The new Global challenges for the Health and Safety Professional.

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A joint presentation for IOSH and the Northern Ireland Safety Group,
Monday 28th September 2015.
Belfast.
A joint IOSH and Northern Ireland Safety Group presentation;

Presentation content;
Introduction.
Background to my work in both Ireland, the province and globally.
The nature of the changes applying SHEQ throughout the world and their impact.
The emergence of occupational health as the key objective of governments.
The impact of the changes in government and enforcement policy in the UK.
The emerging role of the H.S.& E. professional in the public and private sectors.
Examples of the current construction industry challenges in Northern Ireland.
Examples of the current issues and diverging enforcement approach.
The common approach of the new ISO Standards for OHSMS, EMS and QMS.
An Auditors perspective of the new opportunities in the workplace for SH&E.
Key factors affecting the future of the Health and Safety professional.
Summary.
The nature of the challenges applying to S.H.E. & Q. throughout the world;

• International Standards – new suite of standards and formal status for health and safety.
• Organizational Risk – now organizational risk and not solely legislation is the new basis.
• International travel and working – global market increasingly service based.
• Political – increasing influence of politics upon the public and private sectors.
• Economic – recognition of the significance of health & wellbeing to the economy.
• Law and enforcement – policy of reducing the influence of health and safety upon society.
• Organization – health and safety must adopt a position actively supporting the organization.
• Social – health and safety has failed to maintain its public and business credibility.
• Financial - health and safety perceived as a cost whilst environment a financial benefit.
• Security – increasingly health and safety has a major role in the international workplace.
• Health – the increasing role of HR in the workplace requires effective liaison with HS&E.
• Corporate Governance – continues to be an essential requirement and emerging opportunity.
• Communications – historic legacy of following “need to know” a significant disadvantage.
• Employer perception – historically H&S a negative not positive influence in the workplace.

Occupational health as a key Government objective;

- Recognise the difference between law, enforcement policy and the role of government in determining the Enforcement priorities;
- In the UK the HSE has *and is still* undergoing extensive “refocusing”.
- All governments are acutely aware of the societal challenge of health.
- Increasing focus on Health and Wellbeing in the workplace is a challenge.
- Impact of recognition upon both employee retention and societal cost.
- Davis & Teasdale (1996) identified 90% safety compared with a 10% health focus.
- Societal cost was 90% Health and 10% Safety expressed as a % of the GDP.
- Increasing demand for not just compliance but technical guidance.
Health versus safety;

- **Health.**
  - Not apparent.
  - Safeguard long term.
  - Chronic timescale.
  - Specialist knowledge.
  - Poor training & awareness
  - Monitoring difficult.
  - Poor user focus.
  - High technical content.
  - Complex assessment process.

- **Safety.**
  - Apparent.
  - Immediate safeguard.
  - Immediate effect.
  - Frequently common sense.
  - High priority & training.
  - Monitoring much easier.
  - Good employee focus.
  - Limited technical content.
  - Easier to assess.
Potential Construction related health & wellbeing issues;

• Current sampling of recognised causes of ill-health includes;
• Exposure to Asbestos fibres.
• Exposure to Respirable Crystalline Silica. (RCS).
• Exposure to MDF boards materials.
• Exposure from Lead based paints in older buildings.
• Exposure to Volatile Organic Compounds (VOC).
• Hand Arm Vibration or UWRLD in the workplace.
• Manual Handling activities wider appreciation of.
• Psychosocial issues, ie work related stress.
• Increasing awareness of biological hazards.
Auditing Health issues;

- Issue of Medical confidentiality applies only to the individual not to the workplace hazard;
- Effective management awareness, operative training & measurement records.
- May require specialist monitoring or assessment techniques examples;
  Lead – measured by monitoring the level in the blood.
  Hearing – measured by Audiometry using specialist equipment.
  Vibration – measured by the use of specialist equipment to an international standard.
  Vapour – measured by air sampling & lung function monitoring.
  Asbestos – identification & exposure monitoring.
  Dust – air sampling over a measured period. (Explosion - HSE prohibition @ Bosley Wood.).
  Gas – air sampling over a measured period to determine both short and long term exposure levels.
  MDF Exposure – material and LEV arrangements.
  Respirable Crystalline Silica – nature of the material and the extent of LEV protection & monitoring.
  Stress – monitored and measured by medical specialists managed by HR.
  Volatile Organic Compounds – solvent usage and extent of LEV protection and monitoring.
  Ergonomics – focus now far wider than just size and weight – use of the HSE monitoring tool.
  Biological - hazards arising from workplace exposure including zoonoses, ticks and Weills Disease.

