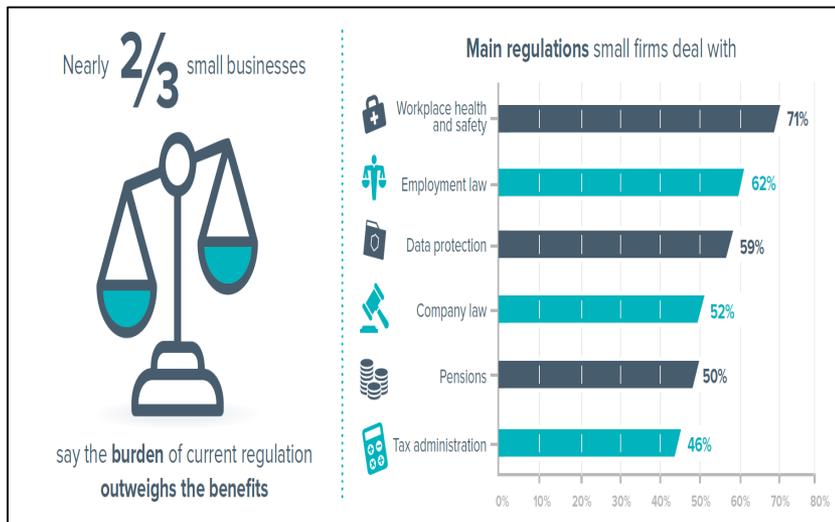# Exploring and tackling business to business health and safety 'rules'

Business burdens team, Health and Safety Executive

What's bothering businesses? The context for our work

HSE

FSB 2017 – Regulation Returned: what small firms want from Brexit

Burdensome areas of law – BEIS Business Perceptions Survey 2016

Showing row percentages Base: All businesses	Base		Employment Law	Health and Safety Law	Environment Regulations	Planning Law	Company Law	Consumer Protection	Food Safety	Licensing	No area burdensome
Total	2,000	%	56	56	38	32	30	24	12	9	17
Micro (1-4)	478	%	54	54	39	33	30	23	11	9	18
Micro (5-9)	430	%	56	57	38	31	30	28♦	13	8	16
Small (10-49)	674	%	63♦	58	36	28	28	20*	11	10	14*
Medium (50-249)	231	%	63	58	43	29	26	23	14	8	13
Large (250+)	187	%	56	48	36	34	28	20	9	6	19

- Years of Red Tape challenge and other initiatives (reviews by Lord Young/Professor Löfstedt) have failed to shift the dial on perceptions of health and safety burdens

Our work on health and safety rules – the right and wrong ends of the stick

What it is:

- Research investigating the burdens that could arise when business to business health and safety obligations are disproportionate…

- …and/or in some cases deliver *under-compliance* or other unintended consequences – such as ineffective risk control and a lack of risk ownership

What it isn't:

- About getting in the way of businesses seeking to enable others to innovate and drive up standards

- HSE stamping out 'best in class' as informed risk management choice

- Deregulation

How big a problem?

The majority of businesses surveyed say health and safety burden isn't a problem, but...

- A significant proportion of SMEs report a big burden; research reports figures ranging from approximately 15-50% (in our work: 30%)

Our extensive business insight research tells us that up to:

- 39% of SMEs report feeling that their policies/practices are excessive and disproportionate to the risks of their businesses

- 35% of SMEs report feeling no real link between what the 'rules' that others impose on them require, and what they actually do to keep people safe at work

The impacts – by source and sector

% 'A big impact'

