

Review of the relationship between the
Health and Safety Executive and Local
Authorities.

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Health and safety enforcement is currently shared between the Health and Safety Executive (HSE) and over 400 local authorities. It is a credit to this partnership that Great Britain enjoys one of the best industrial safety and health records in the world. More can be achieved. One way of doing this is to improve the service delivered to communities. HSE is reviewing its relationship with LAs because we want to ensure that the maximum impact is achieved with the resources we have available to us both.

Health and safety performance impacts across the whole of society, through personal injury and ill-health and also on economic and community vitality. Britain currently loses around 25 million working days in sick leave, whilst workplace accidents cost around £18 billion in property damage and business interruption. Accidents, sick leave and illness bring tragedy to individuals and families, and also place an increasing call on the health service and the benefits system.

Partnership?

The relationship between HSC and local authorities is, fundamentally, a legal one. Section 18 of the Health and Safety at Work etc Act 1974 allows the Secretary of State to make regulations making local authorities responsible for enforcement of parts of the Act. A more detailed description of the current legal situation is outlined at Annex 3.

The current relationship between local authorities and HSE is notionally one of partnership yet both local authorities and HSE are keen that improvements are made in occupational health and safety and this means ensuring that we have an effective working relationship. - yet at present we are not measuring how effective our partnership is.

Critics have pointed to difficulties in communication, consistency and maintenance of adequate resources within some parts of the current system. This has led some to argue that it would be better if there were just one enforcement authority for health and safety, thus providing simplicity and consistency of approach. Yet others argue that an effective central-local partnership and joint agreement of priorities can be a powerful way of achieving improvements for local communities. This should include both parties making an appropriate contribution to, and receiving benefit from, the

partnership. However, there are many views about how a partnership could and should progress.

A more effective partnership could help both HSE and local authorities to meet their targets. Councils in England and Wales have a clear role in leading their communities and joining up with others in order to promote well-being. In Scotland, through new legislation, local authorities have a duty of community planning and community engagement through the promotion of well-being. In the current environment, neither HSE nor local authorities have the capacity to deal with health and safety alone, but by working to combine resources, time and experience productively, we may together achieve greater things.

The historical basis of the partnership has been a division of enforcement responsibilities. This arrangement is based heavily upon regulation, and sets out a division based broadly upon activity. It could be argued that this should become a more pragmatic relationship where allocation is based partly on the strengths and weaknesses of each enforcing body, and partly on the requirements of businesses and the needs of employees.

<p>Should there be partnership in this area? Would it be preferable for there to be a single health and safety enforcement body? If there is to be partnership, what should the nature of the partnership be?</p>
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Measurement and Accountability?

All local authorities face a raft of competing pressures, yet levels of performance on health and safety vary widely. Some authorities carry out excellent programmes of health and safety interventions, often integrating this work within other programmes. Others, however, have been far less effective. We need to work together to achieve the best possible with the available resources.

If both HSE and local authorities are to enforce health and safety, how should their performance in communities be measured? There are a number of measures against which the performance of local authorities are measured but health and safety enforcement is not prominent among them. Should health and safety performance be more clearly measured among existing programmes in England, Scotland and Wales

as part of the assessment for CPA (comprehensive performance assessment), Best Value in Scotland, and the Wales Improvement Programme? Should it be more clearly recognised as a contributory factor towards improving economic vitality and health within communities? Should there be locally agreed voluntary targets shared between HSC and local authorities in England and Wales?

If we are to measure health and safety enforcement performance in the community, it will raise questions about those not deemed to be performing adequately. What help can be provided to those who are struggling and under performing and what mechanisms can be put in place to help prevent this happening?

How should local authorities' performance on health and safety enforcement be measured?
What should be the consequences for poorly performing authorities?
What should be the role for HSE in terms of capacity building?

Synergies

There are many current central and local government initiatives. In Wales and Scotland there has been devolution. There is also a strong drive from central Government in England towards establishing regional assemblies, and regionalism in general - indeed the Office of the Deputy Prime Minister has recently published a white paper on this "Your Region, Your Choice: Revitalising the English Regions".

Would health and safety be best dealt with on a regional partnership basis where the HSE and individual local authorities could come together to discuss issues important to that area? Should regional plans and priorities be agreed, and should resources be shared on a regional basis?

Local authorities are making a strong bid for a greater focus on local delivery – for example, through community strategies. Is this the best level at which to focus interactions between HSE and local authorities?

Local authorities can also benefit directly from increased business success. The Government is currently consulting upon a scheme, the Business Growth Incentives,

where local authorities in England could gain up to £1 Billion over 3 years for encouraging businesses.

Some have suggested that improved health and safety performance could also help economic regeneration of areas. If interventions were tailored to the needs of the businesses, for example, start-up guidance and risk assessment training would business be more likely to be successful?

How can health and safety be more effectively integrated into local authority priorities?

Priorities

To maximise our effectiveness, we cannot allow our resources to be spread too thinly. Resources dedicated to health and safety enforcement are under great pressure. It is recognised that we need to do far more to prioritise our interventions and to target them to have the maximum impact. To achieve this may mean stopping doing some things all together. Is now an appropriate time to look at, and review, the areas we currently actively enforce? Are there some areas which have sufficiently developed health and safety systems, or where risks are very low, that we should leave effectively to ‘self-regulation’ and concentrate scarce resources else where?

