

Proposals to revise the Health and Safety (First-Aid) Regulations 1981 (as amended)

This consultative document is issued by the Health and Safety Executive in compliance with its duty to consult under section 50(3) of the Health and Safety at Work etc Act 1974.

Comments should be sent to:

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to reach there no later than **3 December 2012**

The Executive tries to make its consultation procedure as thorough and open as possible. Responses to this consultation document will be lodged in the Health and Safety Executive's Knowledge Centre after the close of the consultation period where they can be inspected by members of the public.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR)). Statutory Codes of Practice under the FOIA and EIR also deal with confidentiality obligations, among other things.

If you would like us to treat any of the information you provide, including personal information, as confidential, please explain your reasons for this in your response. If we receive a request under FOIA or EIR for the information you have provided, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will be disregarded for these purposes. Requests for confidentiality should be made explicit within the body of the response.

HSE will process all personal data in accordance with the DPA. This means that personal data will not normally be disclosed to third parties and any such disclosures will only be made in accordance with the Act.

Proposal to remove the requirement for the Health and Safety Executive to approve first aid training and qualifications, and a review of the Approved Code of Practice and the content of associated guidance.

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Consultation by the Health and Safety Executive

The Health and Safety Executive has a statutory duty to consult stakeholders to seek their views on its proposals. It believes that public consultation provides an open and transparent approach to decision-making. Following consultation, the Health and Safety Executive will make a recommendation to the Secretary of State on the best way forward.

How to Respond

A summary of the proposal and the questionnaire can be found at <http://www.hse.gov.uk/consult/live.htm> . You are welcome to comment on any issue raised by this document.

You can:

Respond by email – you should send this to firstaidconsultation@hse.gsi.gov.uk

Complete the online questionnaire; or

Respond on paper – you can do this either by:

- Printing the online questionnaire; or
- Making a written response in whatever format you wish.

Send your completed response to:

Andy McGrory

Health and Safety Executive

5 S G Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS

Fax: 0151 951 3098

We would be grateful if you could send an email address when you provide your response, so that we can inform you of when the HSE intends to publish information concerning consultation responses on the HSE website.

Responses must be received by **3 December 2012**.

If you require a more accessible format of this document please send details to creative@hse.gsi.gov.uk and your request will be considered.

What happens next?

We will acknowledge all responses and give full consideration to the substance of arguments in the proposals; we may contact you again if, for example we have a query in respect of your response.

We will tell you when the HSE will publish information concerning the consultation responses. We will provide a summary of those who responded to this consultation and we will produce a summary of the views expressed to each question; this information will be placed on the HSE's website.

Code of Practice on Consultation

We are committed to best practice in consultation and to the Government's Code of Practice on consultation. The Code of Practice sets out seven criteria for consultation. These are:

- When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- Duration - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- Accessibility - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- The burden of consultation - Keeping the burden of the consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

How your responses will be handled

We will acknowledge all responses and give full consideration to the substance of arguments in the development of proposals. The Health and Safety Executive will then decide on how best to take the regulations forward based on an interpretation and analysis of the consultation responses.

Queries and complaints

If you do not believe that this document or the consultation on these proposals meet the criteria on consultations set out above, or if you are not satisfied with the way this consultation exercise has been conducted, please either write to:

Teresa Farnan at: Health and Safety Executive, 7th Floor, Caxton House,
6-12 Tothill Street, London, SW1H 9NA

Or send an email to teresa.farnan@hse.gsi.gov.uk

We aim to reply to all complaints within 10 working days. If you are not satisfied with the outcome, you can raise the matter with HSE's Chief Executive, Geoffrey Podger, at Health and Safety Executive, Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS. You can also write and ask your MP to take up your case with us or with Ministers. Your MP may also ask the independent Parliamentary Commissioner for Administration (the Ombudsman) to review your complaint.

Proposal to remove the requirement for the Health and Safety Executive to approve first aid training and qualifications, and a review of the Approved Code of Practice and the content of associated guidance.

Summary

The Health and Safety Executive (HSE) is proposing to amend the Health and Safety (First Aid) Regulations 1981. This is in response to the recommendation by Professor Ragnar Löfstedt in his review of health and safety legislation *Reclaiming health and safety for all: An independent review of health and safety legislation* to remove the requirement for HSE to approve first aid training and qualifications. HSE is also reviewing the associated Approved Code of Practice (ACoP) and guidance (L74).

This consultation document seeks views on the recommendation itself and on some principles for the content of new guidance to help duty holders decide on the appropriate arrangements for the provision of first aid at their business. Some specific questions on these issues are included on pages 8 to 9.