	TOTAL	Agri & Forestry	Manufacturing	Construction	Wholesale & Retail; Vehicle Repair	Transportation & Storage	Accommodation & Food Services	Info & Comms	Finance & Insurance	Real Estate	Prof, Scientific, Technical	Admin. & Support Activities	Education	Human Health & Social Work	Arts, Entertainment & Rec
Base n=	1433	100	100	100	126	100	101	100	75	100	126	116	80	106	102
Health & Safety legislation	50%	42%	45%	61%	58%	45%	56%	42%	34%	59%	41%	46%	68%	62%	48%
H&S requirements of our clients	46%	34%	43%	50%	36%	49%	51%	41%	29%	50%	41%	42%	67%	62%	51%
Possible action being taken against me/my business by HSE	44%	57%	44%	59%	44%	46%	42%	41%	35%	37%	36%	46%	55%	42%	43%
Insurance company	40%	39%	38%	43%	51%	47%	30%	40%	27%	46%	30%	40%	50%	38%	41%
Possibility of being sued by an employee	31%	29%	38%	40%	28%	28%	28%	35%	32%	30%	21%	24%	46%	39%	23%
H&S requirements to fulfil when tendering for contracts	29%	19%	27%	53%	33%	34%	24%	39%	11%	28%	26%	28%	35%	26%	23%
Local Authority	26%	20%	18%	31%	29%	22%	42%	21%	15%	23%	12%	24%	48%	41%	27%
Advice/guidance provided by H&S Consultant and/or Supply Chain Assurance Consultant	20%	26%	17%	32%	19%	17%	18%	17%	14%	20%	13%	18%	30%	24%	16%
Accreditation Scheme(s) we belong to	19%	18%	13%	34%	13%	15%	18%	20%	11%	24%	19%	19%	36%	23%	14%
Trade Association(s) we belong to	18%	14%	15%	28%	13%	11%	11%	17%	13%	29%	18%	11%	28%	24%	20%
Other H&S related standards/schemes	14%	9%	15%	14%	17%	15%	11%	14%	9%	14%	14%	13%	22%	13%	12%

Legend:
- 60%+
- 50-59%
- 40-49%
- 30-39%
- 20-29%
- <20%
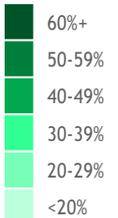
Key conclusions:
- Fear of civil litigation the large and systemic driver of health and safety rules across businesses of all sizes; and
- *"Health and safety legislation can seem somewhat beside the point."* In other words: *compliance with the legislation is insufficient*

Accreditation (conformity assessment) impacts

- Accreditation schemes have at least some impact for 41% of SMEs, and a big impact for 19%

- Applied across many sectors (beyond construction) – often disproportionately

- Overlapping accreditations – costing SMEs thousands per year. Barrier to growth?

"No real improvements to h&s management systems… no value in signing up to multiple schemes or refreshing each year. Commercial benefit only."

"BS18001, CHAS, SafeContractor – it's just paperwork and we have everything…. We can ring the Consultant to tell him what paperwork to send then can tick it off….. There are loads of people on site who are not working to these standards…… … it's a money spinner"

Management standards and certification impacts

- 14% (rising to 24% for SMEs with 50-249 employees) report a big impact, with 40% of all sizes reporting some impact

- ISO 45001 now pitched as suitable for businesses of all sizes, including *"your local scout troop"* - so such impacts may increase in significance

Design of management standards:

- Written by standards bodies, auditors, consultants. User needs? Guidance can be lengthy, technical (ISO 14001 SME guide is 220 pages)

Duty holder perspectives:

- Smaller suppliers implement standards *"simply because they are required to by their customers or insurance companies."*

- LA procurement a key issue: *"Compliance with regulations costs money – ISO requirements and so on…. invitations to tender have massive scores for health and safety and only big corporates can respond to this."*

- FSB reports that complying with standards runs at net cost to business

"I don't want to be sued": civil law and insurance impacts

Fear of civil law pervades as the key underlying driver of duty holder activity:

Don't know	Disagree strongly (1-3)	Disagree slightly (4-5)	Agree slightly (6-7)	Agree strongly (8-10)	Net Agree

A lot of what we do around health & safety is to **protect ourselves from being held liable** for any accident or injury that does occur to one of our employees or members of the public

2% | 9% | 15% | 13% | 61% | 74%
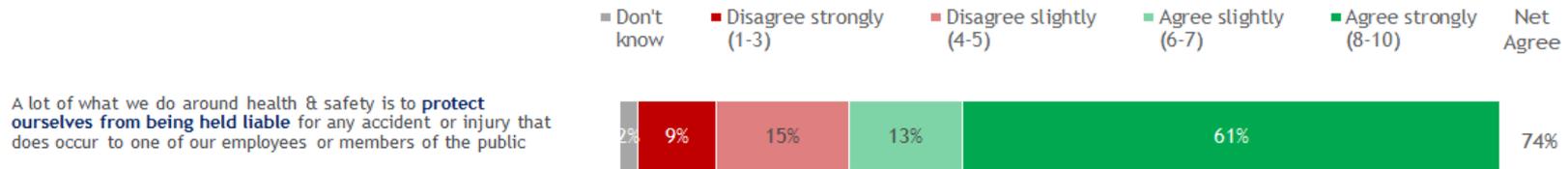
- The scary monster in the corner – leading to emotional and practical burdens

- Insurance settlements/court claims pursued on back of a missing piece of paperwork, relevant or not (the 'holes in fields' issue)

"Information trickles through… about what processes they need to have in place and these are adopted as insurance against liability, even when they feel excessive and fail to offer real safety improvements."