If we are now looking at the “newer” challenges to health and safety, then is it right that there are some areas where proactive inspection can be curtailed and alternative interventions e.g. education and guidance via intermediary organisations, taken if necessary?

How should local authorities and HSE ensure that prioritisation is effective and coordinated?

Communications

If we are to get the most from the relationship between local authorities and HSE then communications will be central to this. Communication must become more two way – with recognition that both local authorities and HSE can learn from each other and draw on respective experience, and best practice.

What scope is there for better joint planning and intelligence and information sharing? Should there be joint systems so that local authorities and HSE can work closer together and share information more easily? Should resources be put aside for development of shared databases?

How could communications be improved?

How can local authorities be more involved in the early stages of creating policy that affects them?

HSC is developing a strategy for further improvements in health and safety. It identifies how occupational health and safety is facing further, demanding challenges. It is looking at what new and innovative measures can be adopted to try to meet these. Local authorities will also face new challenges, indeed some local authorities are carrying out very successful and ground breaking work on these. We need to find innovative ways of working with local authorities to ensure that we are both equipped for these new challenges.

We have worked with Local Authority representatives to generate some possible approaches for discussion which may offer ways of tackling some of the issues touched on above. **Whilst we would like you to consider these, we recognise that there may be other approaches that we haven't listed here, or choices combining features of the ones that we have.** We would like to hear from you if you have any ideas about how the future relationship between HSE and local authorities should be shaped in order to achieve the maximum benefits to health and safety in the Great Britain.

Approaches

Approach One

The underlying ethos is to remove the dual enforcement approach. local authorities take on as much responsibility as they can, and they are one sole authority in many areas., Health and safety should be integrated into community strategies/community planning, and local problems should be dealt with at a local level. Resources would be transferred to local authorities.

Approach two

HSE takes on all policy and enforcement responsibility, and local authorities no longer have any inspectorial role. Some resources from local authorities are transferred to HSE. This option could be adapted so that local authorities were able to contribute to the health and safety agenda by giving advice and guidance in some way.

The following approaches are all variations on the current system in place. They would be based upon the changes laid out below, but also all include practices such as dissemination of best practice, information and advice sharing and improved communications.

Approach three

Dual enforcement continues but current systems are improved and refined. An example of this would be moving to a programme and project based approach with jointly developed outcomes. Various structures are possible, for example, a regional or local structure. The emphasis would be on what HSE and local authorities are charged to deliver set outcomes but with flexibility downstream about how this is achieved. This system would allow local communities to be involved as stakeholders within project boards and projects and would hopefully facilitate joined up working at a local level.

Approach Four

Dual enforcement and the current division of responsibilities remain (subject to minor adjustment) but a simple approach is taken to division of responsibility, for example,

local authorities become responsible for all small and medium businesses (50 employees and less) and HSE responsible for all large businesses (250 employees and more) irrespective of the nature of their business. The remaining businesses would be split based on activity. Another possibility with this approach is that division is based upon type of injury/accident (eg local authorities responsible for health concerns).

Approach Five

Where possible, health and safety policy, enforcement and measurement is joined up with the approaches of other government departments. One example would be that health and safety inspections / advice is given by a Local Authority inspector when they deal with other routine inspections, such as food safety.

Approach Six

A degree of self-regulation for larger organizations that can demonstrate performance, this could be combined with a lead 'enforcer' partnership type approach. Inspection would only be on an exception basis i.e. investigation or local issues. This approach could be combined with other approaches above.

Questions:

Annex 2

Should there be partnership in this area?

Would it be preferable for there to be a single health and safety enforcement body?

What should the nature of the partnership be?

How should local authorities performance on health and safety enforcement be measured?

What should be the consequences for poorly performing authorities?

What should be the role of HSE in terms of building capacity?

Is enough being done to integrate health and safety into local authority priorities?

How can health and safety be more effectively integrated into local authority priorities?

How could communications be improved?

How can local authorities be more involved in the early stages of creating policy that affects them, recognising the obvious difficulties of the numbers of local authorities involved?

Reply and Contact details

We would be grateful to receive responses not later than **19th September** to the following addresses

Local Authority Consultation Response

Strategy and Intelligence Division

Health and Safety Executive

8NW Rose Court

2 Southwark Bridge

London

SE1 9HS

Or leave a **telephone message**, with your response on: 020 7717 6952

Or **email**: sid.consult@hse.gsi.gov.uk

Health and safety legislation, as specified in the Health and Safety at Work etc. Act 1974 (HSWA) and relevant statutory provisions, is enforced by the Health and Safety Executive and local authorities (LAs).

S18 HSWA allows the Secretary of State, by regulation, to make LAs responsible for the enforcement of parts of the Act. LAs are under a duty to 'make adequate arrangements' within their area for the enforcement of these.

The LA sector

The premises in which LAs have enforcement responsibilities are identified in the Health and Safety (Enforcing Authority) Regulations 1998. These are broadly:

- Retail shops
- Wholesale shops and warehouses;
- Offices;
- Catering services
- Provision of residential accommodation;
- Consumer and leisure services and other premises.

In 2000/01 the LA enforced sector included around 1.2 million premises.

The most common causes of injuries in the LA enforced sector continues to be slips and trips, falls from height and workplace transport.