CD243: Proposals to Revise the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (as amended) (RIDDOR '95)

Submission by Prospect to HSE

26 October 2012

Contact: Sarah Page
Research & Specialist Services
sarah.page@prospect.org.uk
Direct Dial 0207 902 6611

New Prospect House, 8 Leake Street, London SE1 7NN
T 020 7902 6600 F 020 7902 6667 E enquiries@prospect.org.uk W www.prospect.org.uk

Introduction

1. Prospect is an independent, thriving and forward-looking trade union that represents 120,000 professional people. Our members are engineers, scientists, managers and specialists in areas as diverse as agriculture, defence, energy, environment, heritage, telecommunications and utilities, across the private and public sectors.

2. Prospect shares with all trade unions a keen interest in occupational health and safety (OHS). Our representatives are active in the parallel strands of *prevention*, by promoting compliance with health and safety law, and *mitigation*, through initiatives that help, where appropriate, to keep injured or ill colleagues *in work* and rehabilitated *back to work* from sick leave.

3. A range of our representatives may be involved, but principally our health and safety reps appointed under the Safety Representatives and Safety Committees Regulations (SRSC) 1977. Research approved by the Health and Safety Executive (HSE) shows that Trade Union H&S reps help lower accidents and injuries by as much as 50%, reduce ill health and promote a positive health and safety culture within their employing organisation. We use this evidence as the basis for encouraging our H&S reps to be active, fulfil their functions and help not only protect their constituents but also their employer, by accruing the business benefits of a healthier, more productive workforce.

4. Prospect is unique as a Trade Union in enjoying amongst its membership the highest concentration of **health and safety professionals** who are employed in regulatory organisations such as HSE, the Office of Rail Regulation and the Office for Nuclear Regulation and in public and private sector organisations in sectors including defence, energy and telecommunications. As such our insight into Britain's health and safety culture is well-informed and our commitment to its reputation unequivocal. This includes the professional reputation of an individual member as well as that of their employing organisation. In the context of regulatory reform, we therefore reflect the views of regulators *and* duty-holders.

Proposals to revise RIDDOR '95

5. Prospect agrees with Professor Löfstedt's finding that RIDDOR and its associated guidance should be amended to provide clarity for businesses on how to comply. Indeed, we suspect its complexity partly explains the experience of both under-compliance *and* low levels of enforcement.

6. Professor Löfstedt recommended a review of RIDDOR with the aim of reducing "the ambiguity over the reporting requirements for businesses, particularly in relation to incidents involving members of the public, and improve the quality of information collected". His approach was one of *better* regulation, whereas the CD's approach is one of *de*regulation, adopting a Coalition Government refrain that health and safety legal requirements are a business burden – a refrain untroubled by evidence. Better regulation secures cost-effective reform by focussing on high impact activity and prioritising risk. The deregulation proposed in CD243 is not cost-effective. RIDDOR is an *aid* to health and safety. Reducing its reporting requirements will not reduce time or cost (alleged burdens) on health and safety; indeed the contrary may arise.

7. Prospect is therefore alarmed HSE's proposals. Particularly the signals the CD sends. Firstly, it **diminishes the importance of workers' occupational health**, relegating its status in health and safety management. This despite the overwhelming evidence that work-related diseases give rise to more occupational ill-health and death than work-related injuries. Secondly, it indicates a **loss of sight of the tripartite principles of the health and safety legal framework**. Lastly, it suggests HSE is disconnected from the **wider workplace health agenda** at a time when it is gaining national socio-economic and political importance.

8. Our concerns about occupational health (OH) as a priority are dealt with in our response to question 14. With respect to tripartism, we uphold the Robens principles that responsibility for health and safety management lies, in simple terms, with those who create the risks (employers) and those who work with them (employees); their respective behaviours being incentivised by a firm but fair regulatory system. The ownership of health and safety law is therefore shared by us all, as **a platform for cooperation, consensus and continuous improvement**. Yet with RIDDOR, HSE has adopted a singularly introspective position. It overlooks the fact that RIDDOR requirements are not solely for HSE's operational and strategic benefit. The tripartite picture is one of helping prevent injuries, ill health and accidental loss by all responsible parties. By ensuring an organisation takes seriously certain events deemed beyond a threshold of acceptability in relation to work-related harm.

