

Impact case study (REF3b)

<p>Institution: University of Liverpool</p>
<p>Unit of Assessment: 22 - Social Work and Social Policy</p>
<p>Title of case study: Regulating Deaths and Injuries Caused by Work</p>
<p>1. Summary of the impact</p> <p>This impact case study provides details of research carried out by Dr David Whyte on the regulation of deaths and injuries caused by working. This research led directly to the introduction of new legislation in the Scottish Parliament in 2010. The research has also had a measurable influence upon policy debates in the Health and Safety Commission/Board and the UK Parliament and has provided the foundation for trade union policy on health and safety regulation. This case study draws upon inter-disciplinary knowledge in the disciplines of law, criminology, economics and business and management studies to impact upon policy development in government, the criminal justice system and the trade union sector.</p> <p>2. Underpinning research</p> <p>Dr Whyte took up his current post at the University of Liverpool on 1st July 2007. The research detailed in this case study was conducted since he joined the University of Liverpool. As this case study demonstrates, Dr Whyte’s research has reached beyond academic audiences to influence policy, professional, practitioner and campaigning agendas. Prior to 2007, he was a member of the 2005 Scottish Executive Expert Committee on Corporate Homicide, an ad hoc panel, commissioned to make recommendations to the Scottish Justice Minister. He was a member of the Criminal Law Committee of the <i>Law Society of Scotland</i> between 2005-2008 and between 2007 and 2013 he has made regular contributions to parliamentary inquiries and government consultations via submissions written for NGOs, the <i>Centre for Corporate Accountability</i> and the <i>Institute of Employment Rights</i>.</p> <p><i>The Causes of the ICL Disaster</i></p> <p>This collaborative research project involved 9 academics from 4 different institutions (Universities of Glasgow, Stirling, Liverpool and York) and a range of disciplinary backgrounds. The report explored the causes of the explosion at the ICL/Stockline plastics factory in Glasgow, May 2005, through the use of hitherto unavailable empirical data and interviews with workers at the factory. The work led to a 156 page research report that was published by the Universities of Glasgow and Stirling. Dr Whyte’s research for the report:</p> <ul style="list-style-type: none"> • identified a range of accountability failures in the regulatory system • identified the gaps in criminal justice process that enabled those responsible in cases such as this to remain beyond the scope of the courts; and • proposed a range of measures to deal with this gap in accountability, including background sentencing reports and a new system of fines for corporations <p><i>A Crisis of Enforcement</i></p> <p>The second, related, project was a research grant awarded by the Barry Amiel and Norman Melburn Trust for a study of long-term trends in the enforcement of workplace health and safety law in the UK. The period of the grant ran from January 2008 to June 2008 and was based around the construction of a large primary dataset obtained from the Health and Safety Executive, and an extensive documentary analysis of published and unpublished policy texts. The empirical research conducted during this period led to a number of spin-off publications and activities, detailed in the following sections of this document. Dr Whyte’s research demonstrated for the first time:</p> <ul style="list-style-type: none"> • a seismic qualitative and quantitative change in the regulation of UK workplaces. • how this change resulted directly from the institutionalisation of a particular set of political rationalities in government and policy networks; and • identified a set of policy priorities necessary to mitigate the impact of this change in the

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workplace, including recommendations on the funding of regulators, and a proposed reassessment of the tripartite structure of UK regulation.

This work led to collaborative research with the Centre for Criminal Justice Studies (CCJS) and the Institute of Employment Rights (IER). The CCJS is a learned society established in 1931 that also publishes the *British Journal of Criminology*. The IER is a trade union think tank that exists to inform debates around trade union rights and labour law by providing information, critical analysis, and policy ideas through a wide network of academics, researchers and lawyers. The IER is Chaired by John Hendy Q.C. and its President is Professor Keith Ewing.

3. References to the research

Inquiry into the ICL Disaster

1. Tombs, S and Whyte, D (2007) *Safety Crimes*, Collumpton, Devon: Willan, ISBN: 1843920859.
2. Beck, M, Cooper, C, Coulson, A, Gorman, T, Howieson, S, McCourt, J, Taylor, P, Watterson, A and Whyte, D (2007) [ICL/Stockline Disaster: an Independent Report on Working Conditions Prior to the Explosion](#), Glasgow and Stirling: Universities of Glasgow and Stirling, pp 158.

Material for the Inquiry into the ICL Disaster was derived from research conducted as part of the authorship of *Safety Crimes*, a monograph published by Willan, now an imprint of Routledge. The book appears in the internationally recognised Crime and Society Series of monographs and was subjected to a detailed editorial review and revision by series editor Professor Hazel Croall. *ICL/Stockline Disaster: an Independent Report on Working Conditions Prior to the Explosion* is an interdisciplinary work conducted by 9 researchers. Each chapter, typically written by one or two co-author(s), was subject to systematic review and revision by each of the other co-authors.

