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**OHS in Small Organisations: Some Challenges and Ways Forward**

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# OHS in Small Organisations: Some Challenges and Ways Forward

Felicity Lamm and David Walters

## Introduction

The purpose of this paper is to explore the relationship between reflexive regulation and occupational health and safety (OHS) in small businesses and discuss several related issues relevant to achieving OHS improvements. Recognising the importance of small businesses in post-industrial economies, the paper addresses difficulties in applying modern regulatory strategies to small businesses, when the duty-holders responsible for safeguarding and promoting the health and safety of their workers within them, often lack both the will and the means to do so.

We begin with an outline of the characteristics of the small business sector and the key factors that contribute to their resistance to regulation of health and safety. We argue that such factors must be viewed, not as specific problems in relation to health and safety, but as part of the much wider social and economic context in which work takes place in small businesses. We also assert that before effective regulatory strategies aimed at this sector can be developed, it is necessary to understand the contexts that limit or promote compliance.

We then present a brief outline of some of the features of modern regulation and some of the problematic issues in its application to small businesses. One aspect that is of particular interest is that in most countries where OHS legislation focuses on risk management, the style of management sought is largely a participative one. This is true in all countries of the European Union as well as in Australia. Yet in these same countries and in contrast with this ethos, approaches to regulating health and safety in small businesses are typically addressed exclusively to the employer<sup>1</sup> alone.

Notions of participation, if they exist at all, are usually couched in terms of a direct relationship between the employer and employees, supposedly facilitated by the absence of the formal barriers conventionally associated with increased workplace size and managerial complexity. While such informality and close relations between employer and their workers are certainly features of small businesses, it is far less certain that they work to enhance participatory approaches to health and safety arrangements. Indeed there is much evidence to suggest that in many cases they have the opposite effect, since within the 'structures of vulnerability'<sup>2</sup> with which workers in small businesses are often

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<sup>1</sup> The generic term "employer" incorporates both "owner" and "manager".

<sup>2</sup> A term borrowed from Theo Nichols to describe the situation in small enterprises in which a 'general and multi-faceted lack of resources' make for poor OHS arrangements. Importantly, emphasis is not on one condition associated with enterprise size but on the effect of a constellation of factors that results in limitation of resources for preventive health and safety management for owner/managers, workers and

surrounded, such closeness vastly reduces their willingness and ability to challenge the assumptions and prerogatives of their employers. Further exploration of this apparent paradox leads us to the idea that participatory approaches, like much of the other tenets of self-regulation, cannot operate effectively in these situations without additional supports within the social, economic and regulatory scenarios in which work in small businesses is undertaken.

In the final part of the paper, therefore, we explore what are the kinds of structural and procedural supports that are relevant to enhancing and improving small businesses' compliance with health and safety regulation generally and more specifically, their compliance with the participatory risk management approaches that we have argued to be typical of the ethos of modern OHS regulation. To do so we draw on a number of examples of regulatory/para-regulatory approaches and the intermediary actors and processes they harness to aid implementation and dissemination of improvements in OHS in different countries. We review what is known about the positive supports for such approaches both within small businesses and from their wider social and economic environment. We further consider the barriers and constraints to applying such reflective approaches to risk management in small businesses that have so far been identified internationally.

### **The characteristics in the small business sector**

Work in small companies is an important feature of modern economic life. In most advanced industrialised/post-industrialised economies, their increased share of production, services and consequent employment, is a prominent feature of the changing profile of the structure and organisation of work. The experience of many workers employed in the structured networks of production and services, is the “downsizing” and “outsourcing” of work, which in turn has resulted in a growing pattern of displacement of more stable contracts of employment in large organisations. Data on injuries and fatalities demonstrate that work in small businesses is more dangerous than that in larger counterparts. It is acknowledged that this is not solely the result of undertaking more hazardous work but primarily because arrangements for preventive health and safety in small businesses are unsatisfactory. Structures of vulnerability that characterise the experience of small businesses for both employers and workers mean that effective management of health and safety performance in these businesses faces considerable challenges. They arise for example, from the economic precariousness of the business, from the organisation and culture of work in the sector, as well as from under regulation and low levels of enforcement. Compounding the problems surrounding illness and injury in this sector is the fact that small businesses are difficult to regulate, as they are typically heterogeneous, geographically scattered, lack cohesive representation and have a short life cycles (Dawson, et al 1988; Storey, 1994; Lamm, 1999; Eakin, et al, 2000; Walters; 2001)

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owner/managers and workers jointly (See Nichols 1997:14 84,154,160-161 and 167. See also Walters 2001:140-141).

In addition, the issues that surround the functions of running a business (management, finance, compliance, employment practices, etc.) are more pronounced in a small business by virtue of their size. All these issues are inter-linked and operate in tandem. With this mind, the key factors affecting OHS in the small business sector can be grouped under the following headings:

- Low management and training skills;
- Lack of resources;
- Burden of compliance;
- Relationship with regulatory agencies and the use of consultants;
- Dependent relationship with large businesses; and
- Employment and OHS practices.

*Management in small businesses* differs from management in large organisations in that the lines of communication are shorter, the structure is simpler and commercial pressures are often felt more keenly and immediately. Moreover, it is impossible to separate OHS practices from other aspects of running a small business. The inter-relationships between the functions of operating a small business are so tight that a shift in one area will have immediate consequences in another. The application of the most elementary OHS remedies in a small business have to be considered alongside the weekly cash flow. Therefore, the ability to manage the business is critical to managing OHS.

It is also common among small business employers to have *training and skill deficiencies* in the areas of management and communication. Small businesses on the whole have neither the management acquirement nor the resources to 'understand their occupational health and safety obligations and responsibilities.' (Bell, 1996:5). Flagstad (1999:2) adds that:

“Small companies do not have the sufficient knowledge of work environment issues. They also have to handle large amounts of documentation rather than acquiring specially customised systems. Management is often not particularly interested, and the focus is on meeting the legal requirements, rather than seriously addressing work environment issues.”

Small business employers often have an orientation towards their particular trade rather than towards the business and management practices and can be frequently characterised by 'a norm of independence, and a shared belief in the value and necessity of individual autonomy' (Eakin and Semchuk, 1988:3). There are also certain tensions between the role of management and production in the small business and the practicalities of operating a small business (Lawlor 1988:21).

Underpinning most of what is written about managing a small business (and for that matter managing OHS in a small business) is *the lack of resources* employers have at their disposal – lack of time, lack of good staff, and most of all, lack of finance. The lack of finance is often the result of under-capitalisation, the inability to access favourable loans and small profit margins. The shortage of finance impacts on the quality of products and services as well as

the ability to attract and retain skilled staff. It has also been argued that the lack of financial resources not only affects the overall viability of the business, it is also inextricably linked to the employer's ability to provide a healthy and safe environment (Lamm, 2002).

In addition, the *burden of compliance* is a perennial issue for small businesses. There is a suspicion that while medium-sized and large businesses have been able to keep abreast with the changes in OHS law, small businesses have not. The resources that medium-sized and large businesses have at their disposal to implement regulatory changes and to maintain existing ones cannot be matched by the smaller businesses. Unlike large businesses, conforming to regulations often places greater financial burden on small businesses as they are unable to spread their compliance costs over a number of products, markets, or plants. This puts the smaller business at a distinct disadvantage. As the Australian Small Business Task Force on *Small Business Deregulation* (Bell, 1996:15) stated:

The study...shows that personal attitudes to the concept of regulation will affect a small business operator's perception of the burden of complying with the regulation...The complexity of the regulations, the frequency of complying and coping with constant changes, and the time needed to comply with the record keeping requirements, have added to the frustration felt by small businesses.

