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Local Authority Delivery of the Government's Health & Safety Reforms

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Cleared by Elaine Harbour on 27 June 2011

Issue

1. This paper seeks views on HELA's role in assisting LAs to deliver:
 - a) the Government's reforms of health and safety; and
 - b) the HSE strategy

Timing

2. For discussion at 4 July meeting of HELA to assist the development of further work to deliver health and safety reforms, in particular, the development of guidance on LA planning priorities which needs to be available by autumn 2011 to coincide with the normal LA 2012/13 planning cycle.

Recommendation

3. That HELA consider their role in how LAs deliver the HSE Strategy and the Government reforms

Background

4. The Coalition Government's statement on its programme for Government ¹ was published in May 2010. It outlines the Government's priorities which included the intention to promote growth, tackle unnecessary regulation and reduce the burden of red tape on business. It specifically stated that it "will end the culture of 'tick-box' regulation, and instead target inspections on high-risk organisations through co-regulation and improving professional standards".
5. In June 2010 the Prime Minister appointed the Rt. Hon Lord Young of Graffham as adviser on health and safety law and practice. Lord Young undertook a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture. His report

¹ http://www.cabinetoffice.gov.uk/sites/default/files/resources/coalition_programme_for_government.pdf

² was published in October 2010 and put forward a series of recommendations which included measures for improving the public perception of health and safety and reducing the burden of bureaucracy on businesses. The Government accepted all of Lord Young's recommendations.

6. On 21 March 2011 the Minister Grayling announced the next steps in the Government's plans for reform of the health and safety system with the publication of "*Good Health and Safety, Good for Everyone*"³. The most significant aspect to these reforms for health and safety regulators is the shift in focus of HSE and LA enforcement activity away from businesses that do the right thing, to concentrate on higher risk areas and dealing with serious health and safety breaches.
7. Within "*Good Health and Safety, Good for Everyone*", the Government recognised that the comparatively large number of LA visits reflect in part the assistance that they are able to provide to businesses across a range of services and requirements. However, LAs (and HSE) are specifically required to reduce proactive inspections per annum by a third, have greater targeting where proactive inspections continue and to increase their information provision to small businesses in a form that is both accessible and relevant to their needs.
8. High level discussion took place between HSE and LG Regulation to develop the proposals that needed political support from the Local Government (LG) Group. The political consultation was with the relevant LG Group (councillor) Safer & Stronger Communities Programme Board who agreed in February 2011 that it supports working with HSE to deliver better targeted health and safety regulation alongside exploring a mechanism to introduce a "fee for fault" regime. With this mandate LG Regulation developed with HSE the proposed guidance on how to better prioritise local authority inspection in the light of financial and other resource constraints. It was intended that the statement was drafted in such a way that within the overall policy framework it provided flexibility for LAs to continue to deliver health and safety as best suits locally whilst also using national intelligence and information from HSE. HSE and the LG Group published the joint guidance in May 2011⁴.
9. The Government's reforms also introduce cost recovery for material breaches of health and safety law. HSE are developing proposals for cost recovery and there will be a period of consultation on this from July to September 2011.
10. In addition HSE launched "Health and Safety Made Simple"⁵, a new HSE website designed specifically for low- risk businesses, particularly small-and medium-sized enterprises.
11. Further information on the Government's reforms is provided in the HELA paper 11/05, a below the line paper on "*The Government's regulatory reform agenda*".

Argument

12. The HSE Board's strategy "The Health and Safety of Great Britain\ Be a part of the solution"⁶ remains valid and provides a framework for the delivery of the reforms.

² http://www.number10.gov.uk/wp-content/uploads/402906_CommonSense_acc.pdf

³ <http://www.dwp.gov.uk/docs/good-health-and-safety.pdf>

⁴ <http://www.hse.gov.uk/lau/pdfs/reduced-proactive-inspections.pdf>

⁵ <http://www.hse.gov.uk/simple-health-safety/>

13. The aim of the health and safety reforms is to ease any burden of bureaucracy on business whilst protecting people in the workplace and society as a whole. The jointly produced HSE/LG Regulation guidance assists LAs in determining how they target their proactive inspection resource on areas/issues where they can make the most difference. The effect of reducing the aggregate numbers of proactive inspections will free up capacity that can be used to develop alternative interventions.
14. The guidance asks LAs to consider the full range of interventions available, reserving proactive inspection for where it will have the most effect. Risk-based intelligence-led reactive work, for example LPG interventions, investigating incidents, responding to complaints and other intelligence should continue. HSE's incident selection criteria and risk based complaints handling process can assist with targeting reactive work.
15. HSE, in consultation with LAs, is developing a range of sector strategies underpinning the HSE Strategy. The sector strategies will help determine both HSE and LA priority planning material which HSE LAU will work with LAs to develop revised priority planning guidance (LAC 67/2). The aim will be to revise the LAC to better reflect the shift in emphasis resulting from the reforms and to set national intervention priorities for the 2012/13 work year.
16. In accordance with the joint guidance, LAs should use the national priority planning material alongside their own local information to develop intervention strategies targeted at poorly performing businesses. This approach should facilitate the identification of opportunities for future partnership working at both a national and local level.
17. One of the main aims of HELA is to provide strategic oversight of the partnership between HSE and local authorities, with a view to maximising effectiveness and improving health and safety outcomes to ensure delivery of the HSE strategy⁷. In light of the Government's reforms, and to ensure effective partnership working, HELA is invited to consider their role in how LA's deliver the HSE Strategy and the Government's health and safety reforms.

Consultation

18. Operational Strategy Division (HSE), FOD HQ (HSE), Sarah Bull (LG Regulation)

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⁶ <http://www.hse.gov.uk/strategy/>

⁷ <http://www.hse.gov.uk/aboutus/meetings/committees/hela/111006/h2-02.pdf>