Executive, the Commission and a number of different Ministers, and in the centralisation of the inspectorates. Although the concern most generally voiced is that insufficient weight is attached to the cost of perfectionist health and safety standards, a concern of the opposite kind has also been expressed that considerations such as road safety or environmental factors may not be adequately taken into account - a view which was reflected in the recommendation of the Royal Commission on Environmental Pollution in 1976 that the Alkali Inspectorate should be returned to the Department of the Environment as part of their proposals for the creation of a separate Pollution Inspectorate.

12. Other Departments, including those concerned with sensitive areas such as nuclear power, civil aviation, and public health, while conscious of the additional costs



involved, do not otherwise find any special difficulty with the new arrangements or with the structure of the new organisation, provided that there is sufficient co-operation in matters such as particular aspects of public health where there is a joint interest. There is some support for the Commission's own view that centralisation of, for instance, research facilities has enhanced the available capability and has made for better use of it.

13. The issues discussed above are perhaps the most complex of those covered by this review. This report confines itself to suggestions for the future working of the existing legislation and organisation, not for changes in them.

14. Because of the high technical or professional content of the work, Ministers would be heavily dependent, in the exercise of the policy responsibilities which ultimately rest with them, on the expert advice given to them, whatever the form of the organisation. When we add to this the extent to which proposals submitted for final approval are the product of a long process of consultation and joint agreement which it would be difficult to overturn, it might not be realistic to consider the situation at that stage in terms of policy options each having its pros and cons. If so, the case is strengthened for more explicit attention to the assessment of costs in relation to benefits at earlier stages in the policy-making process as well as at the stage of final approval.

15. It may well be that concern with what is reasonable, having regard to the cost of extra precautions in relation to the gains in reducing risks, is implicit in the whole approach adopted by the Commission and the Executive, and that the procedures for consultation and agreement in



themselves ensure that a proper balance is struck. One further way of demonstrating this, without making a fetish of cost-benefit analysis, which is not a precise science, would be to include an appraisal of the costs to industry and employers of the measures promoted by the Commission and Executive, together with an estimate of the gains from these measures, in the organisation's annual reports, which at present contain no material of this kind.

16. It can of course be said that in one sense any reduction in accidents and human suffering is beyond value. On the other hand, resources are not on that account provided to the National Health Service without limit, while the Department of Transport have for many years adopted indicators of the gains from reduction in accidents and delays which must be satisfied by proposals for expenditure on road schemes. The Commission could consider what scope there is for developing a similar approach in their own field.

17. It might also help to meet the concerns of Departments if more systematic arrangements were made for liaison with them, both from the point of view of their policy role and in their capacity as employers or as sponsor Departments for particular services. It will be desirable to maintain close liaison between the Alkali Inspectorate and the Department of the Environment, which has been facilitated by retention of the Inspectorate's separate identity and by its headquarters being housed with the Department.

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PRIME MINISTER

You asked this week whether anybody was working on the Health and Safety Commission/Executive.

I attach Sir Leo Pliatzky's paper. This is an extract from his full report which you will see shortly.

I did not bring this to your attention at the time of your visit to Employment, because you already had quite a pile of briefing, and Sir Leo's conclusions in the case of HSE were not as clear cut as the advice which you received about MSC.

Sir Leo notes that he was not in a position to make his own enquiries into "compliance costs" in relation to gains from HSE work (paragraph 9). In paragraphs 11 and 12 he covers the attitude of the public sector to health and safety requirements. He then goes on to suggest ways of improving the future working of the existing legislation and organisation, but does not propose major changes in them.

Once Sir Leo's report has been made available, I will arrange for Mr. Prior to put to you his considered conclusions on MSC and HSE when he has had time to take account of Sir Leo's conclusions.

6 December 1979

FROM SIR LEO PLIATZKY
MANAGEMENT - IN CONFIDENCE

MR PATTISON

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HEALTH AND SAFETY COMMISSION AND EXECUTIVE

1. Ministers will be considering early next week a paper on strategy proposals (E(79)42) in which, as item 14, there is a suggestion that the CPRS should take the lead in a review of the Health and Safety Commission and Executive; this review would be directed towards the costs imposed on industry by the health and safety requirements which result from the work of the Commission and Executive. I have discussed with Sir Kenneth Berrill how this piece of work, if approved, would relate to my own look at this body as part of the general review of non-Departmental bodies.
2. I have not got the time and resources to investigate the Health and Safety Commission/Executive in depth, but I have started to consult the Departments concerned and I have had a discussion with the CBI. Some of the criticisms made of the Commission and Executive should be directed at the 1974 Act which, as well as setting up these new bodies, imposed new requirements, especially on a range of public services which had previously been exempt. Unless the Government were prepared to legislate to remove or relax these requirements, they must be lived with. It may be - I cannot yet reach a conclusion - that in some respects the involvement of both sides of industry helps the process of living with the Act, but the CBI certainly feel that some of its provisions are being operated over-zealously and without regard to the balance of costs and benefits, and I expect that this view will have at least some support from the Departments concerned.
3. In addition the CBI have told me privately that a large part of the responsibility for this rests with an activist Director of the Health and Safety Executive, in conjunction with a weak Chairman - and, in Sir Kenneth Berrill's view as I understand it - weak CBI representation on the Commission. I have still to meet the Chairman but, on the basis of my knowledge of the Director, the CBI view has some credibility. Nor, having hived off so much of its own capability, is the Department of Employment equipped to exercise a corrective influence.



MANAGEMENT - IN CONFIDENCE

4. This is not, of course, a matter which I would air in my report. Nor do I expect to air the question of reversing the creation of the Commission and Executive, for which, incidentally, the CBI do not argue. I will probably have a certain amount to say on the question of the costs and benefits of the operations of these bodies.

4. I am sending copies of this to Sir Ian Bancroft and to Sir Kenneth Berrill, so that he can take these points into account in briefing the Prime Minister on the pros and cons of a separate exercise on the Health and Safety Commission and Executive as suggested in the strategy paper.

L.P.
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LEO PLIATZKY

19 October 1979

MANAGEMENT - IN CONFIDENCE

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