Studies also indicate that small businesses employers have a perception that government regulations pose a threat to their profitability, and ultimately their survival however, this perception may be the result of their *lack of understanding* of governmental regulations (Lamm, 1999). This perception that the cost of compliance is detrimental to their business has led a number of small business employers to find ways of opting out of their legal obligations. For example, in a recent New Zealand study, an increasing number of small business employers were openly employing illegal migrant workers in a mistaken belief that in doing so they were no longer obliged to provide safe working conditions nor required to pay workers' compensation payments. In most instances, the employers were themselves recent economic migrants who relied on their family and ethnic connections to provide a ready supply of illegal migrant workers (Lamm, 2002).

There is also evidence of widespread dissatisfaction among small business employers as they believe that, unlike large businesses, they have not been consulted by government legislators regarding the employment laws (Woolfson, 1995). In addition, those in the small business sector typically feel that if there were powerful lobby groups representing the interests of the small business sector, such as those that operate in the interests of big business, the legislation would have been tailored more to their needs (Lamm, 2002).

Small businesses are also characterised by their indifferent and sometimes hostile *relationship with regulatory agencies* and their pertinacity to *use consultants* for regulatory advice. Studies indicate that there are three major reasons why small business employers prefer to use business advisors to assist them in OHS compliance matters rather than use government agencies (Lamm, 2002). First, there is ample research to show that a large proportion of small business employers feel alienated from the state (for example, Wanna, 1992 and Mayhew & Quinlan, 1998). Therefore, they may choose not to approach

government agencies for advice and guidance on employment matters including OHS. Second, they may not wish to contact government staff for fear of being prosecuted (Lamm, 1997). As a consequence, small business employers may be more inclined to use the services of small business advisors to act as intermediaries between the small business employer and the regulatory agency. Third, if small business employers are unable to draw on compliance expertise within their own organisation, they may seek compliance assistance from small business advisors. Cameron (1991:65) argues that in order to fill the 'management-skills gap', small business employers have become reliant on advisors to guide them on how to manage their businesses and their staff, as well as providing the more conventional financial, tax and legal advice.

Although small business operators may resent the level of attention governments and their agencies give to large businesses, most small businesses operate in *a dependent relationship with larger businesses* (Rainnie, 1991; Blyton & Turnbull, 1994). That is, they complement and service the activities of the larger businesses. A good example is the way in which large businesses sub-contract out work to smaller businesses. Blyton and Turnbull (1994) argue that a dependent relationship between a large business and a small business often requires the small business to maintain a competitive edge through rigorous exploitation of labour. Mayhew and Quinlan (1997) go further and maintain that the effects of subcontracting and outsourcing will in certain instances lower OHS standards because of (a) employment status is fluid or ambiguous (b) the nature of skill/work involved and (c) remuneration is based on output. However, not all businesses are seeking to exploit their labour in order to gain a competitive edge. Those "innovative" small businesses (to use Rainnie's term, (1989)) specialising in the areas of electronics, computer and related industries, have employee conditions and rates of pay comparable to larger businesses and it appears that the majority of innovative businesses had unionised labour (Ewer, et al, 1987; Beaumont & Harris, 1988; Rainnie, 1989; Blyton & Turnbull, 1994).

While there are a number of innovative small businesses, both in terms of their business and employment relations, the majority of small businesses are less likely to adopt formalised *employment or OHS procedures* (Scott et al, 1989; Rainnie, 1989; Eakin, 1992; Rogowski & Wilthagan, 1994; Walters, 2001; Lamm, 2002). Furthermore, research shows that often in small businesses wage rates are lower, jobs are less secure (Harbridge and Street, 1994) and working conditions are poorer (though job satisfaction is frequently higher than large companies) (Sappey, 1983, 1985; Bollard, 1988; Kitay & Sutcliffe, 1989; Scott et al, 1989; Isaac, 1993; Buultjens, 1994, Quinlan, et al. 2000). For example, in a study by Dryson (1993) most of the employees interviewed were dissatisfied with their level of OHS conditions. However, relationships within small workplaces occur on a more personal basis, making employee dissension over OHS matters more difficult than for those employees working in medium and large organisations (Frick & Walters, 1998; Walters, 2002).

Small business employees are often female, and/or many non-English speaking, unskilled/semi-skilled, predominately non-unionised and often employed on a casual basis (Lamm, 2000). The absence of any meaningful trade union presence in the small business sector also has a bearing on attempts to reduce small business illness and injury rate. Carson et al (1990), Weil (1991) and Walters and Frick (2000) confirm that there is a link between

workers' involvement and reduced injury and illness rates. Unionised workers are more likely to exercise their rights to a safe workplace than their non-union counterparts. Unions also play an important role in initiating inspections and can often devote resources to monitoring and improving health conditions.

Labour market restructuring is pivotal to any discussion on OHS in small businesses. The move towards a more flexible and deregulated labour market and a decentralized employment system in many countries has seen full-time permanent employment shrink and sub-contracted and casualised work increase, particularly in the small business sector (Quinlan, 1998). Mayhew, et al (1996) argue, that there are health and safety implications when using casualised and sub-contracted labour in small businesses as these workers are frequently associated with high risk tasks. Mayhew and Quinlan (1997) assert that subcontracted labour within the small business sector frequently sits outside mainstream employment and OHS law. Moreover, their working arrangements are complicated and management responsibility for OHS is frequently "diffused and disorganised" (p11) creating an uncertain OHS situation for small business workers across a range of industries. Most importantly, their study makes the link between the nature of work, the type of remuneration, access to resources, the ability to manage, effectiveness of the enforcement mechanisms and the state of OHS protection of workers in small businesses. They state: "There was overwhelming correlation between piecework payment systems and the development of self-reported short-term as well as chronic injury." (p16). Based on their evidence, they conclude that each of the above inter-related features contributed to hazardous work practices.

OHS studies in English speaking countries have also highlighted the problems associated with non-English speaking workers (Alcorso, 1988; Hall, 1988; Kemprich, 1990; Mayhew & Quinlan, 1997; Kelly et al, 1997). Research suggests a link between non-English speaking employment and the increased levels of occupational illness and injury (ibid). It is argued that because of their lack of English, these workers are at a distinct disadvantage in the labour market and therefore are over represented in dangerous occupations and industries resulting in a higher rate of injury and illness than English speaking workers. Studies also show that small businesses have neither the resources nor often the inclination to address the OHS problems encountered by non-English speaking workers (Toohey & Miltenyi, 1988; Sdrinis, 1993; Kelly et al., 1997).

In summary, there are a number of characteristics that distinguish the small business sector from the large business sector, such as the access to resources, the level of management skills, the influence of large businesses, the relationship with the regulatory agencies, the role of worker representation and of small business advisors, which together militate towards poor implementation and operation of participative arrangements for health and safety in the sector and also help to explain the increased risk of fatality and serious injuries in the sector. In addition, OHS is not a singular problem but part of wider issues of operating a small business, such as taxation, government policy, declining profits, under-capitalisation and increasing competition in the marketplace. The pressures of these wider issues can also contribute to poor health and safety arrangements and performance. Therefore, to properly appreciate the challenges confronting current regulatory approaches to improving OHS arrangements and outcomes in small businesses it is necessary to both

understand the complexity of small businesses and their economic and social environments. Moreover, as we shall explore later in the paper, this wider context is not all entirely negative experience. It is also possible that some of the pressures and relationships within it might act (or be made to act) as important push-pull factors or to create leverage on small businesses to support, encourage or coerce them to make better health and safety arrangements. Before turning to this aspect, however, we need to explore a little more of what is known about compliant and non-compliant behaviour in the sector since the relationship between reflexive regulation and health and safety in small businesses may be better understood by examining their compliance features.

