

## **HELA Meeting: 4 September 2009**

**Local Government House, Smith Square, London, SW1**

### **Minutes of meeting**

#### **Attendees**

Kevin Myers, Joint Chair, HSE (Chairing this meeting)  
Paul Unsworth, Joint Chair, LG  
Nick Ratty, Head of STSU (HSE)  
Marcia Davies, Partnership Champion, HSE  
Max Walker, Chair, Partnership Managers' Liaison Forum, HSE  
David Evans, Society of Chief Officers of Environmental Health (Scotland)  
Kim Pugh, Torfaen County Borough Council  
Jenny Morris, CIEH  
Phil Preece, LBRO (Observer)

#### **Officials**

Mark DuVal, LACORS  
Charlotte Meller, LACORS  
Sarah Bull, LACORS  
Tom Moody, LACORS  
Sean Edwards-Playne, HSE/LAU  
Joanna Teasdale, HSE

#### **Presenting**

Tony Hetherington, HSE/LAU  
Marcus Herbert, Reading BC  
Steve Duckett, East Dorset, DC  
Peter Haikin, Poole BC

#### **Item 1: Welcome and apologies**

1.1 Attendees introduced themselves. Apologies were received from Graham Robertson, REHIS, Darran West, Chesterfield BC, Jane Willis, HSE, and Andrew Griffiths, CIEH (substituted by Jenny Morris)

#### **Item 2: Minutes from the last meeting / Matters Arising**

2.1 The minutes from the last meeting held on 23 March were agreed as a true record. It was asked that in item 2.1, that 'national priorities' be changed to 'Rogers priorities'.

#### **Action:**

#### **2.1 Secretariat to amend minutes**

#### **Item3: Section 18 Toolkits – Update – Paper H8/01**

3.1 Tony Hetherington introduced the paper. It was the intention to make the toolkit package available from the end of September. The use of the term 'soft launch' within the paper was queried and judged inappropriate. It was agreed the toolkits should be launched immediately for a trial 'calibration' period of six months, during which time, queries and comments would be taken into account. All LAs would be expected to implement the procedures in full by April 2010.

3.2 It was decided that nominated County Groups should be encouraged to share out the testing of the components of the standard between themselves.

3.3 It was agreed that a letter from HELA be sent to Chief Officers to introduce the toolkits and encourage all LAs to participate in the calibration period and be ready for full implementation by April 2010.

**Actions:**

**3.1. LAU to ensure that the suite of toolkits be available on HELEX and the HSE website from the end of September.**

**3.2. HELA Joint Chairs to write to all LA Chief Executives asking that all LAs be encouraged to take part in the six month calibration period. (letter also to include actions from 5.1 and 8.1)**

**3.3. LAU and LACORS to use their communication networks to encourage participation in the calibration period.**

**3.4. HSE Partnership Managers to co-ordinate calibration studies locally and feed data back to LAU.**

**3.5. A paper summarising uptake and comments received during the calibration period to be prepared for the March 2010 HELA meeting.**

**Item 4: Section 18 Toolkits – Capacity Toolkit – Paper H8/02**

4.1 Marcus Herbert introduced the paper. Previous Section 18 Guidance had made no detailed reference to the important matter of resourcing. HELA was asked to recommend adoption of this toolkit subject to alignment between FOD and LAs, and the inclusion of reliable indicators that would underpin the descriptive nature of the toolkit.

4.2 It was agreed paragraph 13 of the paper was misleading – the purpose of the standard was to provide a benchmark to adequate resourcing and to ensure resources were applied efficiently and effectively. It was also noted that some references to current LA resourcing relied upon anecdotal evidence and outcomes of application of this toolkit would provide more reliable data on LA resourcing. It was considered it would also be helpful to make reference

to the SLIC principles for labour inspection that had been adopted by EU member states, as HSE/LAs should be seen to be consistent with this.

**Actions:**

**4.1. It was agreed this toolkit provided a good basis for the judgement of resourcing and should be released with the other toolkits.**

**4.2 The introduction to the toolkit to be revised to ensure that it is clear that the purpose of the standard is to ensure adequate and efficient use of resourcing and to reflect the link to Senior Labour Inspectors' Committee principles.**

**Item 5: S 18 – Self Assessment and Peer Review – Paper H8/03**

5.1 Tony Hetherington introduced the paper.

5.2 There was general agreement to the proposals for self assessment and peer review.

5.3 Sanctions to be applied to those not complying with procedures or unable to demonstrate provision of an adequate service were considered. It was accepted that in extreme cases where no adequate service was provided, the only recourse was to make an application to the Secretary of State to transfer responsibility from the LA to HSE. However it was noted that under the previous s18 'Statutory Guidance' there had been very few instances of failure and these had been resolved by discussion with the authority and support from HSE and other LAs. HELA expressed a desire that experience with the new standard would be similar and no other action was required at this stage.

5.4 The role of HSE Partnership Managers in peer review was considered. It was agreed that the role of the PMs was to facilitate the processes, share and encourage good practice and act as a moderator; they were not judges of compliance with the standard.

5.5 It was agreed that HSE Field Operations Division would also develop a mechanism to demonstrate its compliance with the standard. Proposals for the assurance process would be brought to the March 2010 meeting of HELA.

