

## SUBMISSION FROM ANDREW WATTERSON

### **Summary**

The call for evidence on the Scotland Bill from the Scottish parliamentary committee refers to requests for further views on that bill and suggestions to enhance the bill. This submission therefore contains a proposal that an independent Scottish occupational health and safety agency (SOHSA) along the lines of the Scottish Environment Agency (SEPA) be established in Scotland. Countries, similar in population size and in several respects with similar economies to Scotland - such as Denmark, Norway and Finland - have autonomous and effective occupational health and safety agencies. They also lead the world in terms of some of the best work environment and related wider environmental standards and practice. Better mechanisms are needed in Scotland on this topic as there are indications that Scottish workers are less well protected than those in England and limited support is available to employers to address significant health and safety problems. A SOHSA should ensure greater accountability on compliance and support, with regard to workplace health and safety, to the Scottish Government and greater effectiveness and use of resources too targeted at often neglected but major problems. A SOHSA would also enable more effective working than hitherto exists with local authorities, NHS Scotland which is not reserved, SEPA which is not reserved, and other Scottish specific agencies dealing with business and the environment that either impact on or are influenced by work environment and related issues.

### **Background: national and international**

Currently occupational health and safety is a reserved matter and dealt with by Westminster. SEPA was created in 1996 under the 1995 Environment Act and has around 600 inspectors and 300 scientific staff to protect the Scottish environment and related public health standards. HSE Scotland has no comparable staffing despite covering millions of employees. An independent SOHSA, which would be smaller in staffing and resource terms than SEPA though larger than HSE Scotland in 2011, is now needed to replace HSE UK, protect Scottish workers better, help employers raise workplace health and safety standards and further reduce workplace disease and injury in the country. This could be along the lines of already existing Scottish non-departmental public bodies like SEPA. A SOHSA would ensure greater accountability of enforcement and regulatory work. These are areas where currently considerable questions already exist about the workings of the HSE in Scotland and how it protects the Scottish workforce and other groups.

As much of UK health and safety law currently operates under the European Union umbrella and is covered regulation drawn up to fulfil EU directives, it would be relatively easy for a SOHSA to apply such regulations and operate the Health and Safety at Work etc Act of 1974 and its related regulations and codes. Scotland should also still be able to access information and research from bodies such as the European Agency for Safety and Health at Work.

The UK global Occupational Health and Safety ranking - drawing on WHO, ILO and World Bank data - was 30th out of 176 countries (Maplecroft Global Health and

Safety Risk Index 2009). Indicators used included work related fatalities and injuries, deaths from work related diseases, health expenditure, life expectancy, government effectiveness, regulatory quality and ILO conventions ratified. UK ranked just 20th out of 30 OECD countries. Denmark with a population of 5.5 million came first with Finland, population of around 5 million, scoring highly and sharing some geographical characteristics with Scotland. Finland, despite cuts in its own OHS agencies, still remains a world leader on occupational health, provides greater information and support to employers and employees, and records and monitors occupational diseases far better than in the UK. As Finland and Denmark are independent countries of similar population size to Scotland, they demonstrate what Scotland could achieve if the UK relinquished control of this function and Scotland wished to establish its own agency.

Existing enforcement and related stakeholder mechanisms and policies have failed to improve the Scottish record in any major way. They are strong on rhetoric, weak in practice/delivery. HSE prioritisation, following enormous budget cuts (see below), of high risk injury industries and occupations can also miss high risk workplaces for occupational disease and have moved away from pro-active inspections and support. Employers have the primary responsibility for ensuring health and safety at work. Good employers can and do achieve good standards. Bad employers must be increasingly aware that for many of the injuries and diseases they create in their workforces, the chances of inspection, enforcement and prosecution in Scotland will be especially low. Bad work is bad for your health and safety and much bad work still exists in Scotland. Neither HSE Scotland nor local authority inspectorates (LAIs), with much diminished resources and limited policy developments, have been able to progress matters. New approaches are need.