### **Compliance Features of Small Businesses**

Although it is important to understand the problems facing small business employers with regard to OHS compliance and practice, such discussions do not explain the different *approaches by small business employers*. Highlighting the issues that impede OHS compliance and practice in small businesses however, provides a useful basis on which to outline ideal types and models compliance and non-compliance behaviour.

Extant research shows that typically a compliant small business employer will have relevant training and experience, in which healthy and safe practices were an integral part of the employer's training and work experience. The employer is competent at managing the business and is aware of current regulations as well as having sufficient resources to maintain a healthy and safe working environment. The employer is encouraged by larger stakeholders to improve and maintain a healthy and safe workplace and to use their products in a safe manner. The workers actively participate in OHS matters and their well-being is given the same high priority as business profits. The employer's values are in accordance with the tenets protective employment laws. The employer will also have a positive relationship with the regulatory agency and its staff and will have no hesitation in using non-government advisers for OHS matters.

A non-compliant small business employer, on the other hand, can be described as having little or no relevant training and experience and will be operating in industries that have a high percentage of 'sweatshops' or subsistence businesses (Rainnie, 1989; Pyke and Sengenberger, 1992). The employer will be a negligent manager and will be unaware of or ignore the regulations pertaining to his or her business. The employer will lack resources and the business will be under-capitalised. As a result, workers will be expected to use hazardous equipment and work in dangerous premises, often for long hours. It is likely that the small business employer will experience pressure from larger stakeholder companies to adopt non-compliant and poor OHS practices. Employee welfare will be suppressed in favour of business profits and employees will have not participated in OHS matters. Furthermore, the employer's values will be incongruous with the tenets protective employment laws. The employer will have a negative view and a hostile relationship with the OHS regulatory agency. In fact, it is unlikely that a non-compliant employer will use non-government advisers at all for OHS matters.



Within the broad description of non-compliance there are more detailed reasons for non-compliance, that is: economic, dissident, and incompetency reasons, as outlined in figure 1 (a) (see Kagan, 1989; Lamm 1992). Non-compliance for *economic reasons* is motivated entirely by profit seeking to the detriment of the employees' health and safety. If the probability of being caught is small and the anticipated fine is negligible, it is almost certain that the OHS law will be disobeyed. On the other hand, non-compliance based on an expressive (rather than instrumental) *dissidence* against the OHS laws or enforcement actions occurs when the laws or their enforcement are perceived to be illegitimate. The employer in this instance will adopt a strategy of selective non-compliance when regulations impose unreasonable burdens and/or OHS enforcement agents treat them arbitrarily. *Incompetence*, however, occurs when the small business employer is either unaware of the OHS regulations or is unable to understand his or her obligations or implement the legal requirements.

In contrast to the existing descriptions of non-compliant behaviour there are compliance behaviours that can be arranged around the following three headings: social responsibility, strict conformity and professionalism. Compliance based primarily on *social responsibility* is one that favours an equal mix of social and profit concerns. The well-being of the employee is as important as the well-being of the company, since one is reliant on the other. The employer actively engages in putting in place short, medium and long-term OHS preventative systems that correspond to similar systems within the organisation, such as those ensuring quality. This typically requires the employer to call upon the aid of the OHS regulatory agency staff and other outside business advisers as well as relying on the participation of the employees. The company's reputation and its survival are reliant on compliance with the law.

Compliance that is based on *strict conformity* to the law rests on the belief that health and safety standards can only be achieved and maintained if rules are implemented and obeyed. The twin concerns, namely that the law is designed to protect the employee and that lapses in compliance could result in prosecution, motivates the employer to digest the rules and regulations pertaining to his or her business. There is a sense that being law-abiding creates a better business environment and provides a 'level-playing field' in which businesses must operate. Strict compliance with OHS regulations necessitates adjusting, codifying and supervising work practices to accommodate the law. In order for this compliance strategy to work, the employer is reliant on the employee's acceptance of and obedience to the workplace rules that underpin OHS regulations. The employer seeks compliance advice, particularly from outside consultants when the law becomes difficult to interpret and implement.

The compliance approach based on *professionalism* is one that extols competency and intellect. The employer's technical and professional training govern how he or she operates the business and how he or she applies OHS regulations. For the employer, owning a successful business goes hand-and-in-hand with being proficient in how the business is run, being knowledgeable about the various regulations and having the ability to implement them in the workplace. There is also an expectation by the employer that his or her employees will exhibit a high level of professionalism and attention to health

and safety procedures, and that, as a result, close supervision is unnecessary. Typically, both the employer and employees will be members of industry or trade associations that govern the standards within their industry as well as providing their members with codes of conduct. The employer will also call upon professional bodies and the OHS regulatory agency to assist him or her, from time to time, with OHS compliance problems and supplementary OHS training.

Although each of the above descriptive traits have been set out separately, it is probable that an individual could display a mixture of both compliant and non-compliant traits, sometimes at different times or even simultaneously. For example, a person may portray both dissident and professionalism traits when managing the business, employing staff or dealing with the OHS regulations. However, it is more likely that when faced with decisions regarding OHS compliance, the employer will display one particular trait more than the others. More importantly, compliant and non-compliant traits have to been seen in conjunction with other small business functions, as set out in figures 1 (a) and (b).

**Figure 1 (a): Taxonomy of non-compliant behaviour**

|                             | <b>Economic employer</b>             | <b>Dissident employer</b>                                  | <b>Incompetent employer</b>                            |
|-----------------------------|--------------------------------------|--|--|
| <b>Management practices</b> | generates profits by any means       | operates autonomously                                      | lacks relevant training and experience                 |
| <b>Employment practices</b> | provides minimal employee investment | encourages self-reliance and non-interference              | lacks human resource management skills                 |
| <b>Regulatory practices</b> | wealth is reliant on non-compliance  | non-compliance based on a rebellious disregard for the law | non-compliance based on ignorance of regulatory duties |

**Figure 1 (b): Taxonomy of compliant behaviour**

|                             | <b>Socially responsible employer</b>   | <b>Conforming employer</b>                             | <b>Professional employer</b>                       |
|-----------------------------|--|--|--|
| <b>Management practices</b> | applies charitable and stewardship principles                                | adherence to regulations is a high priority            | high level of relevant training and experience     |
| <b>Employment practices</b> | invests in employees   | stipulates rules to be followed with close supervision | high level of human resource management skills     |
| <b>Regulatory practices</b> | company's reputation and its survival are reliant on compliance with the law | compliance based on conforming with the laws           | compliance based on knowledge of regulatory duties |

It is argued that by integrating small business management, employment and regulatory practices as well as the different types of compliant and non-compliant behaviour, a more complete picture of OHS in the small business sector can be achieved. This integration of practice and compliance should also underscore modern regulatory policy and enforcement strategies aimed at the small business sector.

## Regulating health and safety and its relevance to small businesses

From its development in the 19<sup>th</sup> century, regulatory law and its institutions have come to play a pervasive role in intervening in economic relationships and to provide the means by which the risks inherent in advanced industrial societies are managed. In addition, it is generally agreed that regulation has both a constitutive and controlling function in relation to health and safety. As Hutter elaborates, it is a form of control in which risk itself is not prohibited, rather it is an attempt to manage it, in which structures, routines and procedures are constituted:

‘...which will be incorporated into organisational routines and also become part of everyday individual activity. Where this fails the law can intervene through more overt forms of control, notably external regulation and sanctions.’ (Hutter 2001:5).

