

Open Government status: Open	Paper Number: H15/02
	Meeting Date: 1 August 2013
Exempt material: None	Type of Paper: Above the line

HELA

Implementation of the LA National Code

A Paper by Elaine Harbour (LAU)

Cleared by Kevin Myers on 24 July 2013

Issue

1. This paper seeks HELA's support in ensuring LA's implement the LA National Code

Timing

2. For discussion at the meeting on 1 August 2013

Recommendation

3. That HELA consider their role with regard to supporting LA's implementation of the LA National Code.

Background

4. Following a public consultation and clearance from the HSE Board and Ministers, the National Local Authority Enforcement Code was published on 29 May 2013¹. At the same time, HSE also published its response to the consultation² and a list of activities/sectors suitable for targeting for proactive inspection³.
5. The Code was developed both in response to the recommendation by Professor Löfstedt for HSE to be given a stronger role in directing Local Authority inspection and enforcement activity; and as an outcome of the Red Tape Challenge on health and safety. It is issued under Section 18 of the Health & Safety at Work etc. Act (HSWA). Section 18 places a duty on every LA to make adequate arrangements for enforcement in accordance with guidance issued by HSE.
6. HELA discussed the outline framework and an initial draft of the Code at its 21 June 2012 meeting (paper H13/03) and the consultation document at its meeting on 17 January 2013 meeting (paper H14/02). HELA recognised that the Code provided flexibility to deal with issues where local factors/intelligence identified a particular problem, and agreed that the list of activities/sectors would assist LAs to concentrate their efforts on the basis of risk.

¹ <http://www.hse.gov.uk/lau/publications/national-la-code.pdf>

² <http://www.hse.gov.uk/consult/condocs/cd247-update.pdf>

³ <http://www.hse.gov.uk/lau/publications/activities.pdf>

Discussion

7. The consultation responses to the LA National Code demonstrated support for the Code with:
 - 78% of all respondents supporting the risk based approach;
 - 77% of LA respondents agreeing that the list of higher risk sectors and key activities appropriate to be targeted for proactive inspection was helpful; and
 - 71% of LA respondents agreeing the Code provided sufficient guidance on regulator competence
8. The consultation also highlighted areas where LA respondents considered that further additional guidance and supporting materials would be helpful. The key areas being:
 - The delivery of local priorities and the extent of local flexibility to deal with issues where there was evidence that risks were not being effectively managed (consultation views were split with 52% of LA respondents agreeing that the Code provided for sufficient local flexibility); and
 - Information to aid consistency and assist with targeting resources (the consultation showed 61% of LA respondents agreeing that the Code provided sufficient direction for LAs to target their resources; and 60% agreeing that the Code adequately set out how LAs can achieve a consistent approach via risk based targeting).
9. Following the launch of the Code the Local Authority Unit attended a number of LA liaison group meetings to promote implementation and clarify understanding of the Code. The feedback from the issues raised by the liaison groups along with the consultation analysis informed the development of supplementary guidance to the Code.
10. Following HSE Board and Ministerial clearance, the supplementary guidance was published on 27 June 2013⁴. The guidance is designed to clarify the policy intent and assist LAs understanding and implementation of the Code, it covers:
 - a) The range of regulatory interventions and the role of inspection;
 - b) Dealing with matters of evident concern;
 - c) The delivery of local priorities;
 - d) The provision of advice and support to business; and
 - e) The intelligence/evidence available to identify poor performers.
11. In addition, many respondents queried the relationship between the Code and LAC 67/2 on Targeting Interventions. We have included reference to this LAC being revised to align with the Code within the supplementary guidance and also placed a note to this effect on the HSE website. Work is currently underway with the Health & Safety Practitioner Forum to revise the operational guidance within LAC 67/2 to provide the necessary supporting materials and case studies to assist LAs implementation of the Code. The intention is to consult with LAs before issuing this guidance in autumn 2013.
12. Within the consultation questions were also directed to business respondents. Generally SME's and micro business representatives recognised that having a uniform

⁴ <http://www.hse.gov.uk/lau/publications/supplementary-guidance.pdf>

standard would allow for a more consistent approach whilst large multi-site businesses and their representatives had reservations that the Code would have the desired outcome. Many business respondents recognised that regular monitoring would be required. An early review of implementation is therefore considered necessary to see how the Code is working in practice.

Action

13. HELA members are asked to consider the LA National Code and associated documents and:

- a) Provide feedback on implementation of the Code;
- b) consider what further support measures are necessary or desirable to assure compliance with the Code and HELA's role (individually and collectively) in this respect; and
- c) discuss their role in the proposed review of the Code

Contact

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