



The business people – an extension to your team

Health and Safety Panel Report

October 2010

Introduction

The Forum of Private Business is a proactive, not-for-profit organisation, providing comprehensive support, protection and reassurance to small businesses. We add value to businesses through the collective voice for members in local, central and European government, and the provision of tailored solutions that promote business success.

Our Health and Safety Panel comprises approximately 105 members who have volunteered to provide feedback to us on health and safety matters. Traditionally, we have contacted panel members on an *ad hoc* basis to gather feedback on specific issues, however, we now engage more regularly with the business owners on our Member Panels to better understand and collect evidence of their real life experiences, to more effectively reinforce our policy and campaigns activities. This is the second report from the Health and Safety Law Panel.

Feedback from 1,500 business owners and technical experts who use the Forum's Health and Safety Guide was also sought and has been included where appropriate in this research.

Note: as panel figures refer to just over 100 businesses, they should be treated as indicative of rather than representative of all small and medium-sized businesses.

Summary

Base purely on businesses who replied to this question, over 90% of our panel feel that a good health and safety policy is beneficial to their business, reducing risk and the likelihood of accidents. 70% also see the benefits of written proof that businesses are compliant in avoiding litigations.

Business owners feel that improvements could be made by allowing for common sense, along with clarification of what businesses are required to do. Businesses generally feel that the law has become increasingly complex.

Health and safety is seen as unfair competition insofar as employers with fewer than five employees effectively have lower requirements to comply with, larger employers have greater resources and the costs of health and safety (H&S) compliance make businesses uncompetitive globally.

57% of businesses see current H&S requirements as excessive, with 28% identifying H&S insurance as an issue (in terms of cost and their interpretation of the law), 21% feeling that fire precautions (especially when moving premises) is excessive and with the diminishing support available from the fire brigade.

Businesses generally would like to see clarity, consistency and stability. Clarity - in the form of fewer regulatory bodies, consistency - in the form of a single accepted interpretation of the law, and stability - in order to allow new processes to bed in. Panel members believe this has been lacking as 96% of business owners believe that their staff understand their health and safety process but only 80% are certain that their business is compliant with current health and safety law.

Owners also want greater payback from compliance with health and safety legislation, with only around 40% seeing a competitive advantage from health and safety in terms of benefits within the business through greater employee satisfaction or through the supply chain. Many felt that this was better approached through a positive relationship between enforcement officers and business owners. However businesses felt that where a business had been deliberately dishonest there should be greater penalties, where the businesses unwittingly contravened legislation, the punishment should be more about resolving the issue than litigation.

Greater marketing of compliance and the benefits would be helpful, as well as greater use of accreditation through third parties being taken into account.

Business owners who had a formal qualification in H&S were less likely to see the legislation as burdensome than businesses who had to comply without such intimate knowledge of the processes.

59% felt that the health and safety review would have a positive impact on their business although some reservations about the 'Your Freedom' website (the Government website which asked the public for their ideas to reduce regulation and bureaucracy) and scepticism about whether it will actually make any changes. Some felt that there had been a greater resolve in the run up to the review.

56% felt that the cuts would have a negative impact overall on their business as cost-only contracts would minimise the advantages of a robust health and safety process. Cuts would also mean less support from emergency services in case of a fire or accident.

Recommendations

- Minimise the number of regulatory bodies.
- Greater clarity of support for business owners - this could be as simple as formally endorsing one or more practical health and safety guides to give businesses a clear process to follow.
- Fewer laws and regulations; changes in processes particularly behavioural ones take time
- Mainstream health and safety by teaching basic principles such as manual handling, first aid and safety in a variety of workplaces.
- Ensure that health and safety is based on real-world expertise from the business owner and, where appropriate, an accredited consultant rather than from underwriters or civil servants.
- Provide training support for businesses to understand health and safety, this could be done by accredited consultants as part of a more constructive enforcement process.

Benefits of a good health and safety policy

The majority of businesses feel that good health and safety policy will reduce risk, mean fewer accidents and lessen the threat of legal action. Owners were more sceptical of advantages in terms of employee or business performance. Those that did see a benefit here highlighted the importance of communication through the business to ensure the best possible outcome or supporting their marketing/supply chain relationships.

"The benefits of H&S will always be increased when they are effectively communicated not just to employees but also to management [internal and external] at all levels." (panel member response)

Many panel members indicated that they felt this was not the purpose of health and safety legislation and that the legislative bodies should focus on the reduction of risk and accidents.