That is, the widespread introduction of new sets of regulatory provisions, in which employers are required to institute structures and procedures to *manage* the risks to the health and safety of their workers has had a constitutive and structuring function for employers and they requires them to focus on the organisational means to assess and manage risks.

The tradition of protecting workers through setting substantive requirements in which health and safety standards are prescribed, has therefore given way to an approach in which the compliance of duty holders is sought in terms of their management of the processes necessary to achieve improved health and safety outcomes<sup>3</sup>.

This represents considerably different challenges for compliance from small businesses to those faced in relation to larger organisations. This can be seen at a glance in the European context in the main requirements on health and safety management of the Framework Directive. They concern the employer’s obligation to:

- ensure the safety and health of workers in every aspect of their work (Article 5)
- institute a programme of prevention (the preventive principles) which links general obligations of employers to ensure safety with implementing an effective means of its achievement (Article 6)
- evaluate the risks of the workplace, usually through the adoption of a written risk assessment (Article 6)

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<sup>3</sup> Within a European Union context this shift, is especially seen in the Framework Directive 89/391. This is in part because of the generality of the subject matter of the directive and its wide application to work situations. More significantly it is because of the focus of the directive on processes in which requirements on employers to manage health and safety are made mandatory. Its prevention principles, requirements on risk assessment, provision of information and consultation with workers as well as its requirements on competency in OHSM are all process orientated and addressed primarily to employers. Thus, it is representative of an important paradigm shift in regulatory strategies, in which a primary objective has become the means of influencing employer/management will and capacity to operationalise OHSM in order to manage risk and lead to improved OHS performance outcomes (Walters 2002: 272-273).

- establish preventive services or use external ones (Article 7)
- ensure the participation of workers and their representatives, (including rights to consultation, information and balanced participation in making arrangements for health and safety, the right to withdraw in the event of danger and protection from victimisation for taking such action).

This emphasis on competent and participative self-regulation as a means to achieve effective health and safety management arrangements creates problems of its own, as it fails to take into account many of the very ‘structures of vulnerability’ that underpin the difficulties confronting health and safety management in small businesses. Thus, while we may assume that the majority of small business employers possess the will to ensure the health and safety of their workers, for all of the reasons previously outlined, many do not possess the capacity to do so. Yet, the principles of prevention to which the Directive refers are no more than the tenets of sound professional practice in occupational health and safety.

Their implementation does, however, require a level of knowledge about OHS and managerial skill that cannot be assumed to exist within small businesses. Nor can it be assumed, as mentioned earlier, that the employers will be able to access such knowledge and skills from elsewhere for a combination of financial and attitudinal reasons. Moreover, even if they were, it cannot be taken for granted that such professional competence has itself got the capacity to deal with the needs of small businesses. Thus, for a host of reasons, access to professional competence and its use by small businesses is extremely limited.

Moreover, risk assessment has been shown to be least likely to occur in small businesses for similar reasons<sup>4</sup> and participative arrangements for workers and their representatives also limited, both in the extent of their application and in their meaning in the context of the small business. Nor is the achievement of these measures assisted by the national regulatory measures that, in theory, should implement these EU requirements, for in many cases there are special exemptions for small businesses. In several countries there are thresholds of business size below which employers are often not obliged to establish written risk assessments, set up representational arrangements for workers, or use qualified competent preventive services (Walters 2001: 126-136 and Walters 2002:35).

In the face of these problems of applying process regulation to small businesses, it is tempting to suggest that perhaps better results would be achieved by stricter application of more old-fashioned prescriptive standards since at least, they have the merit of being well defined, and thus making compliance with them relatively straightforward. Some support for this argument can also be derived from small business surveys in which the majority of employers claim to want to be told precisely what it is they need to do in

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<sup>4</sup> Surveys on the implementation of risk assessment in countries of the EU consistently find that implementation is inversely proportional to size, with extremely low incidence of the evidence of any form of systematic workplace assessment being practised in small enterprises in most countries (also see Walters 2001 and 2002).

order to comply with OHS standards. Clarified prescriptive legislation, properly enforced it might be argued, could meet this demand. Unfortunately, this is unlikely to occur. Many prescriptive standards are no more understood than the notions behind the process regulation that has overtaken them. Indeed one of the drivers of its introduction was the idea that prescriptive standards were both too numerous, too detailed and too confusing to be helpful in achieving improved health and safety.<sup>5</sup> While there may be a case for greater clarity in the meaning of legal requirements, there is no evidence to suggest that former approaches were any more effective when applied to small businesses than those currently in use. Furthermore, the effectiveness of such prescriptive standards is likely to be proportional to expenditure on resourcing their enforcement.

Another reason for the gradual move towards reflexive regulation in post-industrial societies has been desire on the part of the state to withdraw from its central role in regulation and to create more self-regulatory approaches to help offset the burgeoning costs associated with state intervention. While this may be lamented and greater resources for enforcement of health and safety standards desirable, it is quite clear that current government strategies in most countries are unlikely to support the large scale investment in inspection and control that would be necessary to achieve anything like the level of enforcement in relation to small businesses required if a return to prescriptive standards were to be effective. Nor is it clear that this investment would be justified<sup>6</sup>.

As we mentioned previously, it appears that if process regulation is to be used to achieve better health and safety arrangements and outcomes in small businesses, additional levers and supports are necessary to enhance its application. This is already recognised in national approaches to improving health and safety in small businesses in some countries. In a recent study on health and safety in small businesses in seven EU countries, it was found that at the time of the study, only the UK had a well developed and published policy statement detailing the strategy of the national regulatory authorities towards small businesses. However, similar approaches were evident (although less formally) in most of the other countries studied (see Walters 2001:173-217). There was widespread and growing recognition that dealing effectively with the challenges of preventive health and safety in small businesses required attention to factors within the social and economic environment that were only indirectly associated with occupational health and safety. Thus, linking health and safety to economically significant aspects of work in small businesses, in which the self-interest of small business employers can be manipulated to improve their health and safety arrangements are regarded as positive ways to achieve the results so far eluding more traditional approaches to compliance. As the empirical research shows, the means in which this is thought to be best achieved is through the use of processes and agencies that can act as push-pull factors, triggers, levers and social

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<sup>5</sup> See for example the Robens' *Report of the Committee on Safety and Health at Work* (1972) and subsequent reports in Australia, such as the New South Wales Williams' Report, 1979, and the Queensland's Green Paper, 1987, and in New Zealand, such as the 1988 report by the Advisory Council for Occupational Safety and Health.

<sup>6</sup> See for example Gray and Scholz (1991) whose US studies suggest that although formal enforcement action and fines achieve changes in employer behaviour, additional enforcement would actually prevent more injuries in large and medium sized workplaces than it would in smaller ones.

amplifiers to ensure that regard is given to the health and safety requirements in the business life of small businesses. For example:

- Supply chain pressures can be brought to bear on small businesses that are in economically dependent relationships with larger businesses to persuade them that it is in their best business interests to have health and safety arrangements in place.
- Similarly, business dependency relationships between main employers and contractor/sub-contractors can be used to ensure that contractors have adequate OHS arrangements in place for their workforce before contracts are awarded or access to main work sites permitted and while work is undertaken.
- Business start-up arrangements can be manipulated to ensure that health and safety requirements are given some prominence in the advice given to new businesses or in the conditions attached to loans etc.
- Training placement organisers can demand evidence of health and safety arrangements to be in place before trainees are placed with small businesses.
- Other intermediaries — small business advisers — such as accountants, chambers of commerce, legal advisers can all be used to impart health and safety messages to small businesses if it can be shown to be to their own advantage to do so.
- Administrative officers in regulatory agencies can be given ‘liaison roles’ with small businesses and their organisations thus saving (more costly) inspector time.
- Insurance premiums can be adjusted to reflect preventive OHS requirements.
- Other kinds of regulatory inspections such as income tax or customs and excise can be used to promote OHS requirements.
- Tax-breaks for small businesses can be linked to satisfactory OHS arrangements.

