

Position Paper setting out HSE's regulatory responsibilities during the various phases of the London 2012 Olympics project

Issue

To set out HSE's enforcement responsibilities during the various phases of the Olympics project from enabling works through to the post Games legacy operation. This will be complemented by similar documents from our regulatory partners so as to produce a coherent picture of the overall regulatory regime.

Timing

Immediate

Background

The 2012 Olympics presents challenges to the various regulatory bodies which at different stages have regulatory responsibility for various activities. The purpose of this paper is to identify in the light of current knowledge the extent of HSE's enforcement responsibilities and to identify the interfaces with other regulators, particularly the LA sector, ORR and the Environment Agency.

Health and Safety enforcement for the 2012 Olympics and Paralympic Games can be separated out in several ways: firstly by venue and phase, and then by client (Olympic Delivery Authority, whose responsibility is delivery of the main venues and supporting infrastructure, or LOCOG – the London Organising Committee for the Olympic Games and Paralympic Games Ltd., who will stage the Games themselves as well as facilitating training venues and organising cultural events).

Project phases have been identified as follows:

- Enabling
- Design and Build
- Design and installation of Games overlay including Fit-out of main venues
- Test events
- Post-Test/Pre-Games
- Build temporary venues
- Olympic Games
- Install overlay for Paralympic Games
- Paralympic Games
- Removal of overlay
- Legacy Transformation
- Legacy Operation

All the phases apply across all venues with the proviso that the extent, timing, responsibility and preparation for the Olympics Park as differentiated from

other venues such as Greenwich Park and Hyde Park will be different, with shorter time spans for the non-Olympics Park venues. Post Games these sites will be restored to original use with no preparation for legacy.

Enabling

This phase is now almost complete and is applicable at the Olympics Park. It comprises site preparation, such as demolition of the pre-existing structures, remediation of contaminated soil and re-profiling the site for venue and infrastructure development (as well as the now complete tunnelling for power lines and removal of pylons). HSE's enforcement remit covers s2 and s3 responsibility for worker and public safety particularly from ground pollutants and possible radiation emissions.

There have been clear interfaces with other regulators during this phase with the Environment Agency an almost permanent presence on site. The local Authority noise and pollution officers have also had a significant role. The significant issues concerned land contamination (heavy metals and radioactive sources) which involved all three regulators. Several meetings were held in which clarity of roles and lines to take were agreed. As statutory consultee HSE (FOD London) was consulted over the granting of a waste disposal licence by the Environment Agency to the Olympic Delivery Authority.

N.B HSE (FOD London) has enforcement responsibility for other regulators on site as well as for Police, Fire and Ambulance services. The Emergency Services all produced risk assessments for access to the Park: any intervention on the part of HSE would only have been on a reactive basis.

Design and Build

HSE is the enforcing authority and will intervene in accordance with Construction Division's "light touch" intervention strategy i.e. early discussion with design and build team, with emphasis on integrated team working. This applies to all of the main 'venue' projects on the Olympics Park (Main Stadium, Aquatics Centre, Velodrome, International Broadcast Centre/Media Press Centre, Basketball Arena, Handball Arena, and Hockey Arena. Full interventions will not necessarily be done for Utilities, Bridges and Highways packages, and Landscape and Public Realm, but interventions will follow a risk-based approach. A full list of competition venues and their status i.e. whether permanent, modification of existing venue, or temporary, is attached.

During this phase HSE is responsible for enforcing the Regulatory Reform (Fire Safety) Order 2005.

HSE will have responsibility for the construction (and later deconstruction) of the temporary facilities.

HSE also has regulatory responsibility for the construction of the Olympic Village for which involves both Bovis Lendlease and the ODA as client. In addition Stratford City retail development is adjacent to the Olympics Park and there is a very large footbridge over the lines at Stratford Regional stations. The latter project is not an Olympic project but it is regulated by HSE and is closely associated in time and space and subject to similar intervention arrangements. There is a risk that it will be perceived as an Olympics project which it is not.

There are several transport projects being undertaken variously for Network Rail and the Docklands Light Railway for which the ODA is not client but for which it is providing some funding. Hence they should be seen as Olympics projects. The Olympics project has resulted in considerable activity in upgrading transport including railway transport and infrastructure. The recent change in the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) (Amendment) Regulations 2008 (the EARR amendment regulations) have resulted in some changes of enforcement responsibility for construction activity on the railways. The Office of the Rail regulator will play a key regulatory role in respect of all renewal/improvement work including CDM issues.

Field Operations Division will have enforcement responsibility for other activities during this phase, including:

Police, fire and ambulance services
British Transport Police
Environment Agency

Operation of Energy centres
Concrete batching plants
Road haulage
Docks and water-based activities (possible interface with MCA)

Games overlay including Fit-out

This refers both to the post-build overlay and to earlier overlay design (for which LOCOG will imminently be planning) for minor overlay in hotels, facilities in temporary stadia, the wrap for the main stadium etc. Current understanding is that the LOCOG board will be asked to consider the ODA handling all major overlay work – though this is not yet certain (and is complicated by the political issue of how the needs of LOCOG, a privately-funded company, will be met by the ODA who are publicly funded). LOCOG will be responsible for Games overlay (from installing temporary hired facilities at existing premises to fit out of stadiums etc and construction of temporary venues such as Greenwich Equestrian centre). Design work is underway and discussions have taken place about their arrangements to meet their CDM responsibilities but it may be that ODA may be given responsibility for managing some or all of the overlay work. HSE has responsibility for enforcement.