Figure 1: Benefits of a good health and safety policy



Source Health and Safety Panel Members 2010

Only a couple of businesses felt that there were advantages in terms of reducing the cost of doing business and in one case this was relative to other businesses. Many members did indicate that the reverse could be argued for their business.

Improvements that could be made

"Less H&S laws and more freedom for common sense"

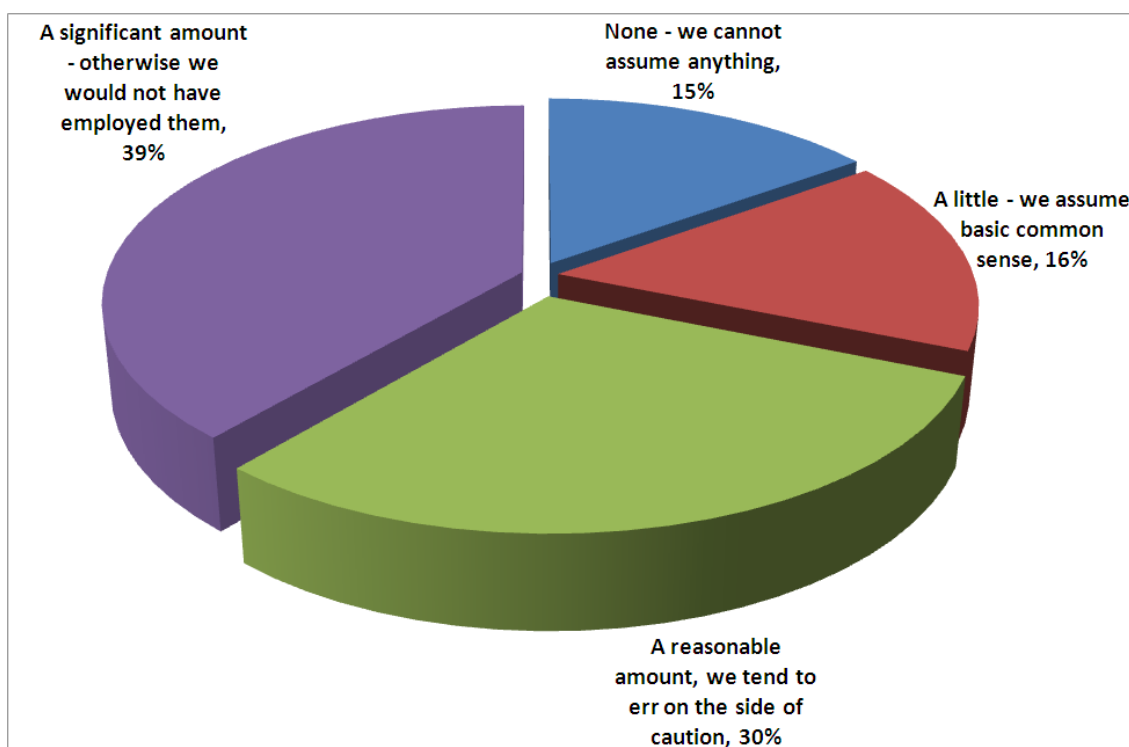
The most frequently mentioned improvement would be to introduce common sense into procedures and legal enforcement, particularly through the legal system. Owners are particularly concerned about director's liabilities if an employee ignores the proper procedure or does something stupid that they have not fully considered.

"Trim it back to straight forward. Old fashioned, COMMON SENSE for small businesses, which worked perfectly well before this terrible H & S regime arrived. Big business and companies may well need it - the majority of small ones do not" (panel member response)

Business owners felt that if the legislation treats employers like idiots then they are more likely to act like idiots, being reluctant to take on responsibility for their actions and endangering other people.

There was a divergence however in how much common sense business owners credited their staff with, as 15% of businesses felt that they could not assume anything whilst 39% of businesses, particularly those with skilled workers, felt that they could assume quite a lot. Some sort of clarification about how much can be assumed, perhaps by teaching the basics for health and safety in schools would generally be needed.

Figure 2: Expectations of common sense from employees



Source Feedback from Health and Safety Guide 2010

Fewer laws would also be useful for businesses, with several members pointing out that communication and clarity are lost in practice because of conflicting views of best practice.