These initiatives have several broadly common features underpinning their approach that also help to explain their attractiveness to regulatory strategists seeking to achieve better compliance with modern regulation of health and safety small businesses without necessarily investing significantly extra from the scarce resources of the regulatory agencies. For example, as well as manipulating an economic/business process approach to the beneficial aspects of OHS, another key feature for most of them is the involvement of intermediary actors/organisations in effecting their operation. There is both a practical logic to this as well as a location in the wider policy dimension. The pragmatic aspect is supported by research that shows that the most effective interventions on achieving change in health and safety arrangements in small businesses are those that involve face to face contact between agents of the health and safety system (the ‘change agents’ as they are sometimes referred to) and the targeted individuals in the small business (usually the employers).

While change agents are traditionally health and safety inspectors or prevention professionals, there is good reason to suppose that other intermediaries can carry relatively straightforward health and safety messages to small business employers without much in the way of OHS expertise, provided they have the incentive to do so. Thus, in different situations according to social mores and national custom, it has been argued that accountants, legal and financial advisers, insurance agents, business start-up

advisers, citizens advice centres and customs and excise inspectors can all be shown to demonstrate a role as conduits and social amplifiers of messages to small businesses concerning improved health and safety practice, as do agents of larger businesses, clients customers and community representatives<sup>7</sup>.

Also these strategies reflect wider trends evident in national social and health policies in which the state strives to make use of various entities in the wider social or economic environment of a particular targeted group in order to achieve desired outcomes<sup>8</sup>. Such approaches spread the cost of achieving compliance with regulatory standards more widely across the social and business communities of the targeted businesses and they are shared to a greater extent by stakeholders who have some degree of vested economic, professional or social interest in the health and safety performance of the small business.

Most of these health and safety initiatives for small businesses are directed at the employer<sup>9</sup>. While in theory they could be used to promote participative arrangements for health and safety, generally this aspect is not prominent, if it occurs at all. Yet, as we outline below, there is good evidence that participative approaches are successful and, just as important, that they are sustainable. This is not (or not yet) the case for most of the other self-regulatory initiatives currently advocated. Indeed, while many of these initiatives offer quite plausible reasons to suppose that they might be successful in the somewhat limited circumstances in which they have been tried, a significant weakness of these approaches which in most cases is the consequence of limited or non-existent evaluation, is the absence of hard evidence of tangible and sustainable improvements in health and safety outcomes in situations in which they have been tried (Brooks, 1988; Gun, 1992; Woolfson, 1995; Wilthagen, 1994; Gunningham and Johnston 1999; Walters 2001: 380-384).

### **Reflexive regulation and participatory health and safety arrangements in small businesses**

Definitions of reflexive regulation refer to ‘regulating self-regulation’ in one way or another. The legislative enactment of such approaches usually includes consultation and information rights of workers and their representatives to enable them engage with processes of health and safety management. In large businesses evidence for the effectiveness of health and safety representatives demonstrates a substantial case for

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<sup>7</sup> Several studies confirm the use of these agencies to variable effect in different situations, see for example, Haslam et al (1998) Mayhew, et al, 1997, Lamm, 1997 and 1999, Eakin et al, 2000. In addition, these and several others are reviewed in Walters, 2001: 326-366).

<sup>8</sup> For example in the UK, the current government strategy on reducing unemployment advocates the use of a wide range of ‘intermediaries’ to effect return to work and work retention (James et al (2003).

<sup>9</sup> Indeed this is true of most OHS initiatives in relation to small businesses. It is often argued that this is because of the pivotal role played by owner in the small business, since without their support and commitment, very little is likely to change in the business. While these are strong pragmatic reasons for such an approach, it is one that nevertheless offers little safeguard that it will result in workers’ participation and may well fail entirely to engage with the workers in the business, who after all are generally the ones that most suffer from the consequences of health and safety failure.



arguing that health and safety can be managed more effectively when workers' representatives are involved, than when managers operate unilaterally and without consultation<sup>10</sup>.

However, in small businesses there are substantial barriers to the participative aspect of self-regulation and it is unlikely to flourish without modification of traditional approaches. As stated earlier, while direct participation of workers may be encouraged by the informality of employer/worker relations within the small business, the very closeness of this relationship may serve to undermine the autonomy of workers' views and their vulnerability prevent them from expressing dissent views. Also trade union membership in the small business sector is much lower than is the case larger enterprises and arrangements for paid time to undertake representational duties on health and safety (that are standard practices in larger businesses), are often both impracticable and frequently subject to employer hostility. Moreover, arrangements for representation are effectively denied workers in small businesses in a number of countries, including Australia and New Zealand, where size thresholds referred to earlier mean that employers are under little obligation to either recognise or facilitate workers' representation on health and safety.

Despite this rather discouraging scenario there are many examples of worker representation on health and safety matters in small businesses. It is worth dwelling on some of these because of their relevance to the reflexive model of regulation to which health and safety arrangements in small businesses are supposed to relate. At the same time these examples also share many of the features of the compliance approaches, to small businesses outlined in the previous section, which take account of their wider economic and social environment and exploit intermediary actors and processes. This suggests that they too may represent viable ways forward. Our examples are restricted to schemes from countries in the EU where there are both legislative and non-legislative initiatives in place.<sup>11</sup>

Table 1 summarises the key features of some of the better-known initiatives from several EU countries. It should be emphasised that these are by no means the only schemes in place in Europe. However, research on these particular schemes has highlighted a number of factors that help to promote their success and sustainability.

**Table 1: Some examples of approaches to representing workers in small businesses in the European Union**

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<sup>10</sup> See for example Shannon et al (1992); Reily *et al* 1995; Litwin 2000; Robinson and Smallman 2000; Dedobbeleer et al 1990; Carson, et al., 1990; Biggins et al, 1991; Tucker, 1992; Warren-Langford et al 1993 and Walters and Frick 2000 for a full discussion of all these studies. See also the companion paper by Walters in the present conference.

<sup>11</sup> This is not out of any desire to be 'Eurocentric'. It is simply that they are the schemes that one of the present authors has researched most extensively (see Frick and Walters (1998), Walters (1998), Walters (2001) Walters (2002).