9. As such, RIDDOR helps prompt an approach to health and safety management. In particular, one that sees **employers and their employee representatives working together**. Because RIDDOR requirements are integral to the platform for employer/employee engagement on accidents and ill health and how to prevent recurrences. The provisions facilitate joint investigations, joint trend analyses and so on – in short, opportunities for joint learning and problem-solving.

10. Prospect recognises that successful health and safety management requires reactive approaches that exceed a reliance on RIDDOR. But the embedding of RIDDOR-related requirements in health and safety consultation law (SRSC Regulations 1977) at least provides a statutory minimum; a benchmark for companies lacking mature health and safety management systems who can benefit from the interaction with their workforce that duties to engage elicits. So it is nonsensical for HSE to **disempower the very people (H&S Reps) who can help** them improve RIDDOR awareness, reporting and compliance and achieve Löfstedt's aim for better quality, more meaningful data.

11. Prospect therefore does not believe that the proposals set out in CD243 will meet Professor Löfstedt's aims or improve RIDDOR. Neither do we believe they will be administratively advantageous for employers. The change this year from over-3 day reporting to over-7 was trumpeted as less bureaucracy. This has not been the experience reported anecdotally to us by our members in health and safety practitioner and managerial roles. We foresee CD243's proposals as adversely affecting attitudes, behaviours and compliance with health and safety standards.

12. For those who believe good health and safety is good for business, the proposals are bad news for both. One of the fears noted in HSE's 2005 RIDDOR consultation was that removing a duty to report also removes a driver for internal investigation and improvement. This becomes particularly pertinent if the HSE also does away with the Approved Code of Practice to the Management of Health and Safety at Regulations, the only mainstream provision for carrying out internal accident/ill health/dangerous incident investigations.

Purposes of reporting and recording arrangements

Q1. How is the information reported and recorded under RIDDOR used to help manage health and safety in your organisation?

13. Nationally, Prospect and the TUC use the overall statistical picture for policy development and prioritisation. At the workplace level, Prospect H&S reps use RIDDOR information as a basis for exploring trends and **informing priorities in partnership** with their employers. These uses are missing from the CD's considerations.

14. Our H&S reps rely on RIDDOR for the disclosure (at least) and joint investigation (at best) of details on work-related accidents, dangerous incidents and cases of occupational disease. Whilst good employers have more mature accident and ill health recording systems and arrangements for information-sharing, regrettably in our experience they remain the minority. Many employers will withhold this intelligence from their staff, either deliberately or because of ignorance of their worker involvement and data protection duties. The effect is to deny worker safety reps opportunities to become familiar with their own organisation's health and safety risk management needs and meaningful involvement in ensuring their organisation can learn from its mistakes. This harms the interests of the business and the taxpayer as well as those of the workers represented.

15. HSE should appreciate that the effectiveness of H&S reps is influenced by the quality of information with which they are provided. Prospect's experience is that HSE routinely overlooks the rights, role and potential advantage to an organisation of informed and effective H&S reps, despite the robust evidence known as the Union Effect that shows the extent to which they help reduce accidents. The genuine integration of worker involvement into HSE policy and practice appears wanting, jeopardising opportunities for health and safety improvement at a time (fee for intervention) when in-house capacity building should be, in our view, an HSE reputational priority.

Q2. Will the changes under the proposed revised regulations have any impact on how your organisation manages health and safety?

16. Yes. Clearly the sources of data and intelligence will be significantly reduced. Unless we are able to rely on the goodwill of the employer, this will weaken the capacity of our safety reps to participate in their employer's health and safety management system, undermine their ability to fulfil key statutory functions, remove them from meaningful dialogue about accidents and ill health, compromise the role, effectiveness and potential for a partnership approach of the

health and safety committee and make it less likely that the employer/safety reps can fulfil their statutory duties to work 'cooperatively' as required by the Health and Safety at Work Act.

