

## MINUTES

### HELA2

Church Commissioners, 1 Millbank  
London, SW1 3JZ

Wednesday 11 October 2006

### Present

#### HELA Members

Justin McCracken, Deputy Chief Executive of HSE (Chair)  
Malcolm Mathias, East Riding of Yorkshire Council (Alternate Chair)  
Tim Galloway, Head of CACTUS (HSE)  
Kim Pugh, Head of Public Protection, Torfean Council representing Welsh  
Local Authorities  
Giles Denham, Director of Policy Programmes (HSE)  
David Evans, Society of Chief Officers of Environmental Health (Scotland)  
Peter Dodd, Partnership Manager  
Shila Patel, Chartered Institute of Environmental Health  
Graham Robertson, Royal Environmental Health Institute of Scotland

Charles Loft, LACORS  
Charlotte Mellor, LACORS  
Allan Davies, Head of LAU  
Gerry Kasprzak, HSE/LAU  
Simon Longbottom, HSE/FIT3  
Nick O'Donnell, DTI/LBRO  
Janet Francis, HSE  
Sean Edwards-Playne, LAU, joint HELA Secretariat  
Sarah Bull, LACORS, joint HELA Secretariat.

### **1. Introductions and Apologies**

Apologies were received from Phil Scott and Darran West.

### **2. Notes of last meeting – 21 March 2006 - Updated Terms of Reference**

**2.1** Members were content with both the updated terms of reference and the notes of the last meeting and no further comments were made.

### **3. HSC/E Governance Review and Fundamental Review**

**3.1** Justin McCracken gave an oral update on the HSC/E governance review. There had been discussions about the possibility of merging the two statutory bodies of HSC and HSE, establishing a unitary body with non-

executive board members. This would enable better presentation to the public and reflect clearer thinking on corporate governance. The Chair of HSC would become the Chair of the new body. Existing HSC Commissioners would become non-executive board members. HSE's Chief Executive would be Chief Executive of the new body and the current status of executive members of HSE would be abolished.

**3.2** A public consultation was expected to commence in November in which HELA members were invited to participate. The proposals for the new body incorporated four guiding principles:

- It would retain its independence.
- The tripartite structure would remain
- Individual regulatory enforcement decisions would be taken by officials.
- Local authority interests would be represented on the new body.

**3.3** It was anticipated that the consultation period would last three months. It was agreed that the consultation document would be circulated to HELA members.

**3.4** Justin McCracken updated members on HSE's fundamental review. Issues that HSE was looking at were: freeing up time, delivery, procurement, making the best use of science and working with others. Although no action plans or timelines were yet in place, there were areas of interest to HELA, namely:

- Planning and reporting processes. There was a need to streamline these. LA planning processes needed to be looked at alongside HSE's.
- Rationalisation of operational guidance. This needed to be made more fit for purpose.
- Looking at approaches to evaluation. This needed to be sufficiently strategic. LAs needed to be involved here.

#### **4. Updates and Discussion**

- **Section 18**
- **Flexible Warrants**

**4.1** Gerry Kasprzok introduced the new proposed Section 18 standard which would apply to HSE as well as LAs. This had been to the LACORS Policy Forum who considered it to be sufficiently prescriptive yet flexible to meet concerns. However they considered the lead in to April of 2007 to be too quick. There was a need to engage with elected members over this and with mid term elections approaching, a longer period was desirable they said. They also queried who would 'peer review' HSE.

**4.1** Giles Denham said that HSC's Enforcement Policy Statement needed to be reflected more strongly within the new standard as it was fundamental to 'doing the job'. It also needed to be approved by HSC.

**4.2** Justin McCracken pointed out that HSE was subject to peer review by European colleagues in 24 member states. Such a review had recently been conducted. Although their report had not yet been received he said he would share this with HELA colleagues when it was.

**4.3** HELA members agreed that a longer lead in period for the new Section 18 standard was necessary to get the detail of it right. It was decided that this would be discussed at the next meeting of HELA before going to HSC.

**4.4** Gerry Kasprzok gave a summary of the flexible warrant pilots that had been running and continued to run.

**4.5** Kim Pugh said LAs were looking at joint warranting in Wales and that it would be useful to contact Partnership Managers to get their feedback on this.

**4.6** Giles Denham said it would be useful to do a cost benefit analysis. This could be part of the terms of reference for the task and finish group taking the matter forward.

**4.7 ACTION: Gerry Kasprzok to draw up terms of reference for task and finish group to reflect need for a cost benefit analysis. LACORS to identify a member for the task and finish group.**

## **5. Revisions to LAC 67/1**

**5.1** Allan Davies introduced the proposed changes to LAC 67/1 and gave some background to this primary guidance. Changes had been made to it two years ago to allow for topic inspections but there were concerns now that it was inhibitive in terms of FIT3 work. Two main issues to seek the views from HELA were:

- were the changes appropriate and satisfactory.
- Was it appropriate to set up a task and finish group.

**5.2** Giles Denham asked if it had been looked at in the light of Hampton. Allan Davies said that this could be part of the work of the task and finish group.

**5.3** It was agreed that it would be appropriate to set up a task and finish group. Justin McCracken said that when the group had done its work, the proposed new document should go to HSC for final approval. If there were no contentious issues it could go below the line. Sandy Blair should be briefed so that he had the opportunity to make the item above the line and for discussion if necessary.