| <i>Country</i> | <i>Scheme</i>   | <i>Legal Status</i>   | <i>Implementation/Effectiveness</i>   |
|----------------|---|---|---|
| France         | Regional trade union observations   | Voluntary – by collective agreement   | Small scale initiative. Described in national and EU promotional literature but little known about effectiveness  |
| Greece         | Sectorally based joint committees in shipbuilding   | Legal by Presidential decree  | Unusual joint activity between trade unions and labour inspectorate/competent persons. Limited application outside political and labour relations of specific areas in Greece. Although described in Walters (2001) there is no known evaluation  |
| Italy          | Territorial health and safety representatives especially for small businesses (with less than 15 employees in some regions of Northern Italy) | Legal – Law 626/1994. Also supported by collective agreements in regions and sectors where implemented  | Important initiative in EU. Emphasis on significance of collective agreements and role of joint supporting structures ( <i>ente bilaterale</i> ). Funded largely through levy on member employers. National requirement but largely implemented only in sectors such as crafts and construction in northern Italian regions. Some evaluation but objective indicators of success do not appear to have been sought  |
| Spain          | Trade union technical advisers and regional health and safety representatives (in some regions)   | Voluntary, trade union initiative with bipartite or tripartite support at regional/sectoral level.  | Variety of initiatives High level of support from peak organisations, state at regional level and also sometimes insurance organisations. Mixed funding mostly from state and insurance organisations. Often part of wider initiatives aimed at reducing injury/fatality indices. Subject of evaluation but usually as part of wider schemes.   |
| Sweden         | Regional safety representatives   | Legal – included in the Work Environment Act for all sectors since 1974   | Long term extensively developed scheme originally funded by Work Environment Fund – now directly state funded (although trade unions contribute substantial percentage of costs in practice). Evaluated several times but generally not against objective indicators of performance However, widely regarded as being successful. Part of reason for success lies in high trade union density and traditionally strong orientation towards work environment issues in labour relations. |
| UK             | Legal rights for musicians and actors seldom used until recently. Various newer voluntary schemes   | Voluntary. Except for little used provisions for musicians and actors Mixture of trade union initiated and tripartite initiatives that are sector specific and largely modelled on Swedish approach For example, regional representatives and | Voluntary arrangements have been state funded as limited duration pilot studies. Considerable publicity attached to WSA schemes. Unclear how such schemes will be continued following completion of pilot period but good chance they will be continued with state funding. Considerable evaluation. Generally positive about effects especially on setting up OHS arrangements and improving awareness.  |

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|  |  | joint arrangements in agriculture and Worker Safety Advisers sponsored by HSC in other sectors |  |
|--|--|--|--|

There are a number of key factors that differentiate between these initiatives and the others previously mentioned. They include:

- The widely accepted notion that representative worker participation is generally associated with better OHS arrangements and outcomes.
- Worker health and safety representatives exist in large numbers in most of countries represented in the table, even though the membership of trade unions has been declining for many years. Even if there is only a minority of worker health and safety representatives representing employees in small businesses, they are still seen as an additional resource. Moreover, where there are national legal provisions in place for health and safety representatives, for example as in Sweden, their numbers dwarf other change agents such as those employed by Work Environment Authority or the Occupational Health Services.
- Those worker health and safety representatives who are involved with small businesses tend to be well trained and experienced — unlike some of the other intermediary agencies that have been suggested as useful intermediaries.
- The practice of organising around health and safety issues offers considerably more potential for sustainability than many other intermediary interventions that, although they may have the potential to cascade information or provide incentives for employers to improve OHS, are rarely able to engage the workers in the actual operation of OHS arrangements.
- Worker health and safety representatives gain infrastructural support for their activities not only from trade unions and, in some cases, through legal provisions as the result of collective agreements but also they benefit from the involvement of tripartite arrangements and dialogue with peak employer associations.

The above factors, combined with the knowledge of what constitutes representative participation, appear to enhance OHS arrangements and outcomes in small businesses and may work better than other schemes that are aimed solely at the employer. However, evidence of effective outcomes for these schemes is still limited. In particular, performance-based measures of the impact on outcomes, such as indicators of injuries, fatalities or ill-health, are not available. This is largely because it has not been extensively sought. As is documented elsewhere, there are good reasons to make the collection and analysis of such data extremely difficult<sup>12</sup>. Nevertheless, the lack of a detailed evaluation is an important omission and one that needs to be addressed.

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<sup>12</sup> See Walters 2001 for a detailed review of such performance data and its problems in relation to small businesses. Such difficulties however, do not obviate the need for this information and its proper analysis.

Mindful of the need to remedy the limited evidence regarding the effective outcomes of these initiatives, recent European studies have been undertaken which show that where worker representation activities exist, there is a general pattern of effective improvements in OHS outcomes (Walters, 2002). Some of the evidence is summarised below:

1. An evaluation of the UK Worker Safety Advisor Scheme concluded that there was evidence that worker representatives *can make a difference* to the OHS standards in small workplaces. Also in Spain there was broad agreement that the trade union led initiatives *improved preventive environment* in businesses (Walters 2002). A variety of indicators of improvement were cited including: reduction in the number of work accidents in visited businesses; number of external preventive services contracted; number of businesses where after the visit the employer has taken on health and safety functions or an employee has been appointed for this tasks. Indicators mentioned by managers of health and safety bureaux and trade union OHS technical advisors included: health and safety clauses introduced in collective agreements; data on the conducted risk assessments<sup>13</sup>; collective measures of protection (collective protection instead of personal protection such as PPE); training received by employees after negotiations.
2. Subjective views regarding the impact of the worker participation schemes on workers' and employers' OHS knowledge and awareness is that *that participative approaches do make a substantial contribution*. This was particularly so in Italy where there was a prevalent view that a *“cultural change” is necessary to improve health and safety outcomes in small businesses*. Territorial representatives and joint bilateral structures to support participation were regarded as part of the framework for achieving such change to which trade unions, employers organisations professionals and the state were all committed. There was, as a result, widespread agreement that where such changes were perceived to be taking place, territorial representatives and their supportive frameworks were a significant influence.

While these examples are based on recent schemes, some of which are quite small, by contrast, the Swedish experience of regional health and safety representatives is extensive and long-standing and as such its evaluation cannot properly be compared with that of the other more recent schemes. There have also been major evaluations in Sweden in the late 1970s and again in the 1990s (see Frick 1979, Layman 1982, Frick et al 1996 and Frick and Walters 1998). There is a wealth of detail in these evaluations concerning the positive role of regional representatives in improving both awareness and arrangements for health and safety in small businesses. However, specific evaluation of precise indicators of improvement does not seem to have been undertaken systematically and there appears to have been no attempt to evaluate objective performance outcomes. Nevertheless, the overall impression from the many separate assessments of their impact, is that regional health and safety representatives are amongst the most powerful, effective

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<sup>13</sup> This indicator requires more careful study since some of the documents included inappropriate preventive measures.

and sustainable of intermediaries for stimulating and supporting participative arrangements for health and safety to small businesses.

### **What makes worker representation effective in improving OHSM in small businesses?**

As stated earlier, we do not have sufficient information on the extent to which participative arrangements help to improve OHS arrangements and performance in small businesses. However, if they are to be seriously considered as a means to achieve better self-regulation of the work environment in small businesses, it is important to know what is likely to make them work best. Two recent studies suggest a number of supportive factors are important (Walters 2001 and Walters 2002). They include:

- Trade union involvement
- A legislative framework of representation rights.
- Support from other stakeholders in OHS systems, e.g. employers' organisations and regulatory agencies.
- Training, (especially for the role of the representative as 'outsider'), information provision and co-ordination
- Resourcing.

While these forms of support are found to varying degrees in current schemes, each one raises difficult questions about OHS policy that need to be answered effectively if such forms of participation are to make a significant contribution to improving OHS performance in small businesses.

***Trade union involvement:*** It is apparent that in order to be successful and sustainable on any scale, representative participation in health and safety in small businesses requires support, particularly from trade unions. Trade unions also play a major political role in instigating participatory approaches nationally, as well as at the level of the sector or region. In addition, effective worker organisation in workplace is fundamental to the trade union approaches in all of the schemes studied. Regional/territorial/sectoral representatives and committees and trade union regional or sectoral organisers do not operate as substitutes for worker organisation within in small businesses. A primary objective is *to instigate and support the development of worker organisation for health and safety within workplaces*. This is evident, for example, in the approach of the Swedish regional representatives and representatives in other schemes, such as those in Italy, Spain and the UK. Therefore, although the reason for the existence of these initiatives is the recognition of the problem of organising for OHS in small workplaces, *they are not alternatives* to workplace organisation, but are a means of stimulating it.

