

ICL INQUIRY SUPPLEMENTARY STATEMENT

of

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Career History

1. I joined HSE in 1976 after university and 3½ years in industry. I obtained a BSc (Hons) in Microbial Biochemistry and an MSc in Fermentation Technology. Whilst working with HSE I attended Aston University and obtained a Post Graduate Diploma in Occupational Health and Safety. My initial years in HSE were spent training and working as an inspector in a range of industrial sectors. As my career developed I held both operational and policy posts. The latter included secondments to the Department of Employment, Department of Energy and Department of Trade and Industry. Senior operational posts included Director for London and South East and Chief Inspector of Construction. I have now been a member of HSE's Board for 9 years during which time I have held the posts of Director for Health Policy (later to become Director for Policy Group), Director of the Health and Safety Executive's Field Operations Directorate and Acting Deputy Chief Executive. It is relevant to note that as Director of Field Operations my responsibility involved all field activities except major hazards and nuclear safety.

Current position and role

2. I was appointed Acting Deputy Chief Executive of HSE with effect from 17 March 2008. On 13 October 2008, a permanent appointment having been made, I became a Director, with responsibility for a variety

of special projects. I remain a member of the Senior Management Team (SMT) with authority to represent HSE at the ICL Inquiry.

3. I adopt the answers in HSE's Phase 2 submission to the ICL Inquiry (HSE 5), together with the information in all other HSE submissions to the Inquiry as being the HSE evidence generally. I have been aware of the provision of information on behalf of HSE throughout the period of the Inquiry and have had an opportunity to approve those submissions made. That information to which I will personally speak is set out in the table found in document (HSE 6)
4. I am of the view that it would assist the Inquiry if I take the opportunity to amplify some of the areas covered within HSE's submissions to the Inquiry.

Health and safety in context

5. Every year around 200 people die from accidents at work and around 50 members of the public are killed by work activities. These deaths result from activities across all industry sectors (including for example in construction, agriculture, manufacturing, offshore oil and gas production etc), and from a wide variety of causes (including, for example, falls from height, workplace transport, machinery accidents, working in confined spaces etc). A significant number of deaths to members of the public arise from carbon monoxide poisoning in their homes. In addition to those killed in accidents, many thousands die from industrial diseases such as asbestosis and cancers. Each and every one of these deaths is a tragedy for the family affected.
6. Speaking from my personal experience as a front line inspector I know that having to investigate any fatal accident brings home the vital and important role HSE plays in regulating workplace safety. I wish to offer

my condolences to the bereaved families and extend my sympathies to those who were injured.

7. HSE has a responsibility to regulate health and safety in all of these areas, as well as those areas where the most catastrophic and extreme events (which can have an impact both nationally and internationally) have the potential to occur e.g. petrochemical complexes and nuclear sites.
8. HSE also receives many thousands of complaints each year where individuals raise concerns concerning their poor work conditions or risks to members of the public to which we must respond. Equally we want to be an organisation that undertakes preventative work to stop these needless deaths and improve working conditions. So we use a range of activities including advice, education, inspection and enforcement to ensure dutyholders take seriously the responsibility for managing their risks from their businesses. We also work closely with our Local Authority colleagues.
9. HSE inspectors need to be, and are, equipped to operate across this broad range of activities. Some of them have more specialised skills and knowledge to work in particular industries. The storage and use of LPG is one of a number of hazards that HSE inspectors encounter and address during the course of their interventions in workplaces. To identify and address the numerous activities and hazards in the workplace, inspectors have to continually consider and apply their extensive training and knowledge and to be aware of the numerous but necessary HSE procedures and instructions that support them in their work.
10. Further support and advice to our inspectors is always available from HSE's specialists and the Health and Safety Laboratory in Buxton.

any value to, the use of LPG in such premises and the particular process risks created..

