

Open Government status: Open	Paper Number: H19/01
	Meeting Date: 20 October 2015
Exempt material: None	Type of Paper: Above the line

HELA

Data Collection – analysis of LAE1 2014/15 data from Local Authorities

A Paper by Shirley Howes and Alexander Tsavalos (LAU)

Advisor: Simon Webster (Statistics)

Cleared by Kate Haire on 8 September 2015

Issue

- 1) This paper provides HELA with a report on local authority (LA) inspection/visit data for the period 1 April 2014 to 31 March 2015.

Timing

- 2) For discussion at the meeting on 20 October 2015.

Recommendation

- 3) That HELA considers their role in helping LAs to deliver a consistent, proportionate and targeted approach to regulatory interventions in line with the LA National Code.

Background

- 4) HSE published the National LA Enforcement Code (referred to as ‘the Code’) in May 2013. A list of activities/sectors suitable for targeting for proactive inspection is available alongside the Code. Supplementary guidance, to assist LAs understanding, followed in June 2013 and is updated annually.
- 5) The overall trend has been one of improved targeting and a decrease in the resources used. The key contributory drivers for these changes being: the Code; expansion of the Primary Authority Scheme, and general resourcing pressures on LAs.

Summary

- 6) LAE1 data was received from 348 local authorities (92% response rate) for the period 1 April 2014 to 31 March 2015. This data was statistically modelled in line with standard annual practice to provide an estimate for the national picture (380 local authorities). The data supports the view that the majority of LAs are complying with the Code.
- 7) Total intervention numbers have fallen by 14% since 2013/14. Proactive visits have fallen by 95% since the baseline year of 2009/10. An increasing number of LAs are reporting that they do no proactive inspection at all. As a national average, LAs do less than 15 proactive visits a year.
- 8) Full summary and comparison data, alongside a detailed analysis of the 2014/15 end of year visit data, is provided at Annex 1. A copy of the current LAE1 form is at Annex 2.

Discussion

- 9) Headline activity for 2014/15 shows:
 - a) Continued reduction in resources – a fall of 4% since 2013/14, in both the number of warrant holders (from 2330 to 2230) and full time staff equivalents (from 770 to 736). Both of these values are now 30% lower than they were in 2009/10. It is not clear if this is due to resourcing pressures upon LAs; or in response to less demand for frontline interventions due to the influence of the Code or the Primary Authority Scheme.
 - b) Proactive inspections:
 - i) Account for 7% of LAs total activity, unchanged from 2013/14;
 - ii) Total numbers fell by 14% (to 5,400 inspections). This means that proactive inspections have fallen by 95% from the 2009/10 baseline year; and
 - iii) 83 LAs reported doing no proactive inspections at all. This is double the number that reported this when the Code was first introduced in 2013. Comments from LAs suggest that many LAs had not identified any sites requiring proactive intervention or had chosen to intervene in some other manner. However, some LAs did report that limited resources and the relative priority of other regulatory work had meant that they felt there were insufficient resources to pursue proactive inspections.
 - c) Targeting:
 - i) The majority of LAs are complying with the Code to target their activity with 50% of proactive visits being to sites previously rated as higher risk (A/B1).
 - ii) Just two LAs undertook 23% of all the lower risk proactive B2/C visits and 25 LAs accounted for a further 48%.
 - iii) However, there are indications that a simple consideration of the number of B2/C proactive visits is becoming a less powerful indicator of

ineffective targeting. 9 LAs reported over half of all B2/C visits, when we investigated these further we found that:

- (1) only 2 LAs were not implementing the Code;
 - (2) 2 LAs had recording/reporting issues, but the work undertaken aligned with the Code; and
 - (3) the remaining 5 LAs had followed the Code and used local intelligence to target poor performers, but the visits were classed as B2/C because of historical ratings.
- iv) We also compared relative overall activity between similar LAs. This supports the view that only a small number of LAs were not aligned with the Code's guidance on the targeting of proactive visits. These LAs also reported that they had cleared their non-compliant service plans with their senior LA management, explaining why they had deviated from the Code.
 - v) The Triennial Review recommended that HSE should draw the attention of the appropriate political leader of those LAs where its performance is significantly out of step [with the Code] of the potential risk this may pose. HELA is invited to discuss how to engage with these LAs locally.
- d) 'Other' inspections – As last year this category makes up almost half of all interventions. Comments and discussion with LAs identified that many of these contacts are advisory visits on a range of issues (e.g. retail violence, slips/trips, gas safety, legionella, major events) and also includes Estates Excellence type events and training events for local businesses. They also include advice given when visiting for another regulatory purpose e.g. public health (tattooing, sunbed establishments), food hygiene inspections (often gas safety advice), licensing/registration visits or joint initiatives with other regulators.