**5.4 ACTION: Allan Davies to circulate terms of reference incorporating compliance with better regulation principles and reflect the fact that the final paper goes to HSC. LACORS to nominate a member for the task and finish group.**

## **6. FIT3 – Planned Portfolio**

**6.1** Simon Longbottom presented the papers and annexes, the 'Draft Framework Delivery Plan' being the key document. This incorporated comments received and lessons learned and had a more communications focused approach, identifying key audiences in key areas.

**6.2** Next year's proposals were not radically different from this year's. A balance of interventions were represented including enforcement and inspections and looking at high risk areas. HELA members were asked for feedback on how practical the proposals were for LAs to run with.

**6.3** David Evans said that at the LACORS Policy Forum there had been broad support for the delivery plan which was clearer than what was previously in place.

**6.4** Malcolm Mathias said that LAs were concerned over the implications of the smoking legislation on their resources whilst also recognising synergies with the public health agenda.

**6.5** David Evans said the experience of the Scottish LAs was that there had been no great problems. However, every LA had been allocated extra resource, albeit late in materialising. Graham Robertson said that it had taken one additional officer per authority to get the legislation moving.

**6.6** Kim Pugh said that in Wales some additional funding had been available. LAs had taken this opportunity to build on FIT3 work and wider public health issues.

**6.7** Allan Davies had drafted a letter to advise professional bodies and LACORS of what HSE was contributing when the smoking legislation came into force. **ACTION: Allan Davies to circulate this letter to HELA members.**

## **7. LBRO Update**

**7.1** Nick O'Donnell gave members an update on the work of the LBRO. Jane Swift, Director of the LBRO had recently met HSE Board Members and was due to give a presentation at the meeting of HSC and the Local Government Panel.

**7.2** David Evans said that, in Scotland, COSLA had taken the view that LBRO should be representing other regulatory services and not just environmental health and trading standards. These views had been put across at a meeting with the Minister, Ian McCartney. Justin McCracken said that HSE had been trying to engage constructively with LBRO from the outset. Giles Denham pointed out that he had been circulating papers from the LBRO steering group to HELA members.

## **8. Feedback from LOPP Task and Finish Group**

**8.1** Malcolm Mathias reported back on the work of the LOPP task and finish group on behalf of Darren West who was not present at HELA. Five issues had been considered:

- Consistency of approach to large companies
- Political impact.
- Guidance
- Communications
- Funding

**8.2** Initial communication of LOPP to LAs had not been good. However, a letter, to be signed by the Joint Chairs of HELA had been drafted, to go out to all CEHOs, with a view to foster better understanding of LOPP.

**8.3** Advice was currently being sought as to the legal vires which LAs possess to enforce standards across multiple site organisations which operate in more than one LA area. There was concern among LAs that LOPP was restricting inspection activities.

**8.4** Funding for LOPP remained an issue. HSE had provided 90k in funding but there was concern that LAs would have difficulty in sustaining LOPP.

**8.5** Giles Denham said that we should provide feedback and share the outcomes of the review and that the intention to do this should be reflected in the letter. Funding was a very broad question and the work of the LBRO would be encouraged to look at this.

**8.6 ACTION: Joint Chairs of HELA to incorporate suggested changes to letter, and send under their signatures.**

## **9. Issues for the LGP/HSC Meeting – 7 November 2006**

**9.1** There were five suggested items for the agenda of the HSC/LGP meeting. Justin McCracken suggested that item e. on HSE's financial situation be made an above the line oral report to provide an opportunity for discussion.

**9.2** Shila Patel said that item d. should include Local Area Agreements (LAAs)

**9.3** Simon Longbottom asked if a paper was required for item (d) and it was agreed by members that this would be a good idea.

**9.4** LACORS suggested that maybe the agenda was too long and that item c. on enforcement could be omitted. Justin McCracken said that the view of Sandy Blair should be sought on this.

**9.5** Sarah Bull said that the papers for the meeting should, where possible, ask questions instead of just providing information, which would encourage debate.

**9.6 ACTION: LACORS to seek the views of Sandy Blair on whether he wished 'enforcement' to remain on the agenda.**

## **10. Any Other Business**

**10.1** David Evans asked for an update on the financial difficulty being experienced by HSE.

**10.2** Justin McCracken informed members that HSE's financial position meant that it needed to reduce its expenditure over the next 18 months and also to reduce the size of the organisation. This had previously been anticipated but having spent right up to budget last year, there was now a need to cut back harder than was originally thought. It was anticipated that approximately 300 jobs would need to go within the organisation but it was hoped that this could be achieved via natural wastage and a small voluntary retirement scheme. Some research work and planned communication activity had also been stopped.

**10.3** HSE was trying to protect priority areas, including that of the partnership. Partnership Manager posts were being protected although LAU was having to reduce its numbers.

**10.4** HSE had not yet agreed its settlement for April 2008 – March 2011. DWP, HSE's parent department, had already accepted a substantially reduced settlement – 5% per annum in real terms. HSC/E did not accept that it would have to be subject to a similar reduction, but against this background, discussions on its budget would clearly be difficult. It was unlikely that HSE's settlement would be agreed until next year.

## **11. Date of Next Meeting**

**11.1** The date of the next meeting has now been set for the afternoon of Thursday 1 March 2006.