The common approach of Certification to all ISO Standard requirements:

• Certification – an overview;
• the role of national Accreditation in the certification process.
• the commercial basis of certification and its structure.
• negotiating for certification to an international standard or P.D..
• is it an essential requirement in both the public and private sectors?.
• the advantages to the organization – systematic continual improvement.
• the opportunities it provides for an effective health and safety process.
• the role and advantages of sector based schemes such as Safe-t-Cert.
• promotes and supports the role of the HS&E professional in the workplace.
• the new ISO standard, ISO 45001, compared with BS OHSAS 18001:2007.
• the fall-back position for ISO 45001 is it remains a recognised BS OHSAS standard;
• promotes continual improvement through 3rd party independent auditing.
• the role of competent auditing in the continual improvement process.
The current structure of OHSAS 18001:2007.

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Use of the OHSAS 18002: 2008 Guidance on the standard is highly recommended.

The new Annex SL structure for all ISO standards – ISO 9k, 14k and 45001(?)

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Summary of the new Draft ISO 45001:2016 standard:

► Aligned through the Annex SL across all ISO standards – SHEQ etc.
► New common clause structure and risk based approach across all ISO standards with an ongoing continual improvement objective using the Plan – Do – Check – Act process.
► More detailed description of the context and scope of the organization.
► New fundamental clause 5 requirement for evidence of effective Leadership, worker participation and consultation arrangements.
► New change in approach to risk assessment to include Federal States requirements.
► Clause 6 contains hazard identification and the assessment of risks.
► Clause 7 resources details resources, competence and awareness requirements.
► Clause now Operational planning and control includes a new approach to the Hierarchy.
► Enhanced clause 8 for procurement, contractors and the management of change.
► Clause 9 links performance through monitoring, audit, compliance and management review
► New clause 10 directly links incidents, nonconformity and corrective action to the continual improvement process requirements.
ISO standards clause 5.1, Leadership and commitment – Top Mgmt. shall;

- Demonstrate process for taking overall responsibility and accountability.
- Ensure that knowledge of organisation context and risks are considered.
- Ensure that all NCR’s and opportunities are actioned for improvement.
- Effective hazard identification, evaluated and prioritized for risk reduction.
- Ensure that opportunities to enhance h&s are identified and actioned.
- Ensure that the H&S objectives reflect the strategic direction of the organization.
- Ensure the integration of the OHSMS into the organization/business processes.
- Ensure adequate resources establish, implement, maintain and improve OHSMS.
- Ensure that effective processes for consultation/communication are established.
- Communicate the importance of conforming to the OHSMS requirements.
- Ensure that the OHSMS achieves its intended outcomes.
- Direct and support persons to contribute to the effectiveness of the OHSMS.
- Promote continual improvement.
- Support other relevant management roles to demonstrate leadership as applies to other areas.
- Promote and leading a positive culture with regard to OHSMS.
NEWSFLASH from IOSH;

• The ISO 45001 drafting Meeting, ISO/PC 283 was held in Geneva week commencing 21st September 2015 to review 2300 submissions arising from the draft ISO 45001 which closed on the 5th June 2015. Further meetings will be held under the BSi Secretariat but it is progressing with further joint meetings leading to a DIS document to be published on the 16th January 2016. This is in line with the original issue programme date of final publication in September 2016, ie one year behind ISO 9001 & ISO 14001.

• The new ISO 9001:2015 Quality Management Systems and ISO 14001:2015 Environmental Management Systems have been published on schedule this month. UKAS accreditation will now be sought from national bodies UKAS or NSAI leading to final accreditation in early 2016. The Certification bodies will begin to offer the new standard alongside the existing until their final withdrawal in September 2018.

• Companies should begin to plan their transition arrangements to achieve the new Annex SL requirements for all of the standards in accordance with this two-stage timetable.

IOSH Richard Jones 28th September 2015.
The impact of the changes in government/enforcement policy;

- Historically a common approach has been evident across the jurisdictions both in the legislation and the enforcement policy;
- Definition of a Policy Statement across the jurisdictions.
- Republic of Ireland reduced its Legislative burden by placing 18 in the General Application Regs.
- Inclusion of “others who may be affected” in the UK legislation, ie public safety.
- Issue of “reasonably practicable” now accepted under European legislation.