10) Common issues raised in the comments that accompanied the LAE1 return were:

a) There were a number of projects relating to gas safety. Several of these appear to have found high rates of poor standards;

b) Some local activity was still triggered by sites being unrated or not inspected for some time – this does not comply with the Code;

c) Confirmation that in many cases "Other visits" are advisory and also include health and safety advice given when visiting for another regulatory purpose e.g. food hygiene inspections (often gas safety issues), licensing/registration visits or joint initiatives with other regulators, and

d) Most of the comments provided helped explain how the LA had delivered work in compliance with the Code.

11) In those instances that we have identified Code interpretation/data recording issues we have fed those issues into the LAE1 Review project [see HELA paper 19/02].

- 12) In accordance with the LA National Code, HSE intends to publish the detailed LAE1 data on HSE's website to allow comparison and benchmarking between LAs.
- 13) There are a number of wide ranging factors impacting upon the capacity and capability of LAs to deliver health and safety regulatory services. The effects are evident in feedback from LAs, who claim the competence of their officers is decreasing and report that numbers of officers are decreasing. It is also evident from the LAE1 return showing a further drop in proactive and reactive interventions/ inspections.
- 14) Pressures on LA resources continues leading them to seek more efficient means of delivering their regulatory services e.g. merging regulatory teams or sharing services across LAs. Any further reductions may make the current model untenable.

Maintaining the competency of LA regulatory staff

- 15) Decreasing resources and a more targeted approach to intervention has led to concerns being expressed by LAs and LA enforced businesses about maintaining the competence of LA regulatory staff. Section 18 of HSWA 1974 requires enforcing authorities to provide an effective regulatory service. LAs report that they are finding this increasingly challenging, with fewer and less experienced officers having to cover an ever wider range of regulatory duties, beyond health and safety.
- 16) The LGA suggest that a shared service approach across multiple LAs may help maintain officer competency by ensuring officers have sufficient work to focus on particular regulatory areas and making the overheads of training and CPD sustainable. Pressures on the maintenance of competency are further highlighted by the concerns of the Scottish Procurator Fiscal regarding the quality of LA led investigations which subsequently caused difficulties in proceeding with prosecution cases. The Scotland Incident and Investigation support network was created to try and improve the quality of such investigations. We are considering whether a similar approach would be beneficial in England and Wales.
- 17) If the competency of LA workplace health and safety regulators continues to decline this will impact upon regulatory consistency and regulator effectiveness – leading to a failure to effectively enforce the law, burdens on business and negative public perception.

Primary Authority Scheme (PAS)

- 18) The introduction of Primary Authority Schemes has led many LAs to adopt a top down management system approach with participating multisite businesses. This has further reduced the need for issues to be addressed via site visits and businesses with PAS have tended to report an increase in regulatory consistency. The Better Regulation Delivery Office are currently considering plans for expansion of the scheme, and the implementation of such plans may affect how LAs allocate their regulatory resources.

Devolution

19) Workplace health and safety is a reserved issue and control of LAs is devolved. There are calls for devolution of health and safety to Scotland. The Scottish Government published a paper: *Further Devolution beyond the Smith Commission*. This argues for further devolution to allow for greater coherence between HSE and other regulatory bodies for example, fire and environmental protection already devolved.

20) There is no LA specific ring fenced budget for workplace health and safety regulation. Each LA will assign resources and develop plans taking into account the National Code, local needs, resourcing priorities and the priorities/actions of their devolved government e.g. Wales is merging a number of LAs, which this is likely to result in fewer regulatory teams, and possibly a reduction of EHOs.

The Deregulation Agenda and Business Benefits

21) The Government is committed to delivering regulatory savings through measures introduced in this Parliament which would be worth £10bn to business. Departments will be set a Business Impact Target setting out their expected contribution to these savings. A review of the Enforcing Authority Regulations 1998 could provide an opportunity to simplify requirements, consider new ways of working, and reduce burdens on business.

22) Typically businesses have expressed little interest in who is their regulator, but they do expect their regulator to be professional, competent and consistent. This includes having an understanding of the business cycle and the expectation that the regulator should not place unnecessary burdens upon them.