On the Olympics Park there are likely to be multiple handovers between ODA and LOCOG throughout the project depending on the nature of the activity; it is possible that other clients may operate some venues before Games time. These handovers will fall within phases rather than be identifiable as distinct and separate phases in themselves. The ODA has undertaken to produce an Options Analysis Review which will highlight the issues and complexity of the different venues in terms of allocation of responsibilities. HSE will have enforcement responsibility for any building work including refit work required by LOCOG during the overlay period i.e. post-build. There is unlikely to be any "handing over the keys" between ODA and LOCOG as it is anticipated that there will be some last minute additions/changes (though these will be minimised to mitigate risk). It is probable that LOCOG will retain the ODA as client for this work.

Test events

This involves assessing whether venues meet the terms of their licences and is a local authority responsibility under Safety in Sports Grounds Act and the Licensing Act. HSE regulatory responsibility during this phase will be for construction work in parts of the Park which are not yet completed and for the common haul roads and for HSWA S3 regulation for temporary roads and utilities and for any minor refurbishment works being undertaken consequential to the test events.

Post test-pre-Games

The main responsibility falls to local authorities concerning action taken to comply with license conditions but any further construction work will be under HSE's jurisdiction (as stated in previous para).

Games and Paralympic Games

Enforcement will fall in the main to the LA sector during Games time and post-Games where facilities such as the velodrome continue to operate as a sporting venue. HSE (FOD) will retain responsibility for the following:

- Broadcasting (and associated support activities including pre and post production, scenery-moving, satellite link-ups etc) – not only in London but at all venues country-wide). (The broadcasting sector and relevant FMU London teams are involved at the design stage). This is also a national consideration for FOD.
- Royal Parks - there will be interfaces between the LA-enforced Olympics events which are separate from the HSE-enforced Royal Parks (Hyde, Regents and Greenwich)
Agreement will be needed as to assessment of the risk at the interface e.g. transport activities. An understanding should be reached with the LAs as to possible scenarios and criteria by which to determine duty holder and enforcing authority. This will require input from the FOD London Services team.
- Royal Artillery Barracks (MOD).

- Gas Safety (in respect of landlords renting out premises)
- Bus transport (additional provision will require access to already over-stretched depots for maintenance, repair, overnight lay-up)
- Possible overlay modification/additions work to adapt to Paralympic requirements (Construction)
- Maintenance or repair of electricity systems

Post-Games Removal of Overlay

This is a LOCOG responsibility over a shorter timescale for the Transformation phase (see below).

Legacy Transformation

Construction Division will have enforcement responsibility for deconstruction of temporary facilities at venues including Olympics Park and other construction work e.g. new builds and reconfiguring of Olympic Village accommodation, new roads. Details will be provided in Legacy Masterplan to be published in spring/summer 2009.

Legacy Operation

Dependent on the contents of the Legacy Masterplan, the Olympics Park (and Stratford City Retail) will be the enforcement responsibility of local authorities until further construction work is planned.

Other considerations

- Opening and closing ceremonies (LA enforced except for broadcasting)
- Cultural events (mainly LA enforced)
- In-Games Training venues. LOCOG is responsible for these (located in London and South-east) but not for training camps (located nationally). Venues might be either HSE or LA regulated depending on main activity with any CDM construction or refurbishment work the responsibility of HSE.
- Volunteering. Training is an issue – not yet addressed by LOCOG. Enforcement responsibility depends on their deployment but it can be presumed that the majority will be within the venues – hence LA enforcement. Some may be employed at training venues so their health and safety will be the responsibility at least in part of the host venue – could be either LA or HSE.
- Public safety issues. Involvement should be on the basis of the principles set out in HSC's paper "Public Safety in the Sensible Risk Management Campaign". This could be summarised as recognising HSE's section 3 enforcement role with regard to public safety risks arising from work activity, while recognising that other regulators and authorities have a greater role and expertise in other aspects.

- Transport – road haulage, deliveries etc at all stages and across all venues, on-site and off-site (including distribution hubs). Clear demarcation is needed with LAs.
- Effective communication with our regulatory partners about matters of evident concern in the construction of venues etc both in the Park and elsewhere and other areas where HSE or the LA/EA has the regulatory lead so that the appropriate regulator can ensure prompt action. Need for engagement with LAs outside JLARS framework.
- Regulation of our regulatory partners (LAs and Environment Agency). This will be reactive only. Discussion has already taken place with EA concerning risk assessments for working on the site and the intersecting waterways.
- Flexible warranting between HSE and the LA Sector for specific purposes for example in relation to refurbishment of in-Games training centres

Argument

HSE will intervene during the Design and Build at all venues on the basis of CD's Intervention Strategy. As indicated above and in the covering paper there are a number of unknowns at present and clarification of these issues will occur over time and with continued prompting from HSE. DCMS/GOE may wish to take a lead in facilitating discussion between regulators to ensure there are no gaps.

Consultation

There is continuous discussion with our partners in the LA sector as well as with DCMS, LOCOG, and ODA.

Presentation

In the interests of being an exemplary regulator and in pursuit of sensible risk management it is important that HSE has certainty as to the extent of its role at all stages and can clearly communicate this to others. Failure to achieve clarity is a significant risk.

Costs and Benefits

There is no anticipated extra cost to HSE from establishing clarity of roles and responsibilities and a number of benefits: in particular the perception of HSE as an exemplary regulator in anticipating and fulfilling its role.