17. We suggest an integrated approach, with cross-referencing of the guidance to that contained in guidance to the worker consultation law. This would ensure a coherent approach that recognises that, for instance, the Safety Reps Safety Committees Regulations provide for H&S reps to have access to information when a RIDDOR-reportable/recordable event occurs.

18. It is likely also to reduce the knowledge of company Board members who consider the impact of accidents and ill-health in setting strategy and allocating resources.

Summary of Current Incident Reporting Arrangements

Q3. Has your organisation ever experienced difficulty or uncertainty in determining whether incidents must be reported under RIDDOR?

19. Prospect has received queries from members and reps about RIDDOR reporting requirements. We have experienced some difficulties in understanding the guidance. We would welcome simplification of the language.

Q4. Should the requirement that there must be an "accident" before a death or injury becomes reportable be retained?

20. Yes. There must be an event that triggers a requirement to report.

Q5. Does "accident" need to be defined in guidance?

21. Yes. To ensure clarity about the types of event that should be reported.

Q6. Is the current definition of "accident" sufficient?

22. No. The definition would benefit from greater clarity.

Q7. Would it improve clarity to restrict accident reporting to injuries to people engaged in work at any place, and to non-workers only when occurring at "work premises?"

23. No. This suggestion is likely to complicate. Firstly, people may be at work in their workplace yet not actually 'engaged in work' at the time of an event involving them. Then there is the problem of work being undertaken in a manner that may injure a non-worker, yet not in a workplace per se.

Specific Categories of Reportable Events

Non-Fatal Injuries to People at Work

Q8. Do you agree with aligning the major injury categories with those in HSE's incident selection criteria?

24. No. Prospect's position as one of HSE's recognised unions gives us a unique insight into the[1] resource challenges HSE faces. We therefore understand the allure of a logistical pragmatism

that the alignment of RIDDOR with its incident selection criteria (ISC) suggests. However, we have serious concerns. Firstly, that the proposal may mislead. The ISC and Enforcement Policy Statement focus on occupational diseases and incidents likely to give rise to serious public concern. HSE is well aware how disproportionate public concern can be. Secondly, that the proposal could take HSE in a dangerous direction. At a time of unprecedented Ministerial interference, HSE may find itself forced more frequently to revise its ISC. If the ISC defined RIDDOR, HSE could face additional resource implications of having also to revise RIDDOR reporting duties *and* would be succumbing to a ministerial pressure untroubled by evidence. The potential for harm to HSE's credibility and reputation would be significant. The ISC should reflect information from RIDDOR, not the other way round.

25. We agree there is a need for a simpler list of reportable major injuries. However, the incident selection criteria (ISC) serve the fluctuating operational demands on the regulator. This differs from the functions of RIDDOR, which pursue the tripartite approach to promoting successful health and safety management. Indeed, Prospect is alarmed at HSE's proposed departure from these values.

26. In any case, the alignment would be counter-productive, guaranteeing a regulatory response to a RIDDOR report. Plainly duty-holders would be deterred from reporting; particularly now that fee for intervention has gone live.

Q9. Is the proposed list of major injuries clear and unambiguous?

27. No

Q10. Are there any other types of injury that you feel should be included in the list of major injuries? If so, please describe and explain why they require inclusion.

28. The definition should include serious wounds short of amputation (likely to lead to permanent loss of function), injuries leading to nerve damage, all forms of blindness, perforated ear drums and electric shock resulting in unconsciousness.

Non-Fatal Injuries to People Not at Work

Q11. Do you agree with removing the requirement to report non-fatal injuries to persons not at work?

29. No. Whether an accident involves a worker or someone not at work is often arbitrary. Moreover, the service nature of our economy means increasing numbers of the public are alongside workers, not just in shops but also in dangerous (priority) areas such as waste and recycling. So removing the requirement to report non-fatal injuries to people not at work would be unhelpful.

30. It would also increase confusion. Because it would mean different criteria for dealing with non-workers *who are killed* and those *injured*. Whether the same incident leads to death or serious injury (or no injury) is often a matter of chance. And it would also cause confusion when contractor's staff or the self-employed are involved.

1

31. More specifically in respect of fairgrounds, the removal of this requirement would seem highly inappropriate. Compounded by proposals also to remove associated dangerous occurrences, this would be disproportionate deregulation of a high-hazard sector where it is the public, notably children and young people, who are most at risk of life-changing injury.

