



From the Parliamentary
Under Secretary of State
for Work and Pensions

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Dear John

Maximum Working Temperature Adjournment debate

I write in response to your request for further information made during the Westminster Hall Adjournment Debate on Wednesday 24 February 2010 and to update you on actions points from our meeting on 3 February 2010.

You requested information regarding HSE's decision to appoint Professor Kemp to assist with the review and HSE's appointment procedures in such cases.

The main contribution HSE requires from consultants is to provide independent advice and experience to assist with the review or development of new systems, new structures or new capabilities within the organisation. For the workplace temperature review, HSE were specifically seeking a consultant who could help deliver the aims and objectives set down for the review which the then DWP Secretary of State, James Purnell, asked HSE to explore – namely the following:

- whether the relevant legislation and guidance has kept pace with the changing nature of workplaces and working patterns;
- whether there is continued justification for having minimum recommended working temperatures but not a corresponding maximum recommendation - for those working indoors;
- whether more can be done to address the corresponding effects - including seasonal variations - on those working outdoors; and
- what can be learned about workplace temperatures in the wider 'good work' context, for example in relation to access to drinking water and other facilities in the working environment.

Additionally, the HSE Board chair, Judith Hackitt, was keen for HSE to consider the experience and practice of other countries that have more extensive experience of handling high workplace temperatures as a result of their warmer climate.

HSE were therefore looking to engage a consultant who could: provide independent advice on potential regulatory interventions; facilitate stakeholder engagement; provide advice on international approaches; and assist HSE officials in gathering evidence and information to shape potential future policy proposals and recommendations to the HSE Board.

Against this background Professor Kemp was chosen for his expertise in risk communication, his extensive experience in public and stakeholder engagement, his ability to independently facilitate engagement with stakeholders and the public, and his ability to provide strategic and applied practical advice on how to improve communication and management of controversial health, safety and environmental issues. In addition Professor Kemp has well established contacts in Australia and was able to use these to gather the type of information requested by Judith Hackitt on experiences of handling high temperatures.

Professor Kemp has worked well with HSE in the past and, in light of his experience and expertise, was commissioned in line with established appointment procedures. These procedures involve the submission of a business case including details of the Project Officer, clear milestones and objectives, and proposals for assessing the effectiveness and benefits to demonstrate that value for money will be achieved. The business case for Professor Kemp's study was subject to internal HSE clearance, in accordance with Treasury procedures for projects of this nature.

In response to your request for information about next steps, if the Government determined to introduce a maximum temperature, none of the options under investigation would require amendments to the Workplace (Health, Safety and Welfare) Regulations 1999 (Regulation 7). Instead, we anticipate that the necessary change would be made by amending the Approved Code of Practice (ACoP) supporting the Regulations.

HSE may make amendments to ACoP text under section 16(4) of the Health and Safety at Work etc Act 1974, subject to obtaining approval from the Secretary of State for such revisions (questions of negative or affirmative resolution procedures do not, however, apply where ACoP

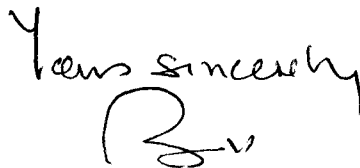
amendments are involved). Before seeking this approval HSE would be required to consult government departments, bodies that appear to have an interest and as directed by the Secretary of State. It would also be appropriate to carry out a full 12 week consultation on the proposed amendments.

With regards to the points raised during our meeting on 3 February 2010, the attached annex provides details of the headline findings from the recent workplace temperatures survey. HSE will share the findings of the regulatory impact assessment with you at the earliest opportunity.

HSE have agreed to look at the issues of strengthening employers' existing duties; research into the long term impact of daily exposure to heat and encouraging inspectors to identify dangerous working temperatures on sites and will include information on these issues within the measures to be presented to the Board in April.

I hope this information is useful. I am grateful to the Bakers' Union Parliamentary Group for their active engagement with this review and I am pleased to hear that the BFAWU are willing to engage in sector specific discussions as an interim measure.

Copies of this letter will be placed in the House libraries.

A handwritten signature in black ink that reads "Yours sincerely" followed by a stylized signature that appears to be "B. McKenzie".

Bill McKenzie

Enclosures – Annex A headline findings from the survey

Cc: Kelvin Hopkins MP
David Simpson MP MLA
Gregory Campbell MP MLA
Dr William McCrea MP MLA
David Crausby MP
Paul Rowen MP
James Clappison MP

Annex A: Headline findings from the Workplace temperatures survey

In total 2933 forms were completed and received for analysis from respondents who took part in a questionnaire to gather evidence of health effects caused by working in high temperatures.

When asked, are high workplace temperatures of concern for your company, 53% responded that temperatures were not a concern to their company (and did not go on to answer the remaining questions), compared to 47% who responded that workplace temperatures were high and of concern for their company. Those 47% went on to answer the remaining questions and their responses are shown below:

Of the 47% who agreed the workplace temperatures were high and of concern:

- 22% stated the high temperatures were process related and a concern all year round; and
- 79% stated the high temperatures were seasonal, relating to external temperature.

Of the 47% (1378 respondents) who agreed the workplace temperatures were high and of concern:

- 50% did formally record staff complaints about high temperatures, 45% did not record complaints and 5% of respondents did not state whether records are kept;
- 59% did monitor conditions in individual work rooms;
- 44% of the 1378 respondents had employees who suffered illnesses caused by high temperatures e.g. headaches, nausea or fainting;
- 20% had employees who recorded injuries/ill health effects caused by high temperatures i.e. recorded in an accident book; and
- 28.9% of those who recorded injuries/ill health effects caused by high temperatures advised that they could provide HSE with details, 65% advised that they could not.

Of the respondents who identified that measures are currently in place to address this concern:

- 45% stated there had been a reduction in worker complaints since these measures were put in place;
- 21% stated there had been a reduction in accidents since these measures were put in place;
- 40% did feel the measures currently in use were sufficient;
- 63% were happy to share these measures with others using similar processes; and
- 53% stated there is a specific factor (i.e. temperature) that triggers additional measures.

Sector findings

In response to the question are high workplace temperatures a concern for your company? Responses from people working in the following sectors account for the highest proportion of those stating that high temperatures are a concern:

- Education sector (15.5%)
- Offices (14.7%)
- Manufacturing (10.8%)
- Healthcare (8.2%)
- Construction (8%)

Responses from the Food and drink sector (which included bakeries) accounted for 3% of the total responses stating that high temperatures are a concern.

As part of the further analysis of the survey HSE will seek to distinguish the number of responses provided by employees, employers, employee representatives and employer representatives.