Today a very different picture is merging with Northern Ireland firmly positioned in the middle;

- Significant differences in the Construction CDM approach across the jurisdictions.
- Increasing role of external Insurance or in the public sector self-insurance.
- The HSE in the UK has adopted the Fee For Intervention (FFI) income stream approach.
- Ireland frequently adopting direct transposition notably with the environment law.
- Increasing influence of a political agenda in the legislative agenda and enforcement policy.
- Impact of the legislation in the UK and NI for Corporate Manslaughter/Homicide.
- This is introducing significant challenges to those working across all three or four if you include the separate environmental position in Scotland and now emerging for Wales.
The role of the H.S.& E. professional in both the public and private sectors;

- Categories of Liability;
Corporate governance - the Management of Risk.
Areas of Corporate Risk:

- Stakeholder - Corporate Governance
- Contract Deliverables
- Strategic Planning
- Crisis Management
- Asset Management
- Emergency Response
- Business Continuity planning
- Finance
- Fire Safety
- Human Resources
- IT Management
- Procurement/Supply Chain
- Project Management
- Records Management
- Risk Management/Insurance
- Security
- Health and Safety
- Environmental Stewardship

The Pyramid of Risk Control required;

- Activity, Area, Environment, Equipment, Substances
- Risk assessment identifies Controls.
- Inspection/verification of controls.
- Management System.
- Audit.
- RQMT.
- LEADERSHIP

CULTURE
An Auditors perspective of the new opportunities for HS&E;

• Certification has evolved primarily into a commercial process - clarify.
• Provides an opportunity for the HS&E professional to develop objectives/targets.
• An effective independent auditor can provide both feedback and a benchmark.
• Established throughout an organization will improve risk control.
• Opportunity for the HS&E professional and the organization to review objectives.
• New standard requires active leadership if correctly audited to the new standards.
• Standards based upon Plan, Do, Check, Act, a process for continual improvement.
• Process is defined as having 3 components an input, a process and an output.
• Auditing focuses upon 3 stages Documentation, Interviews and Observations.
• NCR must specify the requirement, the failure and the evidence identified.
• Requirement to develop new and innovative monitoring arrangements.
Inspections versus Audit.

• A workplace inspection is undertaken for either statutory, ie power press, lifting equipment, or other assurance reasons and is intended to confirm that the control measures required by the management system are operating effectively.

• An audit is a review of the overall management system in order to ensure that the overall process of risk control is operating in accordance with the company’s specified procedures and are appropriate for the hazards of the undertaking.
Content of the Audit process;

• **DOCUMENTATION** – is the scope of risk control arrangements identified in the documentation correct?.

• **INTERVIEW** – is the required level of competence clearly identified from the interviews at every level?.

• **OBSERVATION** – is there evidence of the control measures operating correctly?.
UK Corporate Manslaughter and Corporate Homicide Act, 2007.

• Removed the Line of Identification and “controlling mind” which had been demonstrated to be unworkable by both Southall and Zeebrugge.

• Established a new test of failure by senior managers through “an organisation would be guilty of the new offence if a gross failing by its senior managers to take reasonable care of their workers or members of the public caused a person’s death”.

• Focus is upon the arrangements and practices for carrying out the organisation’s work and applied to management failings rather than any immediate negligent act.

• Definition of a senior manager includes those who play a significant role in making management decisions or actually managing the activities of the organisation as a whole or a substantial part of it.

• Enables a Corporate Manslaughter prosecution and a health and safety prosecution to be undertaken in a single trial.

• Introduced the use of “publicity orders” if convicted.

• Case Law continues to be established through focused prosecutions involving small to medium sized companies often still with the simple “identification principle” no large companies with complex structures have yet been prosecuted. Remember Case Law may only be established where a guilty verdict is delivered through an expensive trial a defendant pleading guilty will not establish case law.
Negligence & Gross Negligence;

• In UK case law an employer is responsible for an outcome arising from employee negligence this may by an omission or a misjudgement.

• Gross negligence occurs where an individual knowingly or with consent or connivance permits a situation to arise which results in an adverse outcome. In this situation the employee is personally liable in respect of criminal law. The company is not deemed to be responsible.

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• Total of 11 convictions and two acquittals since introduced in 2007 use of publicity orders now being utilised by the courts. Two convictions in Northern Ireland.

• In one case the judge advised a Director that if the company could not pay the £200k fine then he, the Director must pay it, and imposed a Publicity Order. This followed a prosecution arising from a fatal fall through a skylight in Ulverston.