"We do not need more and more legislation. It hinders the business rather than helping it."
(panel member response)

Recent feedback from members who use the Forum's Health and Safety Guide indicated that just 34% of businesses felt that the UK system of enforcement was comprehensive. In contrast 57% felt that the enforcement system was excessive whilst 9% felt that it was superficial as their competitors did not comply with the health and safety system - one business specified that their competition came from outside the EU and therefore made them uncompetitive.

A few businesses pointed out that communication could be helped by a local authority or third party support as their owners felt that staff would listen to a third party on issues of safety rather than their managers who could be seen as 'interfering' or 'micro-managing'.

This concept has been reinforced as some business owners have seen an improvement in the last few years:

There is "...more flexibility and communication with business owners. We have seen this happen in the last few years where enforcement officers are prepared to work with you rather than command you to do things" (panel member response)

In fact many business owners felt that a successful health and safety policy was synonymous with good communication.

"I think it would be helpful to us to have someone from the local authority visit once a year just for a half hour chat to the workforce to emphasise the need for things like ear defenders, eye protection etc. Although we have strict rules we are a small, friendly company and the workforce are more likely to take notice of an outsider, especially if they came with examples of the consequences of bad practice" (panel member response)

Others felt that the lack of consistency was a problem, this was particularly an issue for construction subcontractors who required different accreditations for different schemes and different process of incentivisation/punishment of H&S operated by different contractors.

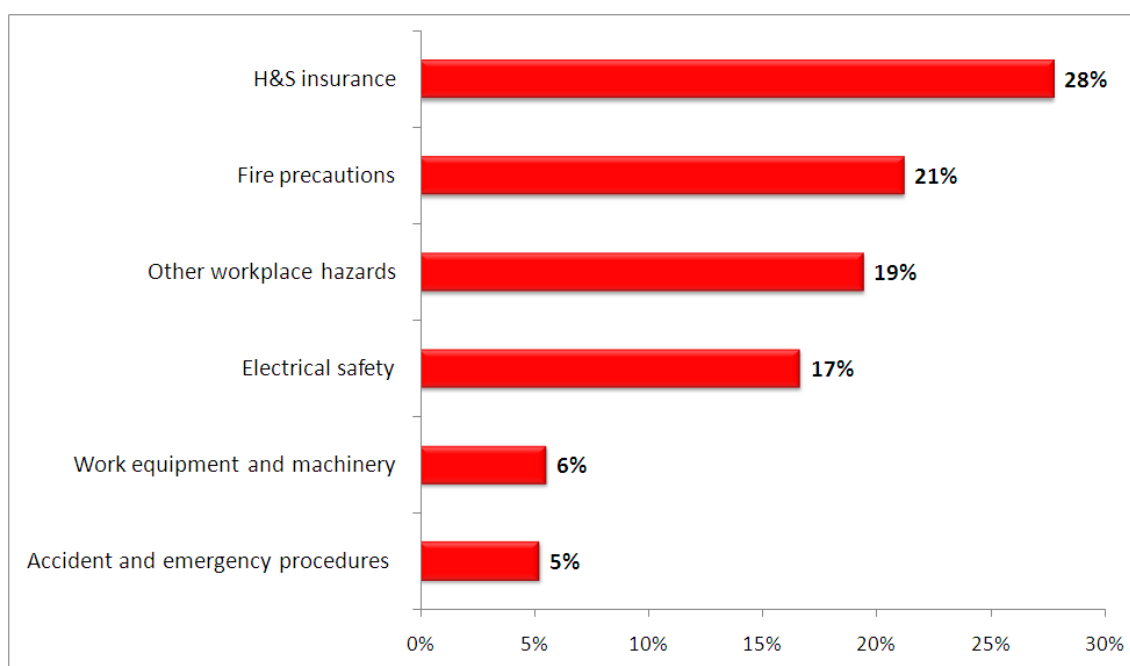
“The paperwork is not the bit that stops people having accidents” (panel member response)

Many felt that the accompanying red tape was the problem and that the burden of proof was balanced against the employer and the paperwork was excessive in proving that the business implemented its own procedures.

Where businesses see health and safety as excessive

This concept was taken up when looking at sections of common health and safety law, fire precautions were considered excessive by 1 in 5 businesses as business owners felt that constructive dialogue with the fire service was a better way to ensure best practice in this section of law rather than having to pay an expensive consultant.