32. It would be ill-considered to rely on the reporting by emergency services or friends/relatives of an injured person. The emergency services are faced with their own resource constraints, priorities and limitations in RIDDOR awareness. It is absurd to expect distressed friends or relatives to contact HSE in a timely way. Prospect would welcome sight of any evidence HSE has that this has worked in the past.

33. Prospect suggests a solution that may appease duty-holders and enable RIDDOR to meet HSE's requirements for an effective operational response would be a requirement to report 'major injuries' to people not at work - most of these should be evident to the duty-holder at the time of the incident.

Q12. Do you agree that removing the requirement to report non-fatal injuries to persons not at work makes it easier to comply with the requirements?

34. The question is absurd. If HSE removed all reporting requirements, then of course compliance would be easier. The proposal risks confusing by having different criteria for injuries and fatalities, makes it less clear who is covered and will lead to a significant loss of information that could be used by regulators and H&S reps to learn lessons and inform measures to prevent recurrences.

Q13. Are there any potential negative consequences of not recording/reporting this information?

35. Yes as per paragraphs 29 – 33. If the information is not recorded, H&S reps may never learn of the event let alone get involved in investigating, learning and contributing to measures to prevent further injury.

36. The same applies to employers, particularly senior managers at executive and Board level. They are more likely to be in the dark about 'risks' their business or organisation may be facing.

37. We should bear in mind too that organisations often find the 'learning' easier to obtain from a near miss or dangerous occurrence because the lack of actual personal injury means people are less defensive and more likely to disclose any failings.

Occupational Diseases

Q14. Do you agree with the proposal to remove the reporting requirement for cases of occupational disease, other than those resulting from a work-related exposure to a biological agent?

38. No. Prospect shares with HSE concerns about the challenges of occupational disease reporting. We acknowledge the difficulty securing accurate measures of the incidence of work-related disease and being able to identify trends. We appreciate this is very different from the situation[1]

with injuries and dangerous occurrences and that it therefore makes it very challenging for HSE to justify occupational disease interventions. No doubt this makes very challenging high-level negotiations at departmental and ministerial level about resourcing for HSE. As one of HSE's recognised trade unions, Prospect is naturally sympathetic.

39. However we differ in the interpretation of the underlying problems, the extent to which alternative options are explored and the conclusions that are drawn. We regard the CD as overly introspective, failing to examine the **broader OH agenda** that has been steadily increasing amongst employers' associations, unions, academia and, indeed, other Government departments and agencies.

40. We therefore do not agree with proposals to remove the reporting requirements for cases of occupational disease, other than those resulting from a work-related exposure to a biological agent. Prospect is concerned at the **potentially damaging signal** the removal would give to occupational health. Further analysis of the challenges and opportunities is required. The costs of ill health are significant and were partly explored in the Government's independent enquiry into sickness absence conducted by Dame Carol Black and David Frost. More in depth research is required fully to assess the impact.

41. Addressing **low reporting** - there are many reasons, including:
    - people not noticing or being in denial about symptoms – a perennial health problem
    - people not associating their symptoms with work-related causation or exposures – often due to inadequate provision of information by their employer
    - GPs having had little if any OH training – a challenge the fit note 'journey' is seeking to address
    - little or no access to occupational health services/practitioners – in part due to the UK Government policy of regarding the NHS as a suitable service for employers not willing to resource their own expertise
    - employers failing to understand health surveillance requirements – HSE is trying to tackle this, its recently launched new web guidance being part of that agenda.
    - incompetence or non-compliance by the OH provider – the introduction in 2011 of SEQOHS accreditation seeks to remedy this and a very recent high-profile HSE prosecution is likely to be influential
    - employee perceptions that the sole purpose of OH is to facilitate the exit of 'unfit' staff – a barrier known to the TUC and Faculty of Occupational Medicine, the overcoming of which is work in progress.

42. Prospect is not satisfied that the array of recently-introduced policy measures, many of which fall outside HSE's jurisdiction but nevertheless have an influence, has had time to be sufficiently embedded to warrant the finding that RIDDOR reporting requirements should be scrapped just because their response is unsatisfactory. It suggests to duty-holders that where compliance is poor, HSE will surrender and ditch law rather than find ways to improve it and enforce.