### **The problems with the current system**

The UK HSE has been run down by both Labour and Conservative governments in recent decades, has lost resources and staff and has seen a decline in pro-active inspection visits and enforcement ([Watterson A](#) and [O'Neill R](#). 2004. The decline and imminent fall of U.K. governmental occupational health: a tale of forgotten lessons and missed opportunities. IJOEH 10(3):340-2).

The HSE currently faces a 34% cut in its budget by 2014. Statistics indicate that the position in Scotland with regard to poor occupational health and safety is even worse than in the UK as a whole. At the same time, there has been a major neglect of occupational ill-health and occupational health services across the UK. This is against a backdrop of HSE research that has consistently demonstrated good occupational health and safety is good for business and research that shows occupational ill-health is the major challenge in the occupational health and safety field. UK government agencies are in denial about their failure to grapple with these problems and rely on rhetoric rather than evidence when questioned about the under-recording and under-reporting of ill-health at work. One of the principal contributory factors for well being at work is not being made ill by work.

HSE Scotland all too often did not emerge as a champion for OHS but rather as an apologist for failures to protect workers effectively. This emerged in the

investigations surrounding the ICL/Stockline disaster in Glasgow which found significant failures in how HSE Scotland operated. That disaster revealed serious deficits in HSE corporate governance and accountability. This is unlike the current situation in the USA where OSHA leaders reflect a commitment to raising health and safety standards. HSE recommended 43 cases for prosecution in Scotland in 2009-10, compared to 75 in 2007-08 and 84 in 2008-09.3 (NAO 2011:8). The decline in these figures is greater than the decline in officially reported injuries which are anyway accepted by HSE and others to be gross under-estimates. The NAO report on the HSE in Scotland does not provide adequate information about occupational diseases in the country because the diagnosis, recognition and recording of such diseases are completely inadequate, lagging far behind Finland for instance.

HSE resources should not be diverted away from core prevention, information and enforcement activities to broader health promotion campaigns. These should be funded by other agencies. The situation will deteriorate further with financial pressures on the public sector both as employers and enforcers, and pressures on the sick and disabled to return to work when not fit to do so because Work Capability Assessments are flawed.

Linkages between an effective SOHSA and the NHS Scotland (hospital and primary care) and other bodies - to better identify injuries at work and occupational diseases - should be improved to identify and hold accountable employers who are persistent poor OHS performers. This could link in with business support for good employers and economic penalties for bad employers.

Very poor data exist on occupational diseases in Scotland and elsewhere in the UK. What data do exist are on occasions ignored or downplayed by HSE (O'Neill et al 2007). This again partly relates to resources, partly to staff training and partly due to the policies and practices of HSE. However, data and estimates do exist in HSE that indicate they should prioritise matters differently. Using WHO and EASHW current estimates of occupational diseases and injuries, far more people die in Scotland from work place conditions, than from suicides, murders and road traffic fatalities combined (Watterson et al 2008). HSE currently apparently has one part-time medical staff member dealing with around 2.5 million workers in the whole of Scotland.

### **Benefits of a SOHSA**

- Better protection of employees and the public in Scotland from occupational health and safety problems and hence enhanced social and environmental justice along with improved public health
- Better working conditions provide a win-win-win situation with financial and productivity benefits for companies and other organisations including more stable workforces, lower costs on training and replacing injured and ill staff, lower insurance and legal costs.
- Lower costs, staffing and resource demands than SEPA but with the benefits outlined above
- Greater accountability of such a public body to the Scottish public
- Greater opportunities to link in with countries with similar problems to those in Scotland. For instance through networks such as the Baltic Sea Network on

Occupational Safety and Health (BSN). BSN is a network of 10 countries including Denmark, Norway, Finland, Sweden and Lithuania

- More joined up policies with the Scottish health services, and with trade and business bodies to make the link between good health and safety, productivity and competitiveness. In Scandinavia, high health and safety standards created by government agencies, employers and unions have not damaged their economies but have enhanced them over several decades. Hence employers, communities and workers should benefit from better Scottish health and safety conditions.

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