Figure 3: Elements of health and safety policy deemed excessive



Source Health and Safety Panel Members 2010

Health and safety insurance was the section of health and safety law where the most businesses (28%) felt the requirements were excessive with a number of business owners feeling that some elements of their policies were devised for larger businesses. The bureaucratic requirements for businesses to undertake certain activities were also considered to be restrictive and often failed to take into account the fact their standards were higher than industry norms. Some business owners felt that the cost of insurance was also prohibitive and that some organisations (particularly public sector ones) were demanding excessive insurance levels while others felt that insurance was often used as an excuse to avoid doing something.

Fire regulations scored highly for historical reasons as many business owners valued the approach of the fire service who provided practical advice for minimal cost. One business complained that the weekly tests were overkill in a small building and would prefer less regular (monthly alarms) as little changed in that time. Other workplace hazards depended entirely on the industry. These ranged from the legislation on visual display units (VDUs), manual handling, working time issues and specialist hazards such as chemical handling. Owners often felt that there was too much focus on the employer rather than the employee.

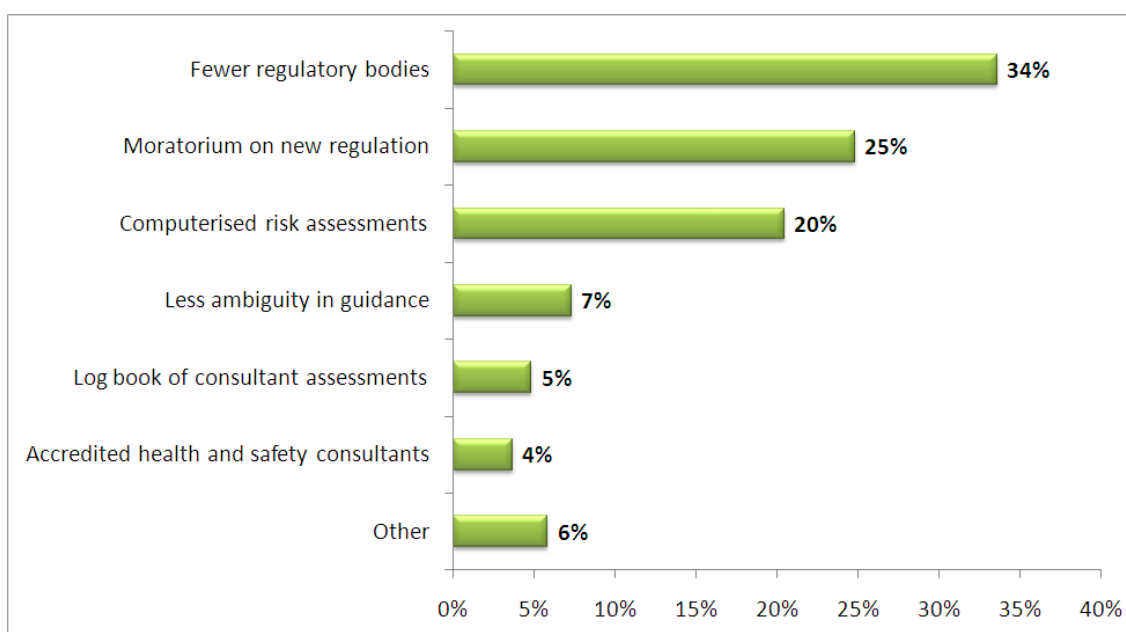
The cost of electrical safety was the major issue here together with the regularity of checks. The least controversial elements were work equipment and machinery-related health and safety or accident and emergency procedures. Occasionally businesses complained about the reporting procedures being excessive based on the insignificance of the injury etc.

Anecdotal evidence from business owners indicated that standard health and safety training is also excessive as it deals with issues that are not relevant to their own workplace. These organisations would like greater tailoring in courses rather than a one-size-fits-all approach.

Potential solutions

Clarification of existing regulation and a moratorium on further regulation was clearly important from the feedback from the guide readers as a majority of respondents felt that these would be the most helpful elements of support for them.

Figure 4: Single suggestion that would improve health and safety for the business



Source Feedback from Health and Safety Guide 2010

At face value the two figures about possible improvements to health and safety look very different with the only similarity being the accreditation of health and safety consultants.

"It amazes me that any consultants can set up in business, let alone H&S without having an accreditation scheme." (panel member response)

However it is clear that businesses want clarity and stability in terms of health and safety and there is an aversion to any scheme that would make the system more complex or change it radically.