Examples of HSE's action with industry

14. HSE is in a unique position as a national regulatory body to improve health and safety standards. As well as being able to directly require dutyholders' compliance with legislative requirements (for example using our formal enforcement powers) we are able to engage with industry, via their 'recognised' representational bodies, and agree with them specific approaches which are most appropriate to tackle the risks within their industry. Such arrangements, including specific action plans or targets to be achieved, can and often are agreed on a 'voluntary' basis. I use the term 'voluntary' in a loose sense – if industry does not take forward improvements that have been agreed with HSE, then HSE will 'up the ante' and require improvements through more formal measures. Such an approach is entirely consistent with the principles of modern regulation and those set out by Lord Robens over 35 years ago [ICL/14565-14690] (more information on Lord Robens' approach is detailed in Chapter 2 of HSE's main submission).

15. I attach as Appendix 1 of this statement further details of such an approach. This was when HSE took action to address concerns regarding public safety and the operation of fairground rides. The main elements of this approach was that the fairground industry, after discussions with HSE, implemented an inspection scheme for fairground rides which has a high degree of self regulation – industry inspecting itself through a mechanism agreed with HSE, backed up by firm HSE enforcement action being taken when individual ride operators fail to deliver on the 'agreement'. This is a clear demonstration of a third party approach to inspection and safety verification but by means other than a direct legislative requirement.

16. I would like to say a few words on why HSE has suggested an action plan in our submission on the future 'Oversight Regime' document as a key element in moving forward. We believe this approach will eliminate the risk of LPG incidents, especially from buried pipework, and is preferable to putting in place a bureaucracy which is perhaps unnecessary and will not address the root problem as effectively.
17. Our proposal is based on our previous experience of tackling a similar issue with the mains distribution of natural gas across the country in cast iron metal pipes that were corroding and failing. This was a widespread and ubiquitous problem.
18. HSE worked with the gas industry over the replacement of iron gas mains.
19. There was a high level of societal concern, following some serious incidents, over the potential consequences of gas mains failure. HSE required the gas mains distributor to take further steps to reduce this risk.
20. Given the history of the mains gas distribution system, the mains gas distributor could not realistically have been expected to know the exact condition of all its iron mains. A precautionary approach of accelerating the pipework replacement programme was needed.
21. HSE published in 2001 its enforcement policy for the replacement of iron gas mains within 30m of property within 30 years and HSE considered it realistic and practicable for the mains gas distributor to speed up its rate of mains replacement of all the remaining 'at risk' iron mains
22. HSE made amendments to the Pipeline Safety (Amendment) Regulations 2003 [ICL/05698-05700] allowing HSE to approve the

annual replacement programme and required pipelines to be maintained in an efficient state, efficient working order and in good repair. A parallel duty exists under PUWER for factories. **[ICL/04569-04592]**

23. Targeting and priority of work is based upon risk, (as far as this can be ascertained) the higher risk gas mains being replaced first
24. HSE monitors the iron mains replacement activity including a series of ongoing audits in the distribution network companies to ensure the policy is being followed properly.
25. The policy to-date has succeeded in ensuring the number of major incidents remains low, and whilst it is too early to draw firm conclusions, there appears to be no significant deterioration in the network.
26. In summary HSE took a risk based approach to the problem and built on our experience of implementing it and it is, apparently, working. This gives a clear and evidence based example of how those who operate a business best manage the risks they create which is the central tenet of health and safety law in Great Britain. This is why we think it would work for underground metallic pipes carrying LPG - especially as HSE also has to deal with domestic as well as commercial premises.

Work with UK LPG

27. I wish to emphasise the work done to date and ongoing work with the LPG industry.
28. Following the explosion at ICL, HSE recognised the need to provide advice and guidance to duty holders regarding inspection and maintenance requirements of buried metallic LPG pipe work. HSE

worked with the LPGA (now UK LPG) to develop the free leaflet, C70 "Checking LPG pipe work- Industrial and Commercial User responsibilities" which was published in March 2006 [ICL/13942-13943]. The leaflet was distributed by member companies of the LPGA to their customers as an insertion with invoices. This is normal practice for LPG suppliers when they want to distribute important advice to their customers. Approximately 65000 leaflets were distributed in this way. The leaflet included an offer of obtaining further advice through HSE's Infoline as the point of contact. It is estimated that approximately 60 companies requested such advice. The leaflet is still available on both HSE's and the UK LPG's websites.