**Actions:**

**5.1 The self assessment and peer review processes to be released for a six month calibration period followed by full implementation.**

**5.2 Reference to peer review and self assessment to be included in the Joint HELA Chairs' letter as at Action 3.2**

**5.3 Proposals for how HSE/FOD would demonstrate compliance with the standard to be brought to the April 2010 meeting of HELA.**

**Item 6: Working with LAs to Implement HSE's Strategy for Health and Safety in Great Britain – Paper H8/04**

6.1 Tony Hetherington introduced the paper.

6.2 HELA requested regular updates on how Strategy Action Teams (SATs) were progressing and for good LA engagement with the development of thinking on delivery of the strategy.

6.4 In discussion HSE explained that its co-ordination of development and delivery of the strategy would not follow the model of FIT3. HSE wanted to adopt an approach that was less top down and more bottom up and sensitive to the differing requirements of the regions. This approach recognised that LAs knew their 'customer' base and were well placed, given the right data, to help identify the most efficient and effective ways of delivering the strategic priorities. This would be done working with the local HSE delivery partners. It was stressed that the intention was to encourage LA and HSE practitioners to be innovative in the way they implement the strategy.

6.5 HSE had set up a Planning and Delivery group to provide oversight and co-ordination (but not direction) of work to deliver the strategy. Membership of the group included LACORS.

6.6 It was accepted that this philosophy was not yet fully understood by all LA practitioners. It was decided that a good forum for explaining these key messages would be the Regional Partnership Events to be held in the autumn.

6.7 HELA was informed that LAs would be provided with an analysis of their accident statistics to assist them in identifying priorities in their areas.

**Action:**

**6.1 Explanation of the principles that strategy implementation should be delivered through the business and not imposed from the centre to be included with presentations to be made at partnership events during November and early December.**

**Item 7: Macrory Alternative Penalties and Adoption of Sanctions Under the Regulatory Enforcement and Sanctions Act 2008 – Paper H8/05**

7.1 Charlotte Meller introduced the paper.

7.2 It was accepted that there was no immediate need or appetite to use Macrory sanctions for health and safety. However, this decision could be

reviewed in the light of experience of using these penalties with other areas of regulation.

7.3 It was generally agreed that it had been identified that more training was needed on the use of existing powers by LAs before any new ones were introduced. The new RDNA process was designed to pick up on this and it should indicate what was required and by whom. This was considered to be a sensible approach and HELA asked that an update be brought to the next meeting. CIEH also supported this approach. HELA also agreed to monitor DEFRA's and the relevant LAs' experience of using Macrory penalties in environmental legislation.

**Actions:**

**7.1 An update on any lessons learned from using Macrory penalties to be brought forward as necessary.**

**7.2 HELA to be informed of the outcomes of the RDNA processes relevant to legal training and how any identified training needs are to be met at the April 2010 meeting.**

**Item 8 LA Priority Planning Guidance – Update – Paper H8/06**

8.1 Kim Pugh introduced the paper which had as its annex the draft of the new Priority Planning guidance with the new Section 18 detailed guidance on risk rating and priority planning. This was a replacement for LAC 67/1.

8.2 HELA agreed the new guidance without amendment.

**Action:**

**8.1 Guidance to be launched and publicised via the HELA Joint Chairs' letter.**

**Item 9 WorkWell Dorset – Targeting Resource to Risk**  
**– Paper H8/07**

9.1 Steve Duckett from East Dorset DC and Peter Haikin from Poole BC introduced the paper. The WorkWell Dorset project was formally initiated in January 2009 and was funded until March 2010. The project trialled mechanisms to deliver health and safety regulation in Dorset using both HSE and local authority resource to better target risk, unconstrained by current enforcement boundaries and traditional ways of working.

9.2 HELA endorsed and applauded the work of the WorkWell Dorset project citing it as a very good example of innovation driven from the bottom up. HELA said that this work 'grasped the nettle' and had gone a long way to help further embed partnership principles.

**Action:**

**9.1 HELA to receive a below-the-line update on the work of the project at its meeting in April 2010.**

**Item 10 Any Other Business**

10.1 Paul Unsworth requested that the below the line paper H8/08 on the Primary Authority Scheme be discussed in the light of recent developments. HSE had recently agreed with LBRO that a joint letter would be sent to all LAPS participants encouraging them to convert to a Primary Authority arrangement. HSE would maintain LAPS arrangements for 18 months to facilitate transfer to PA arrangements.

10.2 HELA Members and CIEH expressed disappointment with this decision, asking for further and wider consultation, citing the fact that the LAPS scheme was popular, it worked well, and the Primary Authority Scheme was not for everybody.

10.3 Phil Preece pointed out that there were some inaccuracies in the paper and that LBRO would be in touch with LACORS with a view to correcting these. Mark DuVal reported that LACORS was considering making Home Authority facilities available to LAPS participants not wishing to convert to PA arrangements.

10.4 HELA noted these developments.

10.5 The chair raised the matter of legal competence in respect of leisure activities where the LA was perceived to have some linkage to the organisation in question. He was aware of a couple of challenges and wondered whether these were isolated situations or particular examples of a wider underlying issue. HELA was not aware of a widespread issue but agreed to make enquiries of its constituents.

**Action:**

**10.1 HELA members to inform LAU of any instances they become aware of challenges against an LA's competence to investigate an accident, incident or complaint independently, is challenged.**