Action

23) HELA members are asked to:

a) Note the data;

b) Discuss how to raise non-compliance with the Code with those LAs not complying; and

c) Discuss what action it wishes HSE to pursue with those LAs undertaking no proactive inspection.

d) Discuss the factors impacting upon the capacity and capability of LAs to deliver health and safety regulatory services.

Contact

Shirley Howes Local Authority Unit
shirley.howes@hse.gsi.gov.uk

TABLES

Table 1. Total number of inspections/visits undertaken by LAs in Great Britain

Type of visit	Number of visits					
	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Proactive inspection	118,000	106,000	70,500	13,800	6,300	5,400
Revisits to check	19,000	19,000	15,600	11,600	10,300	8,000
Visits to investigate accidents	17,000	15,000	13,600	10,500	9,400	9,000
Visits following requests/complaints	24,000	26,200	22,500	22,600	20,200	17,200
Other	18,000	28,000	27,900	39,600	40,800	36,100
All	196,000	194,200	150,000	98,000	86,900	75,700

all numbers rounded to the nearest 100

Table 2. Proactive inspection by category of premises

	Average number of visits per LA	National estimate
Cat A visits	3.68	1,400
Cat B1 visits	3.42	1,300
Cat B2/C visits	7.11	2,700
All proactive visits	14.21	5,400

Table 3. Actual proactive inspection data

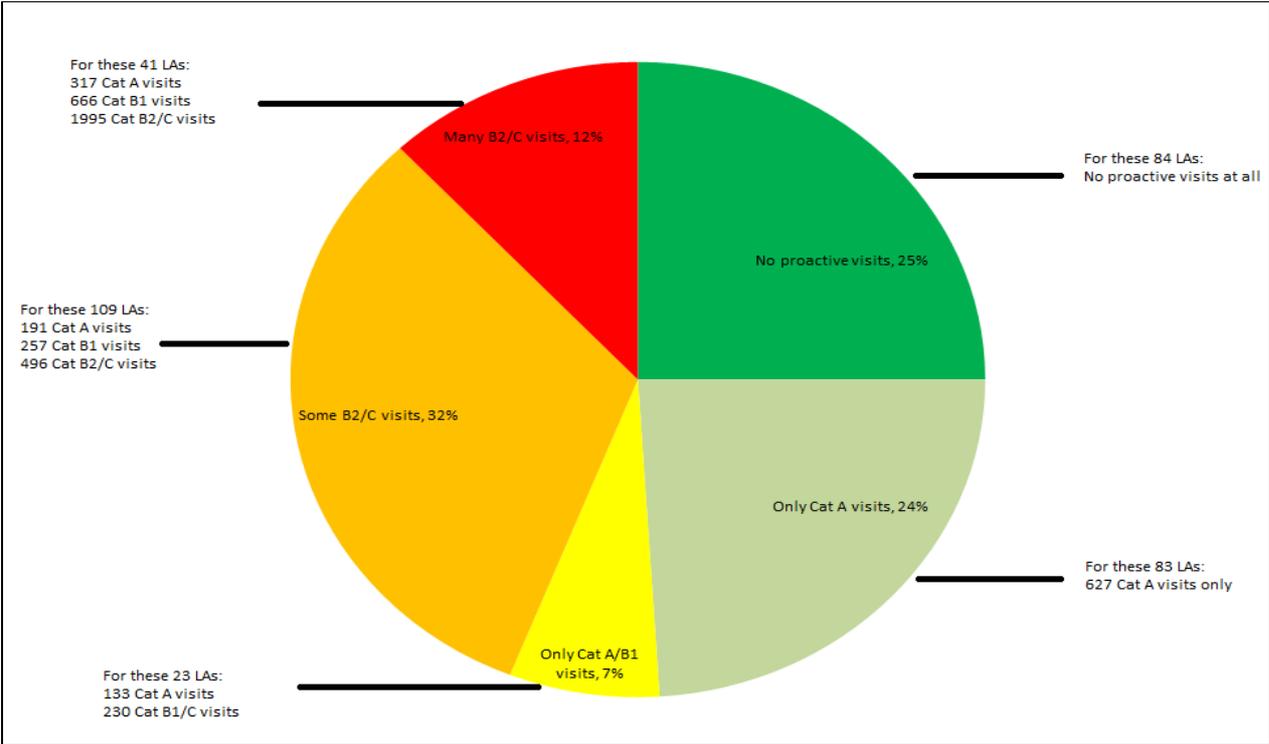
	Number of LAs /LA groups	No. Cat A visits by these LAs	No. B1 visits by these LAs	No. B2/C visits by these LAs	Total Proactive Visits by these LAs
LAs doing no proactive inspections	84	0	0	0	0
LAs doing Cat A only	83	627	0	0	627
LAs doing Cat A/B1 only	23	133	230	0	363
LAs doing some B2/C visits (< 15)	109	191	257	496	944
LAs doing many B2/C visits (15+)	41	317	666	1995	2978
ALL	340	1268	1153	2491	4912