29. HSE meets with UKLPG and suppliers several times each year. These meetings are used to discuss current issues and requirements in respect to health and safety and to take forward actions / initiatives jointly with the industry.
30. Research is currently under way at the Health and Safety Laboratory (HSL) to understand better how LPG percolates through different soil types. It is already well understood how metallic pipes corrode in different soil types. This research was conducted by Advantica some time ago. Calor has also conducted research, where they excavated 500 underground metallic pipes, which confirmed the Advantica findings. The HSL data, in conjunction with soil type data, will help to identify whether there are particular areas of the country that, given their geological make up, warrant prioritising in a programme of pipework inspection and replacement.
31. The HSL research will inform a decision on the possible use of a model developed for natural gas to identify pipework where the risk of gas entering a building from a leak is high. In the light of this research, HSE will work with the LPG industry to produce a suitable action plan for prioritising pipework replacement. HSE will also consider whether any

regulatory changes will be needed to achieve the objectives of a prioritised inspection and replacement programme.

32. The LPG industry has agreed in principle with the HSE that the research findings will be used to develop a risk matrix for metallic underground service pipework at commercial premises. The risk matrix will cover a number of factors, including soil type and age of installation, to prioritise those installations where pipework is potentially at risk for the user to arrange inspection and if appropriate, replacement.

33. HSE believes that there is a definable problem with aging unprotected LPG pipes that can simply be eliminated by taking effective action which is to be completed in a specific time period. This time period will be shorter than the mains gas programme as the problem is not of the same scope. This needs to be backed up by ensuring that appropriate action is taken by dutyholders for ongoing maintenance of their LPG systems and installations. HSE has committed to produce further guidance which will explain how the more general health and safety duties e.g. under the Provision and Use of Work Equipment Regulations 1998 (for maintenance and inspection) [ICL/04569-04592], and those under the Dangerous Substances and Explosive Atmospheres Regulations 2002 [ICL/04445-04472] are to be applied to particular areas e.g. buried LPG pipework

Impact Assessments

34. It is government policy that any government intervention by way of primary or secondary legislation or by codes of practice or guidance requires an impact assessment to be carried out. The Minister responsible for the policy requires to confirm that the impact assessment represents a reasonable view of the likely costs benefits and impact of the leading options at the stage of consultation. At the

final proposal and implement stage the Minister requires to make a declaration that the benefits justify the costs. [ICL/14400-14409]

Conclusion

35. HSE is in a unique position as a regulator to require various improvements backed by our formal powers and appropriate tools for the situation. HSE's suggested approach, based on the range of our previous experience, is set out in our various submissions to the Inquiry – particularly in HSE suggested future oversight regime paper. We have attempted assist the Inquiry by setting out a course of action for improving safety at LPG installations of the type found at ICL Plastics without pre-empting any recommendations that the Inquiry may decide to make to Ministers.

36. I want to restate HSE's full commitment to working with the Inquiry to assist the Inquiry produce practicable recommendations to Ministers.

I confirm that the contents of this statement are true.

Witness signature.....

Date.....

Appendix 1

Fairgrounds and Amusement Parks: Amusement Devices Inspection Procedures Scheme (ADIPS)

Background

- 1 The Health and Safety Executive is the enforcing authority for the majority of fairground equipment (except bouncy castles and go-karts which are Local Authority enforced) operating in Great Britain.
- 2 Following a cluster of 5 fatal accidents in the 2000 season a review of fairground safety was carried out. A report was prepared and presented to the Health and Safety Commission.
- 3 The Review concluded that going to a fair or amusement park remained a relatively low risk activity and that a high level of safety could be achieved by HSE and the industry taking practical action to improve certain aspects of the existing regime.
- 4 Following this review the fairgrounds industry associations and the Health and Safety Executive worked together to further develop the Amusement Devices Inspection Procedures Scheme (ADIPS). It involves a series of pre-use inspections and an annual in-service inspection of the safety critical parts of fairground rides.
- 5 The purpose of ADIPS is to ensure that fairground rides are checked for safety before they are first used (or after safety critical modifications) and periodically throughout their operating lives. These inspections are carried out by inspection bodies who are independent of the ride controllers and who are registered with ADIPS Ltd, the body set up to administer the scheme.