Where does 3rd party advice fit in?

- HSE's strategy aim: *"a common understanding of what a proportionate approach to health and safety looks like"*

- Supported by tools to help SMEs manage it in a proportionate way e.g. H&S Made Simple, H&S Toolbox...

- Regulations require in-house competence where available in preference to external help

Contrasted with the approach of some advisers and of marketing:

- *"There's a long list of things to think of.."*

- *"There's a word for businesses that don't take health and safety seriously: liable"*

- Cold calling - dedicated sales teams

3rd party advice: a response to all of the above. HSE concerns?

- HSE/LA inspectors find that consultancy (and auditor) advice and practice is highly variable

- Only 45% of consultants visited the site as part of the service - and only 52% provided a handover

- Costly under-compliance = false assurance for the duty holder: third party advice as 'lucky charm'

- Developing in-house competence or dependence on consultancy through e.g. multi-year contracts?

Why this all matters (a reminder)

Scale and effectiveness:

- SMEs are 99.5% of businesses: their burdens matter for the UK economy

- Responsible for millions of workers that HSE's strategy aims to protect through *proportionate and robust, effective* risk management

- Risks misdirected effort and focus critical for SMEs with limited resources – growth/innovation agenda

System reputation issues:

- Feels too hard to manage 'in house'

- Risks false assurance in the supply chain

- Feeds inaccurate sense health and safety is ever-changing, fast moving

- Blurring health and safety rules with regulation skews perception of 'regulatory' burdens and may create pressure to reduce them

Doing something about it

- Rules can and do lead duty holders to take *positive* action on health and safety. So we work with the market to drive improvements where necessary

Our approach:

- *Is not about* getting rid of standards or accreditation for example, or saying that consultants shouldn't play a role in the health and safety system

- *Is about* recognising the significant de facto 'regulatory' impact rules have on business, including interaction with government regulation/our strategy goals; and

- Using our influence to promote application of more proportionate, effective risk management to design and operation of rules

HSE's website - new content

- New website based on user testing, user needs and the user journey

- User feedback central to this process

- Providing reassuring messages for SMEs that:

  - health and safety need not be expensive and time consuming;

  - following basic guidance should deliver legal compliance;

  - Health and safety can be managed in house - only seek expert advice if in-house competence isn't available

HSE's website – new approach

- Shorter more accessible language – based on understanding of how people read and access information, for example:

  - our brains can drop 30% of content and still understand;
  - aiming for reading age of 9, which reflects how people skim-read;
  - front-load key information

- Compare:

  - "The recently implemented categorical standardisation procedure on waste oil should not be applied before 1 January 2015."
                                        and
  - "Do not use the new waste oil standards before 1 January 2015."

Helping duty holders shake off the burden

We have published guidance to help duty holders navigate the rules via advice on:

- How to source competent person assistance

- Proportionate application of health and safety management systems - ISO 45001

- Maximising effective use of certification and accreditation schemes – and mutual recognition between them

- Making clear the implications of civil and criminal law regimes respectively for duty holders' paperwork

Helping duty holders shake off the burden – getting help *if* you need it

Helping duty holders shake off the burden – using management systems wisely

Helping duty holders shake off the burden – tendering for business

Working with intermediaries – progress and challenges

Key players in the system are responding, including for example:

- OSHCR - committed to reform; continued HSE support

- ISO/BSI increasing their SME focus, and positive engagement with UKAS on proportionality in auditing

- Reform of Crown Commercial Service framework for public procurement

- And more…

- All of this: thought leadership, raising awareness, constructive challenge across the system, working with/through others

Tackling business to business health and safety 'rules'

- More work to do – an HSE CPD offer?

- Essential in supporting businesses to grow and become more productive in a post-Brexit world

- By sharing our findings we hope to encourage others to help drive necessary improvements

Thank you. Questions?