Separating the advice and enforcement roles of the Health & Safety Executive is a good example of this. The lack of clarity and consistency means that businesses overall value a single source of information and a coherent approach even if there are potential conflicts of interest inherent within the organisations role.

"The HSE appear to be working very well as it stands and separation may cause confusion and increase their costs if there are two separate departments." (panel member response)

The most controversial suggestion was the reducing of written requirements for businesses with under 20 employees as around half of respondents felt that this would be a positive step,

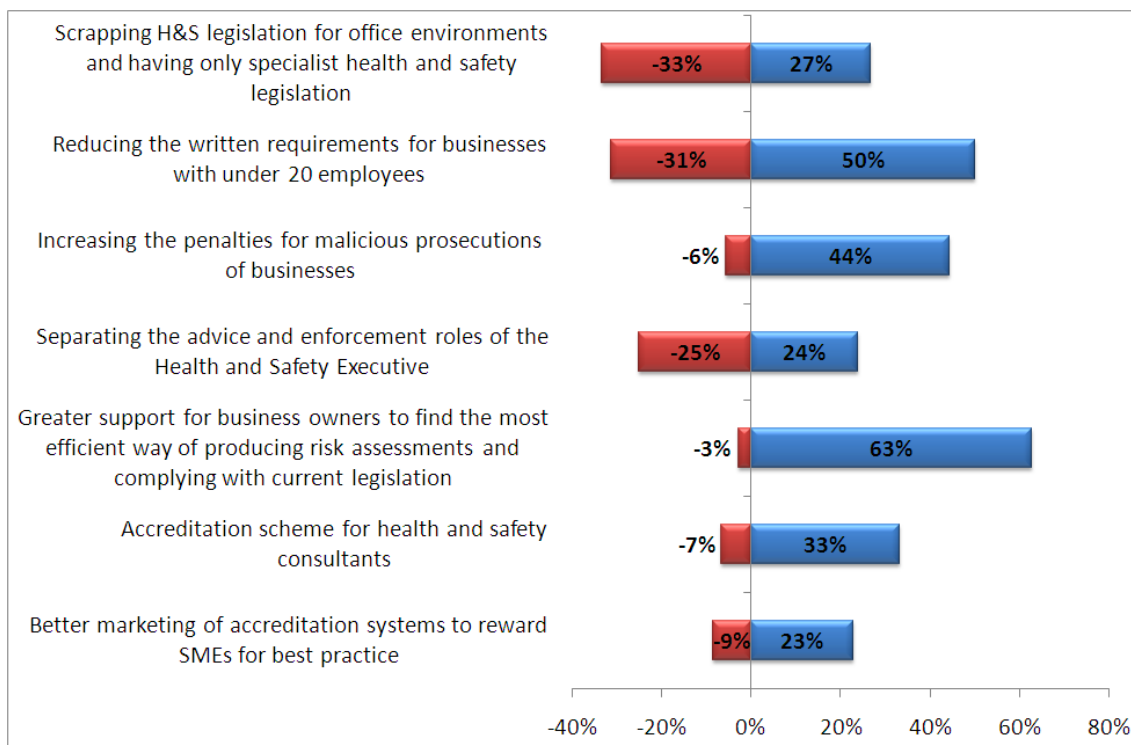
reducing the time spent on compliance but ensuring the practice remained. A third of businesses were also concerned about the implications of reducing the written requirements as this is a crucial element for businesses in defending themselves against unfair litigation and the lack of assumed common sense in the legal process. Businesses with over 20 employees were also concerned that this would make them less competitive and could increase the risk of accidents on site if they were working in close proximity to a business which had no controls. Some already felt that businesses with under 5 employees have unfair advantages and potentially put others at risk.

"All business should comply with H&S legislation regardless of high risks or size. It is unfair competition. For example, businesses with less than five employees do not have to provide a H&S policy, this is unfair". (panel member response)

"Large businesses have more resources in both finance and staffing to deal with this and they in turn need it more than small business" Panel member responses

More positively received were schemes that showed businesses were fully accredited and these systems were marketed as such. Accredited schemes, pathways and information on more effective ways of assessing risk would be well received, although some businesses felt that this would come at a price.