43. HSE should be exploring with others **new ways to encourage reporting** and take advantage of the work-related health initiatives going on elsewhere (other parts of the Department of Work

& Pensions, the Department of Health and the Department for Business, Innovation and Skills). It could be extending its horizons and networks to the many stakeholders who share similar OH interests with a view to encouraging improved RIDDOR reporting of occupational diseases. Despite us all currently facing difficult times and austerity, there is currently a significant appetite for activity around health in the workplace. Whilst some of the focus is on public health, there is considerable overlap with a broader health agenda that is concerned as much about *worklessness* as it is about work. There are therefore arguments to pursue about *good work*, its impact on health and raising awareness of how disease may ensue when OH aspects of work are poorly managed. There are genuine opportunities for profile and awareness-raising of the OH agenda. This is particularly important given the overwhelming evidence that **work-related diseases give rise to more occupational ill-health and death than work-related injuries**; and the Coalition Government's interests in **reducing benefits** related to ill-health, disability or sickness absence. There is a strong business case for OH as an investment in prevention – removing RIDDOR reporting requirements on OH in the current climate would suggest ignorance of the **wider OH arena** and reliance on a 2006 HSC review which clearly predates many significant OH policy developments.

44. The CD plays down the role and **value to HSE of existing RIDDOR OH reports**. The information is important to informing the OH, occupational hygiene, medical and science specialists who help inform HSE and local authority intervention strategies for specific sectors. There is no other source of information that links occupational diseases to an identifiable employer. Indeed we suspect HSE's fulfilment of its own statutory duties may be jeopardised if it abandons the requirements to report occupational diseases. The information may be limited, but it is better than no information.

45. Other sources of reporting include medical reporting schemes or epidemiological research. HSE's desire to rely on these assumes that their funding is guaranteed and these systems remain active. We find this presumptuous. Reliance is also placed on the Labour Force Survey. We question the validity of this approach given that if you ask someone whether their health problem is work-related, they are likely to say yes. This is not a proper basis for policy formation and the specialist schemes are quite limited in scope.

46. We are therefore unconvinced by the reasons provided by the CD for discontinuing this type of reporting. Prospect's intelligence is that reports come from a wide range of employers and provide opportunities for adequately-timed interventions. There have been acute inhalation and exposure incidents (for instance associated with asthma and dermatitis) where HSE interventions have been vital in securing risk control and raising awareness. The long-latency argument does not apply as most of these cases are outside RIDDOR's jurisdiction. The lack of awareness and understanding could be addressed through changing the regulations and guidance as is the requirement for a written diagnosis from a doctor. It might also be appropriate to reform RIDDOR to allow reporting when a person has changed jobs rather than scrapping the dual duty. Finally, if RIDDOR provides weak statistical information, that is an argument for not using it for statistical purposes, rather than the removal of the need to report diseases to the enforcing authority. 1

47. We do not accept that occupational diseases are reported too late for meaningful regulation. But here we do mean regulation as distinct from enforcement, though we speculate that with the introduction of fee for intervention maintaining the distinction will be tougher and may exacerbate perceptions of over-zealousness.

48. We also reject any suggestion that the occupational disease reporting requirements are a burden on business. Most of the reports are from large employers with internal OH resource or a contract with an OH provider. SMEs are less likely to have a contract with an OH physician to give them access to a diagnosis. So removing the reporting requirement is unlikely to make a difference to their administrative work or direct costs.

49. **We ask HSE to extend its RIDDOR review**. To explore opportunities for mitigating the potential harm. For instance, by pursuing constructive interventions, particularly through relationship management with fellow stakeholders (such as Clinical Commissioning Groups and Directors of Public Health) informed by its sources of intelligence. To look at how RIDDOR information can be complemented by other reporting and recording systems and ensure more information is available to inform regulatory intervention strategies. Prospect members will want evidence that HSE takes seriously their health as well as their safety. The CD is not the fundamental review recommended by Lord Young, accepted by the Government, endorsed by Professor Löfstedt and again accepted by the (same) Government.