A Crisis of Enforcement

3. Tombs, S and Whyte, D (2008) *The Crisis in Enforcement: the decriminalisation of death and injury at work*, London: Centre for Crime and Justice Studies. Online ISSN 1746-6946, Paper ISSN 1746-6938, pp 12.

The *Crisis in Enforcement* was subject to revision following detailed review by the Director and Policy Director and approved by the Council of the Centre for Crime and Justice Studies whose members include Sir David Calvert-Smith QC, Cedric Fullwood CBE, Lord Imbert, Sir John Pilling KBE CBE, Sir Richard Tilt and The Right Honourable the Lord Woolf.

4. Tombs, S and Whyte, D (2010a) 'A Deadly Consensus: worker safety and regulatory degradation under New Labour' *British Journal of Criminology* (ISSN: 0007-0955) vol 50, no 1, pp 46-65. [REF2 output].

The British Journal of Criminology is an ISI rated peer-reviewed journal.

5. Tombs, S and Whyte, D (2010b) *Regulatory Surrender: death, injury and the non-enforcement of law*, London: Institute of Employment Rights, ISBN 978 1 906703 10 3, pp104.

Institute for Employment Rights' publications are approved by its Officers, a mix of professional and academic labour lawyers. *Regulatory Surrender* was subject to detailed review by five UK health and safety specialists.

6. Tombs, S and Whyte, D (2012) 'Transcending the Deregulation Debate? Regulation, risk and the enforcement of health and safety law in the UK', *Regulation and Governance* (ISSN: 1748-5991) vol. 7, issue 1. [REF2 output].

Regulation and Governance is an ISI rated peer-reviewed journal.

4. Details of the impact

The pathway to impact of Dr Whyte's research for *The Causes of the ICL Disaster* started with a Scottish Parliament Motion congratulating the authors for the research, introduced to the

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Parliament on 4th September 2007. Dr Whyte's recommendations in the report on corporate accountability (see section 2 above) led directly to his being contacted by Dr Bill Wilson MSP, and then, following a series of meetings in the Scottish Parliament in 2008 and 2009, led to Dr Whyte's engagement in a collaborative project with Dr Wilson to develop legislative proposals for improving corporate accountability. As a result of this collaborative project Dr Whyte authored the first draft of the Criminal Sentencing (*Equity Fines*) (Scotland) Bill (SB 10-54) and co-authored the statutory parliamentary consultation document that accompanied this Bill. The Bill was introduced and debated at the committee stages of the Scottish Parliament on the 1st June 2010. Part of the Bill was considered to be a matter reserved for the Westminster Parliament, and part was subsequently passed as an amendment to the Criminal Justice and Licensing (Scotland) Bill on 6 August 2010.

The UK Parliamentary impact of *A Crisis of Enforcement* is indicated by its presentation at a House of Commons meeting sponsored by the Centre for Crime and Justice Studies and chaired by Katy Clark MP, 18th June, 2008 to discuss Dr Whyte's research findings in publication 3 cited above. This meeting led to a House of Commons Early Day Motion on the findings of the report (EDM 1855, 26th June 2008). The same project also led to a further House of Commons Early Day Motion tabled by Katy Clark MP which cited findings of the report (EDM 632, 18th January 2010).

The UK Policy Impact of *A Crisis of Enforcement* is indicated by the regular citation of its research findings. Director of Public Prosecutions, Kier Starmer, at international conference on *Corporate Criminal Liability* in London, 19th September 2009 cited publication 3 listed in section 3 above. Publication 5 listed above was the subject of a public debate on the findings of the research between Dr Whyte and David Ashton, HSE Director of Field Operations (IER Conference, Adelphi Hotel, Liverpool, 13th July 2010); and a formal response to the research findings in publication 4 was presented by the Chief Executive of the Health and Safety Executive to the Health and Safety Board, 28th July, 2010. Dr Whyte's research findings also led directly to an invitation to give oral and written evidence to the Löfstedt Review, a panel appointed by the Prime Minister to review health and safety legislation in 2011.

Significant impact upon NGO and trade union movement policy work is indicated by a clear pathway that begins with a high level of knowledge exchange in the trade union movement. This knowledge exchange began with mass dissemination of publication 4 cited above. This included large scale purchases of book by UNISON (200 copies) and GMB (500 copies) for distribution to members. This dissemination activity led directly to a number of invitations to give keynote speeches at national events organised by UCATT, UNISON and GMB, as well as the following high profile keynote and plenary speeches in other labour movement *fora*: keynote speech to the annual Hazards Conference, 10th July 2010, Keele University; plenary debate with Professor Löfstedt, Chair of the panel appointed by the Prime Minister to review Health and Safety legislation (at the IER conference, *What Now for Health and Safety At Work?* NUT London, 9th May 2012); keynote panel speech to the annual Hazards Conference, 1st September 2012, Keele University; and plenary address to IER conferences 'Health and Safety at Work' (UNITE Building, London 12th June, 2013 and Adelphi Hotel, Liverpool, 3rd July 2013).