Figure 5: Impact of possible legislative changes

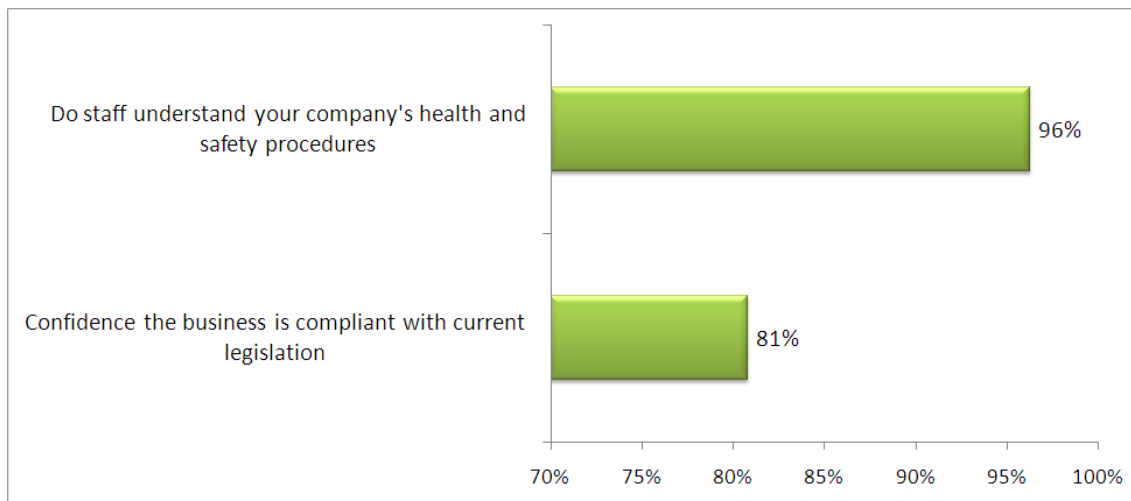


Interestingly, businesses wanted greater punishment for malicious prosecutions of businesses but a number also wanted greater fines for businesses that deliberately do not comply with health and safety as they are tired of being undercut by these organisations.

Impact of health and safety on businesses

Crucially, almost 15% of businesses are still not confident that the business is compliant with current legislation, due to doubts about the legislation itself rather than their own procedures. 4% of businesses are not certain whether staff understand their company's health and safety procedures but this rose to 18% when asked about compliance with current legislation.

Figure 6: Staff understanding of H&S procedures and employers belief about compliance

