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**Duty-Holder Day**  
**Professor Kevin Bampton, CEO of**  
**BOHS**

## Aims of the session

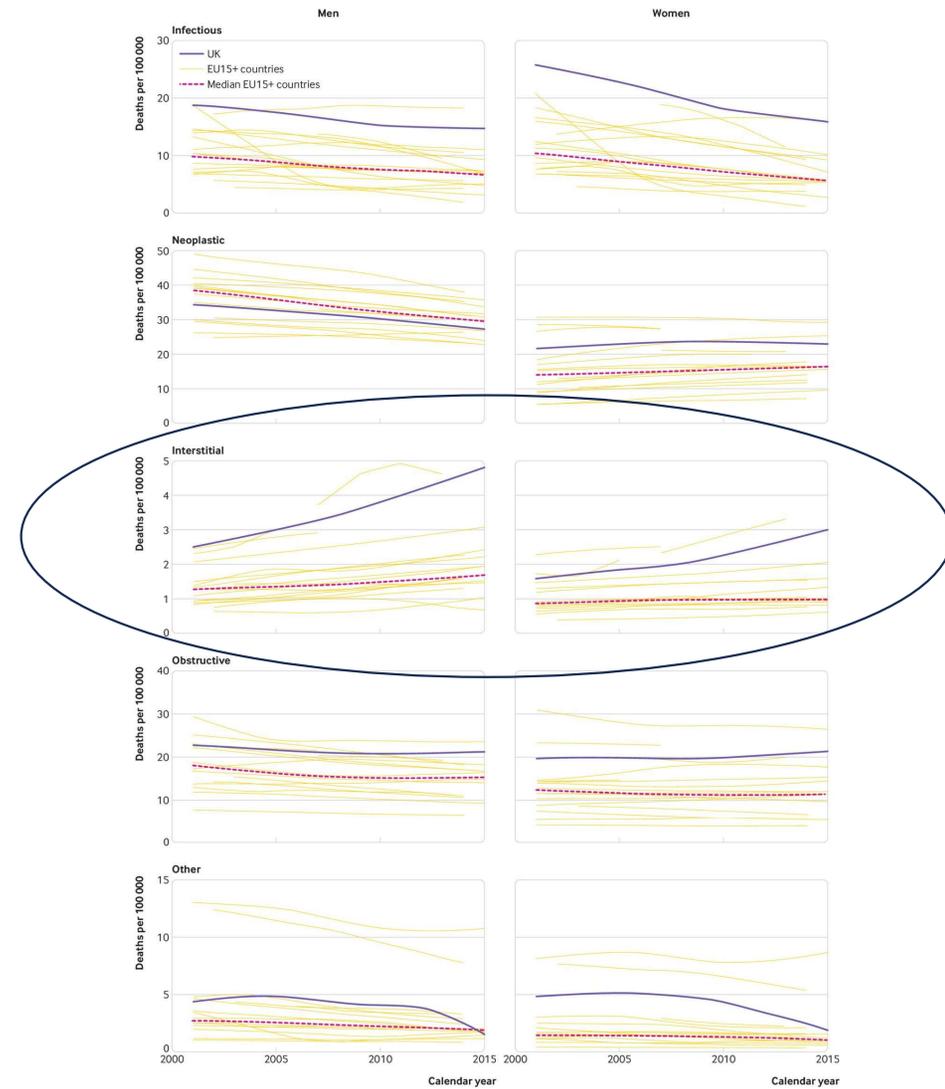
- The problem
- The business risk
- Future legal and regulatory trends
- Who are 'Duty Holders'/'Contractors'?
- Skills vs Competency
- Obligations to select Competent Contractors

# LEV needs to work better

Not precise correlations, but to indicate the issue:

- There are just under 17,000 scaffolding operators in the UK and 40 deaths from falls from heights at work
- There are a similar number of LEV operatives and 7,500 deaths from occupational lung disease...
- ... before you say it, how much has LEV changed over the last decades?
- It's not gone unnoticed, even though this is not the LEV industry's fault

# Lung disease largely caused by work



# Insufficient progress

1839-1842 First Afghan war - 4500 deaths

2001-2010 Operation Enduring Freedom 457 deaths

# Government perception

*“If we removed the cost burden of preventable workplace respiratory cancers alone, we could pay for all the costs of all UK paediatric cancer care two times over”*

*“Eliminating COPD aggravated by workers being over-exposed to industrial dust (40,000 per year) would be an annual saving for the UK £84 million in patient management costs.”*

# The good, the bad and the ugly

- Without LEV, things could certainly be worse and there is good practice out there, with some industries transformed in workplace health
- Of course, much of the problem is with commissioning, use and maintenance – the user problem
- So how do we make a difference?

# Legal risk

- HSE enforcement risk
- Civil law risk
- Insurance risk
- Taxation risk

# Hygiene (environment) vs Health (individual)

**Prevention by exclusion**

**Prevention by containment**

**Prevention by removal**

**Prevention by reduction**

**Prevention by personal protection**

**Mitigation by resilience**

**Mitigation by monitoring**

**Mitigation by early intervention**

**Mitigation by exclusion**

**Mitigation by treatment**

# Business cost

**Prevention by exclusion** > Substitution/process difference cost

**Prevention by containment** > Plant and maintenance cost

**Prevention by removal** > Plant, maintenance, service and waste costs

**Prevention by reduction** > Plant, maintenance, service and waste costs

**Prevention by personal protection** = consumables/capital and services cost

**Recruitment and retention cost** < Mitigation by resilience

**Service cost** < Mitigation by monitoring

**Service cost** < Mitigation by early intervention

**Employment and service costs** < Mitigation by exclusion

**Contingent liability cost** < Mitigation by treatment

# Economic cost

**Prevention by exclusion** > Encourages innovation and diversification

**Prevention by containment** > Capital growth

**Prevention by removal** > Capital, services growth, but environmental cost

**Prevention by reduction** > Capital, services growth, but environmental cost

**Prevention by personal protection** = service and product growth/environmental cost

Labour market tightening < **Mitigation by resilience**

High expertise to productivity ratio < **Mitigation by monitoring**

High expertise, but low end of national health cost < **Mitigation by early intervention**

Economic inactivity/labour market tightening < **Mitigation by exclusion**

Health cost, litigation cost, labour market tightening < **Mitigation by treatment**

# The future

- “Polluter pays principle” – Finnish model
- Fiscal policy
- Simpler regulation

# The Law

- Management of Health and Safety at Work Regulations
- Common Law of Negligence
- Control of Substances Hazardous to Health Regulations (under revision)
  
- Training, experience and other qualities

# Appropriate skills for the task

- Not everyone needs to be an expert  
....but there needs to be more expertise in the industry
- Not every LEV job needs an occupational hygienist  
....but many jobs need an LEV specialist who understands occupational hygiene
- Some training is better than no training  
....but little knowledge is dangerous

# Procurement options

- Qualifications, experience and other qualities
- P600 series, Certificate of Competence in Control
- Register of Occupational Hygiene Professionals
- Register of Local Exhaust Ventilation Practitioners (Technicians/Professionals)
- HSE directions:
  - service provider regulation
  - focus on commissioning
  - one service industry approach

# Procurement issues

- Evolution of risks
- Expertise gap
- Climate change issues
- Secondary exposure
- Vulnerable workers
- Informed clients
- Insurance profile