At this point, perhaps we need to be clearer about what is meant by 'organisation'. In small workplaces, just as it is inappropriate to expect to find highly developed management arrangements for health and safety to be in place, it is equally inappropriate to expect to find highly developed labour relations procedures for representation on

health and safety matters. They are clearly unnecessary in such circumstances. Nevertheless, it is necessary to address the structures of vulnerability for workers in small businesses that militate against their effective and autonomous engagement in health and safety matters with their employers. Representation from outside the workplace is a means of both doing this and of sustaining it. The actions and arrangements for health and safety that ensue are the kind of 'organisation' outlined in the testimonies of regional safety representatives in the European studies (Walters, 2002).

An appreciation of this helps in understanding both the trade union strategy towards sustainability (through organisation inside the workplace and its support from outside by trade union/joint structures). It also helps to explain the political hostility towards these initiatives that is sometimes expressed by employers' peak organisations. Indeed, it may be that trade unions have a further agenda in which they seek to exert their influence on health and safety matters by increasing their presence in small businesses – it would be politically naïve to deny this. However, it is important to note that this aspiration, such as it is (and the opposition to it from employers' organisations), is debated mostly at the level of the peak organisations. It is not supported by experiences at the workplace. There is no evidence as yet that the involvement of trade union regional/territorial health and safety representatives in improving health and safety arrangements in small workplaces have contributed to a significant increase in trade union recruitment in the sector, to industrial disputes or to employer hostility. Indeed, as we shall return to later, the fact that it does not seem to have been used in any of these ways, may be a limiting factor on the perceived importance of organising for improved health and safety in small businesses and more widespread development of trade union initiatives aimed at achieving this.

***A legislative framework:*** While trade union involvement may be fundamental to the operation of schemes to increase worker participation in health and safety arrangements in small businesses, there is little doubt that a legislative framework is enormously important in initiating and sustaining such schemes. There are several reasons why a legislative framework is important:

- It sets out minimum legal requirements that parties involved with small businesses are obliged to follow.
- It provides a useful framework for trade unions and employers to build on in their collective agreements.
- It raises the profile of the issue and provides a conspicuous marker for all small business workers and employers to see.
- Legal support for the rights of workers in small businesses to representation strengthens their position and an encouragement to act in situations where otherwise fear of victimisation may prevent them from doing so.
- It helps legitimise the existence of regional/territorial representatives and their support structures and a powerful factor in determining their acceptance by all.

Investigation strongly support these arguments in countries such as Sweden in which there have been legislative provisions for many years as well as in a country such as Italy

where legislative provisions are more recent. The need for such a provision is further endorsed by comments from countries such as Spain and the UK where schemes are at present largely voluntary.

***The engagement of peak organisations and regulatory bodies:*** The engagement of trade unions and employers' organisations (and the branches of such organisations that represent the interests of small businesses) is crucially important. There is a somewhat paradoxical situation here, since at a political level, it is the peak employer organisations that are usually the most vociferous opponents to schemes to increase worker participation in health and safety in small businesses. Despite such opposition, it seems that where schemes are most effectively implemented, it is often through a framework elaborated in agreements between trade unions and employer/small business organisations (and sometimes other parties). Such agreements help to ensure the commitment of members as well as providing pooled resources to support training and information. Studies also note the extent to which representatives themselves enjoy access to regulatory agencies, personnel from preventive services and other elements of support that involve such agencies.

***Skilled representatives:*** Generally, regional/territorial representatives are well-informed and useful sources of information and advice on health and safety matters. This adds to their legitimacy in the eyes of the small business employer. Trade union representatives and organisers that are engaged in representing the needs of workers in small businesses do so in ways that are both structurally and socially different from those undertaken by more traditional forms of representation from within workplaces.

Research on the activities of regional/territorial representatives demonstrates clearly that communication and organising skills are important, not only in relation to employers and workers in small businesses, but also with regard to regulatory inspectors, personnel of external preventive services, local media, and other social and economic interests. Training that takes account of these special needs is therefore very important. The impression gained from studies to date is that while there is a growing recognition of the need for such training, its provision is quite limited. Even in countries such as Sweden and the UK where trade union training is comparatively well developed, provision for the special needs of regional/territorial representatives is relatively underdeveloped.

Information resources provided by trade unions and/or other support structures are also important. Furthermore, support and co-ordination of the efforts of trade union regional/territorial representatives is vital to the success of their mission. A related point is that the nature of the activity of regional/territorial safety representatives means they work in a state of comparative isolation. One of the most valued functions of such things as training courses is in bringing together representatives to enable them to share experiences and to gain support from one another.

***Acknowledging needs for different approaches:*** Studies indicate that there is no single 'preferred approach' to representing workers' health and safety interests in small businesses. Although versions of the Swedish model of regional health and safety

representation are the ones most frequently adopted in the countries of the EU, variation in the economic, regulatory and labour relations systems and cultures in different countries means that each national application has its own unique features. In addition, there are many other initiatives, such as, health and safety advisory services for workers in the UK, sectoral/regional health and safety committees in Greece, trade union initiatives to achieve representation within individual workplaces in Denmark and regional trade union health and safety observatories in France, as well as the roles of joint committees and bilateral structures in some regions and sectors of Spain – all of which suggest that there may be ‘horses for courses’ according to local circumstances.<sup>14</sup> It seems clear that a variety of approaches, each one taking account of the peculiar circumstances of the region/sector to which it is addressed is more likely to reap better overall benefits than exclusive allegiance to the implementation of one particular model.

**Resourcing:** Whatever scheme is most appropriate to the local circumstances, all have some degree of resource implication. This is a fundamental point that cannot be ignored. If worker representatives are to participate in creating and sustaining health and safety arrangements in small businesses, they can only do so effectively if they are properly trained, informed and their activities reasonably well co-ordinated. Setting up arrangements to effect such training, information and co-ordination requires resourcing. However, there is sufficient indication of the success of regional/territorial health and safety representatives and other trade union initiatives in improving OHS in small businesses for us to anticipate that it is highly likely that the resulting reduction in the costs of accidents will easily outweigh the cost of implementing and operating of such schemes.

The real problem is perhaps not costs of schemes in absolute terms but who is responsible for bearing them. Unless outlays can be connected to the savings they generate, they are unlikely to be popular with the agencies that provide them. There is also the question of start up and continuation costs. For example while start-up costs may be borne by the state, or through other agencies as insurance funds, or training budgets, they are usually fixed term and raise questions of long-term sustainability. Where efforts have been made to achieve this, typically the funding is taken over by agreed levies on employers, or is continued to be funded by the state with additional inputs from trade union/employers.

**Taking things forward:** While evaluation of the European experience of schemes to encourage participatory approaches on improving health and safety arrangements in small businesses is far from complete, it nevertheless suggests that the approach has considerable potential and fits well with other current strategies to enhance compliance with health and safety standards in the sector through the use of intermediary processes and agencies. There are however a number of significant challenges that will need to be addressed if such participatory initiatives are to succeed and spread. They include:

- The extent to which they can or should be encompassed within a legislative framework

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<sup>14</sup> These examples are discussed in more detail in Walters (2001) and Walters (2002).



- The question of capacity building – many initiatives (especially the voluntary ones) are very small-scale and there are major challenges facing their expansion to levels at which they could have a significant effect
- The need for widespread development of supports such as training, information and co-ordination that would need to underpin expansion
- Resourcing models that are sufficient and sustainable
- The relationship between the health and safety gains of such initiatives and the perceptions of related benefits for stakeholders
- The need for more complete evaluation.