This large volume of KE work led to the direct application of Dr Whyte's research findings in trade union policy and campaigns. Four key examples of this impact are listed here. First, GMB's response to the Coalition Government's Review of Health and Safety Legislation *The Young Review* draws extensively on publication 3 listed above. Second, the Trade Union Co-ordinating Group, the main parliamentary lobbying group of the trade union movement, used publication 3 as the key source for a chapter of the briefing paper for its nine constituent unions, *Big Society, Savage Cuts*. Third, the IER has used Dr Whyte's research findings from this research as the primary source for its parliamentary lobbying work on health and safety rights over the past 3 years. Dr Whyte authored the following IER papers as part of this lobbying work: a briefing on *The Young Review* distributed to MPs and senior trade union officials; a response to the Law Commission's Consultation Paper *Criminal Liability in Regulatory Contexts*, subsequently published in the *New Law Journal* ('Corporate or criminal?' Issue 7449, January 2011); and a response to the government's Triennial review of the Health and Safety Executive, July 26th 2013

(to be published in *Safety Management*, the magazine of the British Safety Council, early 2014). He also made a key contribution to an IER briefing commissioned by Ian Lavery MP in response to the Draft Deregulation Bill, November 2013. Fourth, Dr Whyte's work is used by the International Labour Office (ILO) as the key authority on workplace safety regulation and enforcement in the UK, as evidenced by its extensive citation in a 2011 ILO report on Labour Inspection in the UK.

5. Sources to corroborate the impact

1. Public citation of research by Director of Public Prosecutions, Kier Starmer, can be found on a [video recording](#) of the speech to the international conference on Corporate Criminal Liability in London, 19th September 2009 (on the Saturday session at 2 hours, 59 minutes, 16 seconds into the recording).

2. Impact of *Inquiry into the ICL Disaster* upon the Health and Safety Executive senior management and Health and Safety Executive Board is indicated by discussion of findings of the research by the Chief Executive of the Health and Safety Executive in report to the Health and Safety Commission ([HSC Minutes](#), 4th September 2007, para 2.2). A summary of the Chief Executive's report on the research (referred to as 'The Watterson Report') is at para 2.1. The formal response to *A Crisis of Enforcement* made by the Chief Executive of the Health and Safety Executive can be found in the [minutes of the Health and Safety Executive Board Meeting](#), 28th July, 2010. A summary of the Chief Executives report on the research is on page 2.

3. [Reports](#) of the Institute of Employment Rights' plenaries and debates cited in the previous section can corroborate influence upon trade union and NGO policy.

4. Significant and high profile national media sources also corroborate the impact of this work, including: extended discussion on BBC News 24 (17th July 2009); a half hour discussion on *Talksport* (22nd July 2008); BBC Radio 4 magazine programme *Thinking Allowed* from 11th November 2009 ([audio recording available as well as a synopsis of the programme](#)); BBC Radio 4 documentary programme *Face the Facts* (2nd January 2009); research findings informed planning and research for, and featured centrally in, BBC Radio 4 documentary programme *File on 4* (8th March 2011). Trade Union media also reported this research extensively, for example, [double page spread in Hazards Magazine](#), as did professional media, for example [HR Magazine](#) and [the International Institute of Risk and Safety Management](#).

5. The impact of the research upon the work of the International Labour Office (ILO) is evidenced by its block citation across 4 pages in a [2011 ILO report on Labour Inspection in the UK](#) (pp13-16).

6. The impact of the research upon UK Parliamentary debates is evidence by [the text of House of Commons EDM 1855, 26th June 2008](#) which explicitly notes 'A Crisis in Enforcement'

7. A former Member of the Scottish Parliament for the West of Scotland has provided a statement corroborating the policy impact in the Scottish Parliament and the seminal impact of Dr Whyte's research on Scottish legislation and policy.

8. The Director of the Institute of Employment Rights has provided a statement corroborating claims in relation to the labour movement and trade union policy impact of this work.

9. The Director of the Centre for Crime and Justice Studies has provided a statement corroborating claims in relation to the NGO and UK parliamentary impact of this work.

10. The Member of Parliament for North Ayrshire and Arran can be contacted to corroborate claims in relation to the UK Parliamentary impact of this work (including House of Commons EDM 632).