50. We recognise HSE has significant challenges and acknowledge that HSE regards long latency as a major concern. HSE Board minutes record HSE's efforts to determine the most effective forms of intervention and how it can maximise its impact, for instance in promoting compliance to address occupational cancers. However we are concerned by HSE assertions about how it has changed its approach to OH in the last 20 years, citing the involvement of HSE's Health and Safety Laboratory specialists in contributing to reducing risks to health in the workplace. Outside enforcement, HSL's services are through its consultancy services and beyond the resources of many employers, particularly those least likely to have access to any occupational health services.

Reporting of gas incidents

Q15. Do you agree with the proposed change to the reporting threshold for non-fatal injuries for gas incidents?

51. No. There is no reason why the same criteria for the reporting of fatalities and serious injuries should not apply to gas suppliers. The duty should also be extended to serious incidents where there are no fatalities. Without such a duty, the Buncefield disaster would have escaped reporting requirements.

Dangerous occurrences

Q16. Do you agree with the proposals for the revision of the types of dangerous occurrences that must be reported given in Annex 1 to this consultative document?

1

52. No. Prospect is very alarmed by these proposals. Dangerous occurrences can happen in any sector. The difference between an incident and disaster can often simply be a matter of timing.

53. The proposals also lack clarity, the annex apparently confusing 'major hazard' and 'high risk'.

54. Prospect supports stricter and clearer advice on dangerous occurrences, but does not support restricting it to those listed in the consultation.

55. We add the following specific concerns:

- DO1: the table states "excluding failures of lifting accessories from scope" - the proposal is poorly explained and unsupported by evidence.
- DO2: that boiler failures are rare seems a poor reason for exclusion. The fact that they are subject to competent person inspections is irrelevant to the need to report failures and investigate them.
- DO8: the proposal is to remove the need to report malfunction of radiation generators, the justification being that there are low numbers and there is overlap with duties under the Ionising Radiations Regulations 1999. The low numbers is no justification. Each of these incidents creates a likely increased dose of radiation. Such malfunctions are serious and should be investigated as part of HSE's regulation of the industry and to learn lessons. Secondly, there is no overlap with IRR. The duties under RIDDOR and IRR are mutually exclusive and complementary; in fact IRR references RIDDOR in the guidance.
- DO14: excluding the duty to report pipeline failure precursor events from the regulations is dangerous. For instance, it suggests there would be no need to report a digger striking a major pipeline where, had the force been greater, it could have led to a major conflagration and multiple fatalities. Concentrating on loss of containment and ignoring non-leak precursors removes opportunities for the enforcing authority to investigate serious incidents and improve standards throughout the industry. It would encourage the cover-up of serious failings.
- DO15: It would be challenging to explain to a member of the public why a major failure of safety devices on a fairground ride could not be investigated by HSE and feeble to seek to justify this by saying that HSE had this duty removed from legislation. 18% is not a low proportion of reports selected for investigation. It could represent a significant problem in the industry worthy of HSE scrutiny. It would signal to ride operators that HSE is no longer interested in their activities. Citing the industry scheme as the basis for not reporting serious, life threatening defects would not be sensible.

Q17. Do you agree that there should be no change to the recording requirements, i.e. records must be kept of all deaths, injuries and dangerous occurrences that must be reported, together with records of O3D injuries to workers?

56. Yes. These are a legal requirement. We would however reiterate our view that the recording and reporting requirements should be aligned and that RIDDOR should mirror the recording requirements.

1

57. Employers already have to grapple with over-seven-day injuries. If the CD proposals are implemented they would also have to deal with a major injury overhaul that would lose just over 3,000 injuries, of which 1,500 would become over-seven-day injuries, while all the time having to record over-three-day injuries. Effectively we would be lowering the standard of information available to all H&S professionals whilst increasing the costs for good performers of collecting information.

Q18. Do you agree that those self-employed people who will be excluded from the requirements of other health and safety law should no longer be required to report, or make arrangements for another to report, their own injuries, occupational diseases, and dangerous occurrences at their own premises that endanger no-one else – eg others working at the premises or neighbours?