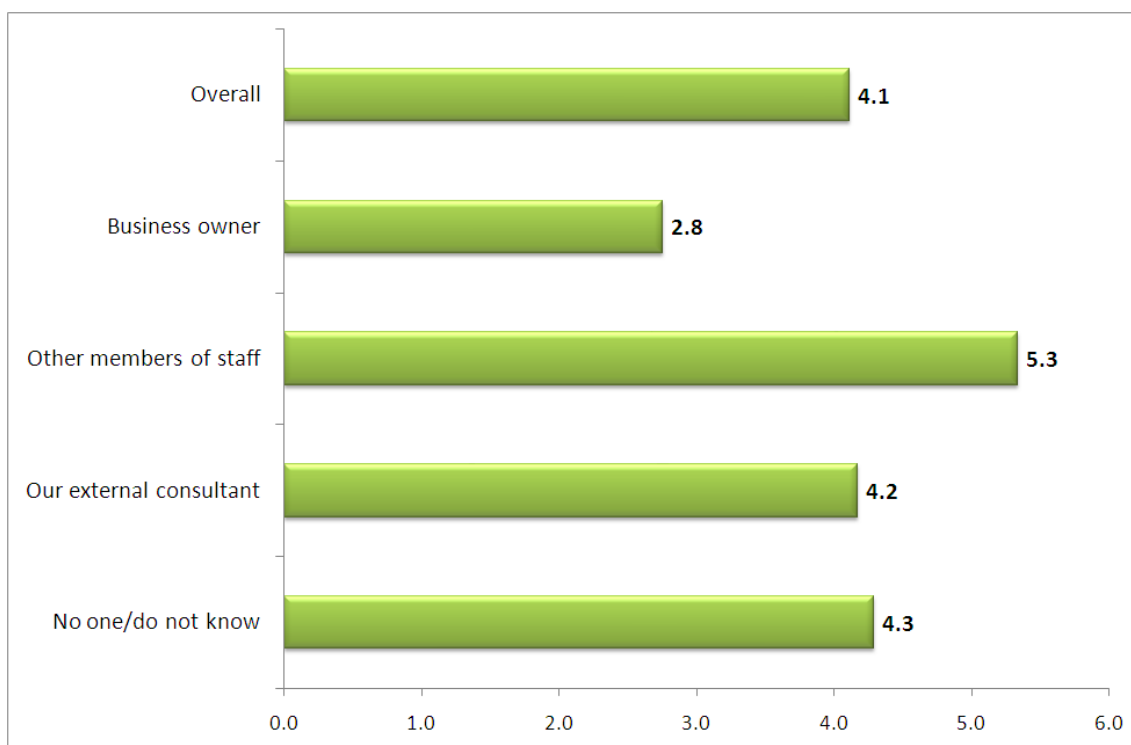


Source Feedback from Health and Safety Guide 2010

We asked business owners to rate the burden of health and safety to their business on a scale of 1 to 10. On this index health and safety gave an overall rating of 4.1, this compares to a rating of 5.2 for employment law.

Where the business owner has a health and safety qualification/accreditation the burden of health and safety is seen as significantly lower than businesses where the owner has less formal expertise. Surprisingly the businesses with expertise provided by other members of staff saw health and safety as the biggest burden. Due to the relatively small numbers the figures are indicative rather than statistically robust and are not so much due to gold plating, but are based on the industry the business operates in. Businesses which are in the care sector, construction and specialist manufacture (including food) have generally reported more onerous legislative requirements.

Figure 7: Burden of H&S legislation analysed by who has formal qualifications



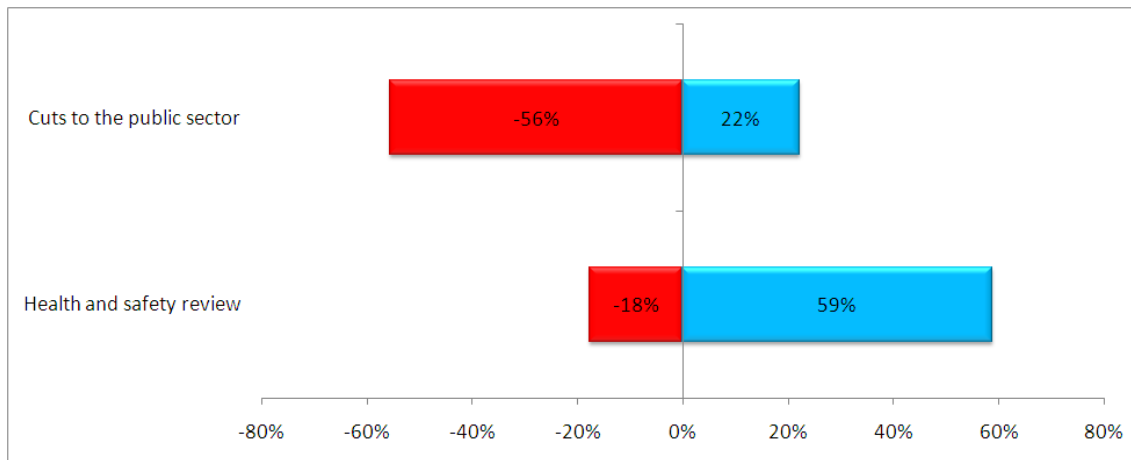
Source Health and Safety Panel Members 2010

Those who prioritised legal compliance were more likely to find the system onerous (4.9) compared to those who undertook health and safety with the focus on best practice (3.1). Indicating that those who appreciated the need for health and safety or who could directly apply the framework to their industry were less likely to see it as a burden.

Impact of possible changes to health and safety on businesses

Businesses are concerned over potential cuts to the public sector with concerns about cuts to the emergency services and the potential implications of a procurement system that may have no emphasis on safety. Others feel a reduction in enforcement offices could lead to more sharp practices. Around 22% felt that the cuts could be useful as these owners feel that there will be less complicated laws, fewer changes to the regulations and less duplication between agencies.

Figure 8: Likely impact of changes outlined in the emergency Budget



Source Health and Safety Panel Members 2010

The health and safety review attracted more positive comments as business owners felt that there was a real opportunity for changes including simplification of the laws. Conflicting requirements, a reduction in the number of quangoes (in some cases they wanted this reduced to the HSE) and most importantly fewer instances of new laws. Some business owners were more sceptical indicating that although they sensed a change in attitude, it was unlikely that the Government would be prepared to remove legislation, pointing out that any improvements to legislations seemed to require them to do more work. Others felt that the 'Your Freedom' website was too simplistic and that there should be a more honest debate on this issue taking into account lower accident rates in the UK.

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