The Amusement Devices Inspection Procedure Scheme (ADIPS)

- 6 This is the industry agreed voluntary scheme that covers the certification and inspection for safety of fairground rides in GB. Each fairground ride must have an annual inspection for safety carried out by an independent inspection body. In addition each new fairground ride must have a series of pre-use inspections carried out before it is allowed to operate in GB.
- 7 All the industry trade associations have agreed that they will support this scheme and that their members will adhere to its conditions.
- 8 In 2005 the industry set up ADIPS Ltd, an independent company that is responsible for the managing the ADIPS system and finances, processing all the paperwork associated with the scheme and registering the inspection bodies that operate under it.
- 9 It also manages the issuing of the annual safety certificate (known as the Declaration of Operational Compliance [DOC]) that is issued after a satisfactory annual in service inspection.
- 10 It is funded by the industry through a levy (currently £20) on each DOC issued which provides the scheme with an annual income of around £140,000.
- 11 Also in 2005 the industry, in agreement with HSE, formed the Amusement Devices Safety Council (ADSC). This group includes representatives from all the trade associations and HSE. It now provides the policy steer for developing safety within the industry, developing and promoting the ADIPS scheme, writing guidance and producing training packages for the inspection bodies and the fairground industry as a whole.
- 12 One of its specific aims is to work on one of the recommendations arising from the review of fairground safety to “move the industry as

soon as possible to a formal independent accreditation of ride examiners, with periodic monitoring of ride inspectors' work to check for lack of diligence or to achieve the same standards by alternative means". The achievement of ISO 9001 accreditation in 2005 was a significant step towards that aim.

13 ADIPS Ltd has employed a compliance officer to begin work on the auditing of compliance by inspection bodies with the requirements of the scheme.

14 ADIPS has published two industry produced pieces of guidance: "Safety of Amusement Devices: Design" and "Safety of Amusement Devices: In-Service Annual Inspection". These are industry written and published guide to the safe design of fairground rides, and are another significant step towards self-regulation.

Enforcement: HSE

15 HSE retains enforcement responsibility for the fairground industry and has taken robust action when standards of compliance have fallen below required levels. Prosecutions have been brought against fairground operators who have failed in their obligations. Further those tasked with examining the equipment have also been prosecuted for their failings. Following two of the fatal accidents in 2000 a ride examiner was successfully prosecuted for manslaughter and received a custodial sentence in 2002.

16 Since then HSE has successfully prosecuted two ride inspection bodies for breaches of health & safety legislation and prohibited a ride inspection body from carrying out any further work in the industry. There are currently ongoing investigations that may lead to two more inspection bodies having criminal proceeding brought against them.

Enforcement: ADIPS Ltd

17 ADIPS Ltd has powers to suspend or remove inspection bodies from the register. Although this a voluntary scheme the industry trade associations have agreed that their members will only use inspection bodies registered with ADIPS and thus suspension or removal from the scheme is a significant action. ADIPS Ltd has removed three inspection bodies from its register of 45 such bodies for non compliance with its requirements and currently three inspection bodies are suspended pending ongoing investigation by ADIPS Ltd into non compliance issues.

Safety in the fairground industry.

18 Since the events of the 2000 season the industry and HSE have worked together to maintain and improve standards.

19 The accident history shows that progress is being made

Year	Fatal	Major	over 3day
2000/1	5	516	86
2001/2	2	345	81
2002/3	1	206	62
2003/4	0	126	31
2004/5	4	163	49
2005/6	1	140	32

Conclusion

20 Self regulation in the fairground industry in relation to inspection and test of fairground equipment has proved beneficial to both the industry and to HSE and has helped in the reduction of serious accidents since 2001.

21 The current safety regime is based on a sound framework of law and industry specific guidance. If it is complied with fully, competently and diligently the risks of death and injury can be minimised.