Notes on Table 3:

i) Table 3 shows actual numbers of visits reported only by those LAs who **did submit** a return. These have not been converted into a national estimate for all 380 local authorities.

ii) For the purposes of this analysis, multiple submissions (where two or more local authorities have submitted a joint return) are counted as a single 'LA group'. In total there were returns made by 340 LAs or LA groups (332 individual responses and 16 local authorities reporting in 8 pairs).

Figure 1. Proportion of local authorities by types of proactive work undertaken

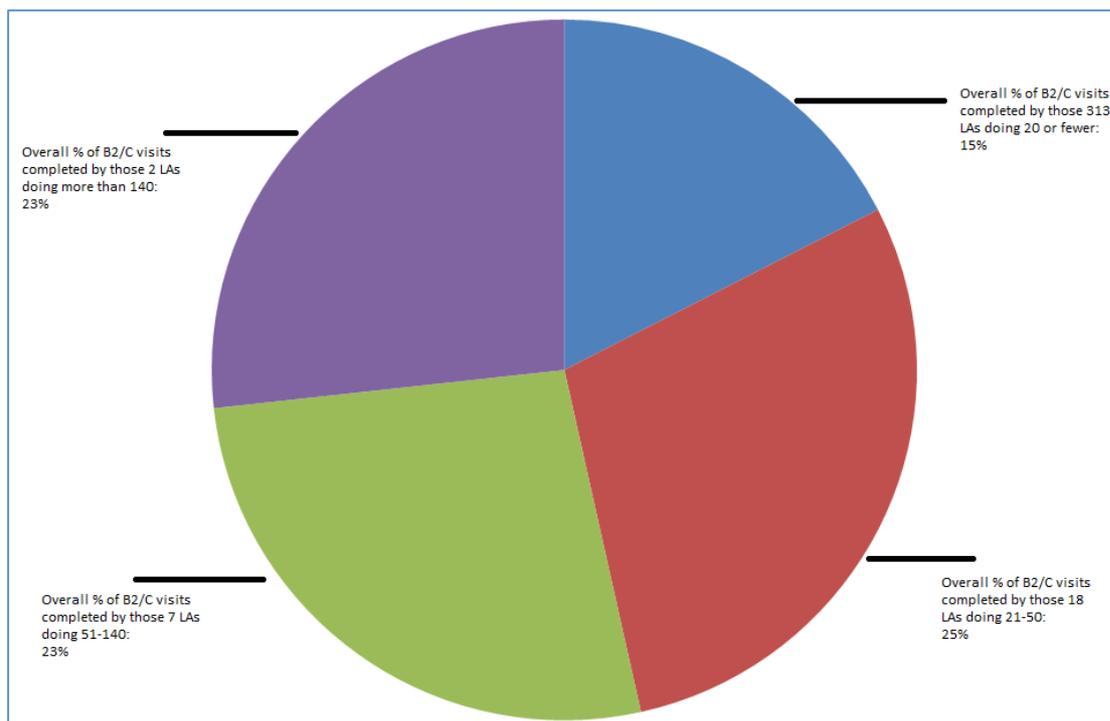


Data are taken from table 3 above

Table 4. Individual LA or LA group contributions to B2/C visits total

	Number of LAs or LA groups doing this many B2/C visits...	% of total B2/C visits
0 B2/C visits	190	0
1-5 B2/C visits	73	7%
6-10 B2/C visits	25	7%
11-20 B2/C visits	25	15%
21-50 B2/C visits	18	25%
51-140 B2/C visits	7	23%
>140 B2/C visits	2	23%
TOTAL	340	

Figure 2. Percentage of cat B2/C visits undertaken by local authorities



Data are taken from Table 4 above

Table 5: Numbers of inspectors with health and safety powers, 2009/10 - 2014/15

Staff resources	Number of inspectors					
	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Number of inspectors holding appointments under Section 19 of HSW Act	3 170	2 710	2 480	2 470	2 330	2 230
Full-time equivalent number holding appointments under Section 19	1 050	1 010	900	850	770	736



Local Authority Health and Safety Annual Return 2015

This return relates to the period 1 April 2014 to 31 March 2015

Local Authorities should input the data on HELex by **29 May 2015**

The LAE1 is designed to capture activity and information relating to occupational health and safety regulation. The information is shared with the Chartered Institute of Public Finance and Accountancy.