Finally, the question of limited evidence is a fitting place to conclude this section. It is possible to demonstrate that initiatives involving representative participation of workers in health and safety in small businesses are more extensive than usually acknowledged and that they have a strong potential for success. However, research that evaluates effectiveness is scarce and need more detailed and objective measures. Even with the Swedish scheme, there has been only limited measurement of its effectiveness. We do not know if the criteria for effective worker representation outlined above apply in the same way in small businesses as they do in the large organisations that have been far more frequently studied. Given that small businesses are different from larger ones in many respects of their management and social relations, it would be surprising if they did. Questions surrounding the significance of worker representation on health and safety in small businesses therefore have much in common with those asked about many other aspects of the ‘new’ social relations of work. Thus, we need more research to understand better *what* works to improve working environments of workers in such scenarios and *why* it works.

## Conclusions

In this paper we have explored the complex and difficult relationship between current approaches to regulating the work environment and the situation of small business. We have noted that there is clear international evidence of a widespread problem of health and safety performance in small businesses. Moreover, this is not because such workplaces are inherently more hazardous than their larger counterparts but rather, that arrangements for ensuring workers’ health, safety and well being are underdeveloped. We have outlined some of the reasons for such underdevelopment and pointed to ‘structures of vulnerability’ in small businesses that effectively reduce the will and capacity of managers and workers to make effective arrangements for health and safety either jointly or separately. In addition, we argue that it is senseless to introduce OHS regulations, policies and preventative initiatives unless we understand the reasons *why* and *how* small business employers comply and their attitudes to their workers’ health and safety.

We have also noted that the same contextual problems facing employers and workers in small businesses militate against the effective application of modern regulatory strategies in the sector. Small businesses are thus neither able to deal effectively with the demands

of reflexive regulation, nor are regulatory agencies able to resource the level of surveillance that would be required to address this problem satisfactorily. We argue that however tempting it may be to interpret these observations as providing a case for a return to more prescriptive standards for the sector and more rigorous enforcement by regulatory authorities, international trends in political and economic policy, largely aimed at achieving savings in the costs of public administration and state intervention make such an option wholly unrealistic. Therefore, we have considered what evidence exists to point to more effective means of achieving the support that seems to be required to 'regulate self-regulation' in small businesses.

There are a plethora of initiatives aimed at achieving better health and safety arrangements and performance from small businesses. It seems, however, that what works best is face-to-face contact with change agents connected to the health and safety system, such as OHS inspectors and practitioners. The problem is that such agents are in short supply and cannot reach anything like the number and range of small businesses that would benefit from such contact. Therefore, in some countries, policy makers have recognised that there is a need to explore other levers and pressures within the economic and social environment of small businesses to achieve the same ends. A range of strategies aimed at the use of intermediary actors and processes to promote and sustain action on health and safety by small businesses have been tried and we have outlined their basic tenets in the previous sections. Moreover, in some countries these approaches have become an increasingly important aspect of national policy on preventive health and safety and in others they are less formalised but nevertheless a growing presence.

In most of these push-pull approaches, it is the employers of small businesses who are the primary target. Whether through supply chain pressure, contract compliance, financial incentives or general advice on small business finance and management issues, the employer's attention is typically drawn to the need for various forms of action on health and safety by means other than through the direct intervention of either inspectors or OHS practitioners. However, while it is possible for this approach to be effective, it does little to institute or encourage any joint arrangements or actions on the work environment by the employer and his/her workers, as is envisaged by regulatory requirements.

We have found that while such participation may not be a direct feature of many of the interventions that attempt to exploit the economic dependencies of small business employers in order to promote better health and safety arrangements, it does feature strongly in trade union initiatives in this area. Since such participation is both one of the fundamental aspects of modern self-regulatory strategies, and one for which there is at least some evidence of effectiveness, we have been particularly interested to explore its role in current approaches in achieving better health and safety arrangements in small businesses and for this reason in the last part of our paper we have concentrated especially on trade union initiatives in this area.

Trade unions, especially in countries within the EU, have been substantially engaged in actions to promote participatory initiatives in health and safety in small businesses at local, regional and national level. We have shown these initiatives to take various forms,

most being based around the idea of activating participatory arrangements for workers' health and safety within small businesses by representation from outside these businesses in the form of variously titled (eg. regional/territorial/roving) peripatetic trade union health and safety representatives. We have reported some evidence of the success of such initiatives and outlined the theoretical case for supposing that such initiatives could be successful. We have further identified supports that enhance the likelihood of success. They include a legislative framework, the involvement of trade unions and other stakeholders such as peak employers' organisations, state and regional authorities and sometimes, insurance associations. To function, representatives require training, information and co-ordination. Most of such supports require resourcing. Partly because of the need to ensure effective use of scarce resources and partly because these initiatives perhaps represent a significant means to support self-regulation in the sector, their further development is currently the subject of significant policy interest in several European countries. The extent to which these arrangements can, or should, be encompassed within a legislative framework, the level of capacity required to produce significant effects and the resources required to achieve it are important subjects for national debate. Whatever the outcomes of such debates, it is unlikely that it will result in the universal application of such schemes, or that it would be particularly effective if it did. As with many other aspects of intervention on health and safety in small firms, the variation and complexities of the sector mean that it is fairly certain there will be no 'one size fits all' model.

Such trade union instigated schemes that are based around a labour relations model of life in small firms are yet another variety of the approaches to exploiting aspects of their economic and social environment to support (or coerce) the creation of sustainable health and safety arrangements. It is also evident that such approaches have some currency in relation not only to small firms but to many of the other products of the fragmented structure and organisation that characterises the modern profile of the way in which work takes place. There is not a very great step between these initiatives and, for example, extending the brief of health and safety representatives of principal contractors to representing the interests of sub-contractors' workers; or host employer representatives covering the representation of labour hire workers on the same site. There examples of such practices beginning to emerge in the countries we have covered.

However, we would like to end with some words of caution. We have pointed out that there is very little good evaluative research that has been undertaken in relation to any of these initiatives or indeed the wider range of approaches to involving intermediary processes and actors to enhance and improve health and safety in small firms. It is quite clear that more robust evaluation is required. This is unlikely to be a straightforward task since the situations addressed present major problems for evaluation (often for the same reasons that directed attention to them in the first place). But if the examples of the positive roles of intermediary actors and processes that we have identified are indeed significant ways of protecting the health and safety of workers in the sector, then they are important enough to require further serious and rigorous evaluation. Similarly, the strategies leading to their introduction need evaluating as means of extending the application of methods to protect vulnerable workers so they are as relevant to as many situations as possible.

Moreover, we have noticed differences between countries in the extent to which such these initiatives are adopted within formal policy on OHS regulation. At one extreme they appear to be regarded as a form of self-regulation within the economic environment of the small firm. Here, they are envisaged to operate by regulating the behaviour of employers through requiring adherence to health and safety standards as a means of avoiding penalties associated with lost business. Theoretically there are further cross connections to a range of social, health and community provisions that might enhance regulation and help embed the management of health and safety in small businesses in the development of socially responsible business. In these cases we would argue that it is extremely important to distinguish between the value of such means to *augment* governmental regulation of health and safety and the dangers of assuming they could be used to replace such governmental regulation. There is a significant possibility that national level policy makers are tempted to adopt such approaches because they appear to represent less resource intensive *alternatives* to state intervention in protecting and improving the health and safety of workers in areas where seeking regulatory compliance is known to be difficult. We do not think that any of the examples to which we have referred provide evidence for this and we are sceptical that such evidence exists.

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