Introduction

As part of the Government's plans for reform of the health and safety system in Great Britain, the then Minister for Employment, commissioned an independent review of health and safety legislation chaired by Professor Ragnar Löfstedt, Director of the King's Centre for Risk Management at King's College, London.

The report of this review *Reclaiming health and safety for all: An independent review of health and safety legislation*¹ was published in November 2011. The report and its recommendations were accepted by Government.

The current situation

The Health and Safety (First Aid) 1981 Regulations (the 1981 Regulations) place a requirement on employers to make arrangements to ensure that their employees receive immediate attention if they are injured or taken ill at work. The Regulations address equipment, facilities and the numbers and training of first aiders.

For employers to comply with the Regulations, their first-aiders (where required) must have a valid certificate of competence in First Aid at Work (FAW) issued by a training organisation approved by HSE, or in Emergency First Aid at Work (EFAW) issued by a training organisation approved by HSE or a recognised awarding organisation of Ofqual, Scottish Qualifications Authority (SQA) or the Welsh Government (DfES Wales).

The 1981 Regulations are supplemented by an ACoP and other guidance, which provide substance and context to the Regulations and introduce related material such as syllabus content.

Further information is at **Annex 1**.

¹ <http://www.dwp.gov.uk/docs/lofstedt-report.pdf>

The future situation

Removing the requirement for HSE to approve first aid training and qualifications will mean employers can meet their first aid needs assessment whilst having greater flexibility in their choice of training provider. New guidance will provide information for employers on how to select a competent training provider. HSE will provide a set of criteria against which employers can benchmark the performance of training organisations.

Further information is at **Annex 1**.

The Approved Code of Practice (ACoP)

The 1981 Regulations are supplemented by HSE publication L74², an ACoP and guidance that aims to help employers understand and comply with the Regulations by setting out the aspects of first aid that employers need to address and providing practical advice on what they need to do.

The publication L74 is 32 pages long, but of this, the ACoP material consists of only twelve sentences. This is very short. HSE is seeking views on whether in its current form the ACoP text does what it should (that is, give practical advice on how to comply with the law) and is useful to duty holders, so warranting its special legal status.

HSE has gathered views from some stakeholders who argue that whilst the guidance seems right and is useful, the ACoP adds little that would justify its current special legal status.

The proposed changes

This document consults on:

- The recommendation to remove the requirement for HSE to approve first aid training and qualifications;
- The future of the Health and Safety (First-Aid) Regulations 1981 ACoP;
- Some principles for the content of revised guidance that would be introduced should the proposed changes to the 1981 Regulations be made.

In assessing the impact of the proposed changes, HSE has been able to gather some useful and informative data from two online surveys, looking at general duty holders (610 respondents) and the self employed (596 respondents). HSE has already informally consulted with key stakeholders including commercial providers; the voluntary aid societies (i.e. St John Ambulance, St Andrew's Ambulance and the British Red Cross); trades unions and trade bodies.

² <http://www.hse.gov.uk/pubns/priced/l74.pdf>. This publication contains the 1981 Regulations (in *italics*); the ACoP (in **bold**) and supporting guidance (in plain text). An ACoP has a special legal status. If you are prosecuted for breach of health and safety law, and it is proved that you did not follow the relevant provisions of the Code, you will need to show that you have complied with the law in some other way or a Court will find you at fault.

What will businesses need to do differently?

Employers will still need to provide, or ensure provision is made for, equipment and facilities to render first aid to their employees if they become injured or ill at work.

The changes will remove the requirement for employers to use only training providers and training that have been approved by HSE. This will allow businesses more flexibility to decide on first aid provision which is appropriate to the requirements of their workplace.

For those who provide first aid training, this will remove the burden of applying for and maintaining HSE approval to enable them to carry out first aid training.

CONSULTATION QUESTIONS

Q1 *Do you agree with the recommendation to remove the requirement in the 1981 Regulations for all first aid training and qualifications to be approved by HSE (in practice, this is currently undertaken by HSE directly approving training providers)?*

Yes

No

Please tell us why

Q2. *Do you think that the current ACoP text is useful in its current format? (The ACoP text is **only** the twelve sentences in bold in the L74 publication – not the whole document.)*

Yes

No

Please tell us why

Q3 *Do you think the existing four-level framework (Appointed Person, Emergency First Aid at Work (one day course), First Aid at Work (three day course) and needs-based additional training) provides appropriate building blocks for first aid provision in the workplace and should therefore be retained in new guidance for first aid at work?*

Yes

No

Please explain your reasons.