• Court imposed fines >£100k on 35 cases and suspended/custodial sentences on 17.
• London based Safety Consultant jailed for 9 months and the Director for 3 years and 3 months following a fatal trench collapse.
• Stonemason fatality costs £237,000 including a fine of £150,000 after a worker was crushed.
• Waste Management company fined £500,000 corp. man. when an autoclave door failed. Former Director & Operations Manager also charged under s.7 of HSAWA.
• Gross Negligence Manslaughter conviction leads to a 3 year imprisonment term for builder when a chimney collapsed.
• Balfour Beatty pays £400,00 for overhead line shock.
• BAM fined £182,000 after rail worker looses a leg.
• Property Developer jailed for 30 months for ignoring a prohibition order and a further 9 months for work at height safety infringements.
• Apprentice electrician fatally electrocuted undertaking live testing £300k plus £115k costs.
• Asbestos removal, client fined £20k plus £2373 costs for not advising, director of the construction company fined £15k plus £2373 costs fined for not requesting the information.
Current Enforcement priorities identified;

- Sectors – Agriculture.
  - Quarrying.
  - Construction.
  - Waste management.
- Topics;  
  - Machinery.
  - Gas safety.
  - Work at Height.
  - Dust and Explosions.
  - Removal of Asbestos.
Construction in the UK – recent HSE press statement;

• Construction represent 5% of the UK workforce but accounts for 31% of all fatalities and 76,000 cases of reported ill-health in 2014/15.

HSE September 2015.
2014 Refurbishment Surveys;

• Number of UK sites visited (London) = 1,748 sites.
• Served 313 Prohibition & 235 Improvement Notices
• 40% identified as operating below standard.
• Work at height = 42% required immediate action.
• Health related issues were 35%, comprising asbestos, vibration, dust, noise and welfare.

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• Further Construction health blitz in 2014;
• 560 visits in 2 weeks, 239 notices issued (42%).
• Further nationwide construction sector blitz announced in August 2015.
Examples of the current construction industry challenges in Northern Ireland:

- Asbestos exposure most common amongst the construction sector workforce.
- Changing international mix of employees.
- Influence of the “government terms of contract” in generating additional risks.
- Emerging position in respect of health issues such as RCS and HAV.
- Priority of quarrying for enforcement attention in Northern Ireland.
- Continuing issue of safety at Streetworks and the lack of public compliance.
- Uncertainty of the approach of proposed CDM 2016 in respect of Designers duties.
- Shift from new build into refurbishment based activities with higher risks.
- Failure to achieve H&S improvements through sub-contractor engagement.
- Strong enforcement position on gas safety arrangements.
- Increasing focus on procurement, contracting and CE for construction products.
All Party Group (APG) proposal on ASBESTOS - 2015.

- **Background** – Increasing level of fatalities 2538 in 2013 estimate to be > 5000 in 2015.
- Latent period estimated at between 30 to 40 years on average, HSE current estimate of a peak in 2020.
- In 1997 over 3000 asbestos based products remained on the market for purchase.
- 85% work related remainder in schools (75% still contain asbestos) and in the home.
- In 1973 195,000 tonnes imported into the United Kingdom, estimated over a million tonnes remain.
- Import banned since 1999, European Parliament has called for removal from all public buildings by 2028.
- Poland has a target of 2028 for complete removal Australia has established an Eradication Agency.
- 2010 survey of 600 schools identified that only 28% identified the presence of asbestos.
- Current requirement to manage is not eliminating the hazard or reducing its societal impact.
- Only 20% of duty holders aware of the requirement for an Asbestos Register & identification of its presence.
- Only one third aware that it must be made available to contractors prior to work commencing.

**Proposal:**
- All commercial, public and rented domestic premises must undertake a survey and register with the HSE.
- Any work undertaken in the vicinity of the hazard must include the removal of the asbestos.
- Duty-holders must develop and implement a plan for its removal asap but no later than 2035.
- The HSE/LA must develop programmes of inspection with adequate resources provided.
- An asbestos survey must be completed before any house sale is completed.
Summary of the new challenges for the profession;

► The increasing focus on Health and Wellbeing in the workplace.
► The role of the HS&E professional in the new global market.
► The changing role and approach of the Enforcement Agencies.
► Increasing focus away from pure legislation into process safety.
► Role in risk management across corporate, criminal and civil liabilities.
► The new role of strategic and operational auditing in the workplace.
► The implementation of the new ISO requirements under Annex SL.
► The all-round opportunities provided by effective 3rd party auditing.
► The wider role of the health and safety professional in the workplace.
► Operate across the world of civil, criminal and corporate risk liability.
► Increasing multi-national content of health and safety requirements.
► Impact of international investment on health and safety requirements.
► The roles of IOSH and the NISG in supporting the HS&E professional.
Any Questions?