Information relating to petroleum and explosive licensing visits are outwith the scope of the LAE1

Local Authority name <i>(For multi-authority submissions list all participating authorities)</i>	
--	--

HSE use only	LA Code Number	LA type
---------------------	----------------	---------

VALIDATION (Head of Service or above) - "I confirm the data contained on this form is an accurate record of health and safety regulatory activity"

Name.....

Position.....

If you need any help completing this form contact LAU

Contact details of the person responsible for the completion of this form and to whom any query should be addressed

Name

Job Title

Telephone number

Email

Date

Table 1 Staff resources devoted to health and safety enforcement work – at 31 March 2015

Number of full time inspectors working part of their time on health and safety		
Number of part time inspectors working some or all of their time on health and safety		
Number of other full time staff working full time on health and safety		
Number of other staff working part time on health and safety		

Inspectors - include all Environmental Health Officers and Technical Officers, plus any contractors or agency staff, appointed under s19 of the Health and Safety at Work etc. Act and who are authorised to exercise at least some of the powers under: sections 20, 21, 22 and 25 of HSWA, any health and safety regulation or any other relevant statutory provision.

**Table 2: Summary of local authority health and safety activity
1 April 2014 – 31 March 2015**

*Only include information where health and safety was targeted as a priority for intervention
For guidance on targeting interventions see:*

- [National LA Enforcement Code](#)
- [List of higher risk activities in specific sectors suitable for proactive inspection](#)
- [Supplementary Guidance](#)
- LAC 67/2 (rev4) (Annex G)
- [Guidance on Combining H&S and Food Inspections](#)

Intervention		Number of visits/ Inspections/ contact	Guidance
Proactive inspections	Risk category A		Record proactive inspection activity only where the premises were targeted for HSWA intervention. Record activity against the rating category prior to the inspection. Do not record issues encountered that were incidental to other regulatory work e.g. matters of evident concern noticed and dealt with during a visit for another purpose.
	Risk category B1		
	Risk category B2 and C		
Non-inspection interventions	Other visits/face to face contacts		Any visit/face to face contact to educate, advise or engage dutyholders, employees or other bodies such as trade associations e.g. awareness days and advisory support visits.
	Other contact/interventions		Any other targeted contact (not face to face) to educate, advise or engage dutyholders, employees or other bodies such as trade associations e.g. to raise h&s awareness through provision of information packs. Do not include non-targeted general newsletters, service magazines or the number of website hits.
Reactive visits			
	Visit to investigate health & safety related incidents		Record the number of actual visits made under the relevant category. HSE has developed a risk-based approach to complaint handling and incident selection criteria (LAC 22/13) which LAs should adopt to help target interventions and make best use of resources.
	Visits to investigate health & safety complaints		
Visits following requests for h&s service from businesses			
	Revisits following earlier intervention		Visits following an earlier intervention to confirm action previously required has been completed e.g. to check compliance with notices.

Continued...

Table 3 Number of enforcement actions 1 April 2014 – 31 March 2015

(Please note that notices issued at HSE enforced premises under the flexible warrant scheme should not be included in this table)

(a) Improvement notices	(b) Deferred prohibition notices	(c) Immediate prohibition notices	(d) Simple cautions/cases reported to the Procurator Fiscal

(d) Number of simple cautions (non-statutory procedure) to secure compliance of health and safety in England and Wales OR number of cases reported to, but not taken by, the Procurator Fiscal in Scotland.

Thank you for completing this form

Table 4 Comments (voluntary – not part of the LAE1 return)

If you wish to provide brief comments to give further background/explanation of your reported data please include this here.

Local Authorities can input their data on-line using HELEX

HSE, as a public body, must act in accordance with the Freedom of Information Act, which also covers information provided to HSE by third parties. For more information: www.hse.gov.uk/foi/disclosure-third-party-info.pdf