The proposed new guidance.

If the 1981 Regulations are amended as recommended, HSE will introduce revised guidance clarifying what first aid arrangements are suitable for different work environments in order to help businesses adopt measures appropriate to their workplace.

This guidance should help ensure that first aid provision is proportionate and suitable for the workplace, based on an employer's first aid needs assessment.

This guidance will consider factors such as workplace hazards and risks, size of the organisation and distance of the site from emergency medical services.

Currently, first aid at work provision is based on a four-level framework: The Appointed Person, Emergency First Aid at Work (EFAW – one day course), First Aid at Work (FAW – three day course); and additional skills/knowledge for particular environments/circumstances (e.g. defibrillator provision, working with hydrofluoric acid or excessive distance from an A+E Department).

Employers will have to identify any additional skills or knowledge required and therefore any extra first aid training requirements needed for those specific circumstances not covered by EFAW/FAW training.

In drawing up new guidance on first aid provision, HSE could provide example case studies for workplaces with different kinds of hazard and numbers of employees, as well as for businesses where members of the public are present such as in the retail and entertainment sectors. This new guidance could also include examples of situations where any additional training may be required in the workplace.

Following amendment of the Regulations, HSE will not approve the training and qualifications of first aiders. Instead, employers will be responsible for selection of training providers. New HSE guidance will provide criteria to help an employer to do this. In addition, HSE anticipates that nationally recognised and accredited qualifications will be available covering both EFAW (a one-day course) and FAW (a three-day course).

CONSULTATION QUESTIONS

Q4 *What information would you find it useful for HSE to include in any case studies provided to ensure suitable and proportionate workplace first aid provision?*

Q5 *Is there any information that would be of particular use in identifying any additional skills/knowledge required in specific workplace settings or circumstances?*

Q6 *What particular information would be helpful to you when selecting a training provider? Please provide reasons for your suggestions.*

Q7 *Are there any further comments you would like to make on the issues raised in this consultation document?*

Q8 *Is there anything you particularly liked or disliked about this consultation?*

Annex 1

Background information on regulation of first aid at work.

The EU Framework Directive (1989) contains requirements relating to first aid at work. The existing Health and Safety (First Aid) Regulations 1981 (the 1981 Regulations) were deemed sufficient to implement these provisions in this country

A 2003 HSE research report examined many aspects of first aid provision in the workplace³. One key finding was that the existing four day training courses might not meet the first aid needs of all businesses, due to workplace changes.

Consequently, in October 2009, the structure of the training regime was changed to a 3-day FAW course and 1-day EFAW course. This reflected changes in the GB business landscape and a move from manufacturing to lower risk service industries; and from employers with large workforces to many employers with less than ten employees.

HSE worked with Ofqual and the Scottish Qualifications Authority (SQA) to make EFAW a nationally accredited qualification that could be delivered by training centres registered with Ofqual/SQA recognised Awarding Organisations. This was aimed at training organisations who did not want HSE approval, or to deliver the full 3-day FAW course. Ofqual also showed interest in taking on the FAW course, which HSE decided to consider in the light of satisfactory progress with the proposed EFAW approval arrangements.

These arrangements have operated satisfactorily since 2009: HSE-approved training providers delivering both FAW and EFAW, and training centres registered with Ofqual, SQA or Welsh Government recognised Awarding Organisations delivering only EFAW.

Immediately prior to the Löfstedt review in 2011, HSE was planning to examine all policy options around approval of first aid training and qualifications.

HSE proposes that if the 1981 Regulations are amended as recommended, then FAW, EFAW and the role of 'the appointed person' will still provide a framework on which first aid training will continue to be based. HSE's proposed new guidance would explain that employers may use non-FAW/EFAW qualified first aiders in the workplace provided they can demonstrate that the training their first aiders have had is in line with the employer's needs assessment, is up to standard, and complies with currently accepted practice.

The intention is to provide flexibility for employers to choose who should deliver their first aid training based on the needs of their business.

Appendix A.

The **Regulatory Impact Assessment** considering the options in response to the Löfstedt recommendation to remove the requirement for HSE to approve the training and qualifications of appointed first-aid personnel from the Health and Safety (First-Aid) Regulations 1981 is available. See:

<http://consultations.hse.gov.uk/gf2.ti/f/17442/452389.1/PDF/-/CD248IA.pdf>

³ Available at: <http://www.hse.gov.uk/research/rrpdf/rr069.pdf>

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The full text of this and other
Consultative Documents can be viewed
and downloaded from the
Health and Safety Executive web site on the
internet: www.hse.gov.uk/consult/index.htm

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