58. No. Prospect is concerned that this appears to pre-empt the decision in relation to the proposals to exempt the self-employed from health and safety law. If a decision is taken to exempt them, then RIDDOR will clearly not apply, which will lead to considerable confusion as to what should and should not be reported given the proposals are only to exempt those self-employed whose work poses no potential risk of harm to others. Prospect opposes such an exemption. However the issue should not be looked at separately in this consultation.

59. The information that is received regarding injuries and fatalities to self-employed is, although limited, still of use in learning lessons that can be applied to other workers, as well as giving advice and guidance to the self-employed themselves. In addition having separate arrangements for self-employed people to others, rather than simplifying the regulations, make them more complicated.

60. Moreover, the notion that the costs of self-employed people who risk harming only themselves are incurred only by them is absurd. Clearly there are costs which fall to the state and taxpayer, as well as to the victim and their family, such as costs of health care and benefits. There is also the potential cost of time, trouble and cover for any organisation that contracts the self-employed person through disruption to the service or supply chain.

Q19. Do you agree with the conclusion of the impact assessment?

61. No – the impact assessment takes no account of the effect on health and safety that not reporting will have on the likelihood of employers taking remedial action in, what amount of the 40% of current reported cases.

62. In addition the impact assessment presumes two options: to do nothing or adopt the entire package. These are not the options contained in the consultation paper, which seeks views on a range of measures many of which are free-standing. The impact assessment presumes that it would not be possible to make only some of the changes given.

Q20. Are there other factors that should be taken into account?

63. The HSE assessment takes no account of the likely rise in occupational injury and ill-health that could arise from the proposals, although this is raised as a possibility in the OOR assessment in respect of members of the public.

Q22. Do you agree with the Equality Impact assessment?

64. No. The HSE does not seem to have looked at the gender and age profile of those in the 70,000 RIDDOR cases currently reported that will no longer be reported. Without that information it is impossible to make the presumption that it will not affect any one group disproportionately.

Is there anything you particularly like or dislike about this consultation?

65. The information in questions 1, 2 and 3 should have been obtained prior to the consultation to inform the proposals, not as part of the consultation on the proposals.

66. Many of the questions could only be answered by repeating the information given in previous ones or are contradictory (such as 5 and 6).

67. The impact assessment has not looked at each of the proposals separately. Instead it has only looked at two options which are either doing nothing or introducing the entire package, yet views are sought on each of the individual proposals separately.

Conclusion

68. Prospect is concerned that HSE is missing an opportunity that could be beneficial both to the broader work-health agenda in which many of us play a part and the role, profile and reputation of HSE. We suggest HSE takes a more holistic approach which engages the support of the many of us who wish to preserve sources of data in the knowledge and experience of the far-reaching benefits they bring.

69. Prospect urges HSE to explore with stakeholders:
    - means of enhancing the clarity of the requirements
    - ways of disseminating its requirements
    - approaches for supporting duty-holders
    - opportunities for enhancing organisational learning from occupational accidents and ill-health and
    - an agenda for enhancing and promoting health in the workplace.

70. We envisage opportunities for HSE to secure returns from its strategy investment from the many duty-holders we know where, despite difficult times, their leadership and worker involvement *to be part of the solution* has been securing OHS improvements they are extending to others through their supply chains. Mirroring HSE's 'estates excellence' initiative, we believe this is a more sustainable approach to securing the OHS engagement of small and medium-sized enterprises than to succumb to SME pressure to deregulate. Otherwise we risk taking Great Britain's OHS policy on a 'race to the bottom'. We would be happy to share with HSE our experience of such practices and are confident we could do so in partnership with many of our employers: providing corporate evidence that may be of value to informing DWP and Ministerial opinion about the benefits of *better* regulation over deregulation.

71. Reducing the visibility of RIDDOR would undermine prevention and, in the long run, give rise to more illness and higher business costs because of increased rates of harm and raised insurance premia resulting from increased employers' liability fees. The proposed changes would not reduce alleged burdens on business but they would deprive society of the depth, significance and details of avoidable accidents and ill health.

72. Prospect would therefore welcome a fuller, more collaborative RIDDOR review.