

HELA Minutes

20 October 2015
Cathedral Room, Rose Court, London

Attendees

Samantha Peace, HSE Chair
Colin Alborough, Rushmoor BC
Kate Haire, HSE Local Authority Unit (LAU)
Graham Robertson, Royal Environmental Health Institute of Scotland
Ellie Greenwood, Local Government Association
Kim Pugh, Wales Local Government Association
Sarah Bates, Local Authority Unit (LAU)
Shirley Howes, Local Authority Unit (LAU)
Amanda Farrall, Better Regulation Delivery Office

1. Welcome and introduction

- a) The Chair welcomed everyone to the meeting, introducing Amanda Farrall who is attending on behalf of Philip Preece.
- b) Samantha informed members that Kevin Myers, HSE joint Chair of HELA will be retiring in March 2016.
- c) Apologies for absence received from Kevin Myers, Philip White, Steve Miller, Brian Lawrie and Philip Preece.

2. Minutes from the last meeting

The three actions have been discharged. Minutes of the previous meeting held on 20 January 2015 were agreed.

3. Update on recent developments

a) England

LA budgets are reducing with consequent loss of experienced staff. We are currently awaiting the outcome of the autumn statement which anticipates further reductions. In the face of resource restraints, the perception amongst H&S LA regulators is that priority is given to food regulation based on FSA requirements. We would welcome more support from the HSE and LGA in the positive promotion of H&S regulation and reiteration of the absolute mandate for LAs to provide a competent regulatory service.

b) Scotland

SOCEHO - Still awaiting the report following the review of current health and safety outcomes in Scotland – is being scoped by the Scottish and UK Governments.

Incident Investigation Support Network update: Legal training was delivered by COPFS

HSD and HSE to the network members – very worthwhile. Network Team have been contacted on 5 separate occasions for assistance/advice since its inception and two members have been asked to take statements on a particular case as there was conflict of interest by home authority as licensing body. Safety at Public Events Working Group under auspices of CoSLA – group set up at request of Scottish Government after high profile incidents and fatalities of spectators at car rally. Aim to get consistency of approach by every LA adopting Safety Advisory Group process when dealing with public entertainment events. REHIS- National Health and Safety Update Annual Course in September was well received by delegates. Skin Piercing (SP) and Tattooing Licensing Order – national training day held.

One issue of concern to raise – the ever increasing list of extreme body modifications that don't come under the definition of Skin Piercing and Tattooing i.e. Tongue Splitting, Scarification; Branding etc. and even Whole Body Suspension – consideration of amendment to licensing order to cover such extreme body modifications – future partnership opportunity in association with the Scottish Government and the Scottish Cosmetic Interventions Expert Group (SCIEG) – currently phase 1 looking at cosmetic interventions: botox, lasers, fillers, peels and IPL – phase 2 hopefully will consider EBM.

c) Wales

Remain uncertain about the future picture of local government in Wales. The Welsh Assembly last week postponed a vote on local government reorganisation to April 2016. Practitioners are now dealing more with public health. Concerns about tattooing parties – lack of sterilisation of equipment and the age of the recipients – the Public Health Bill in Wales should help to address this issue. There are difficulties in deciding what special procedures are included as some of the more extreme procedures such as branding are classed as assault. We are developing an MoU with Care and Social Services Inspectorate Wales (CSSIW) – they do not have the same powers as Care Quality Commission (CQC) in England. They cannot serve Notices.

d) LGA

Following the publication of its Remodelling Public Protection report earlier this year, the LGA was now undertaking a review of trading standards services. This follows the publication of the Chartered Trading Standards Institute's vision for the future of the service, which LGA members had some concerns about. The review will report back to the LGA Safer and Stronger Communities Board in December; the conclusions of the review are likely to have some crossover with other regulatory services.

e) BRDO

The Enterprise Bill is going through the House of Lords. BRDO wish to expand the Primary Authority Scheme (PAS) to include businesses regulated by one local authority. This may allow for national regulators to be more closely involved in the PAS, we are hoping HSE would be one of them. The proposal enables primary authorities to seek advice from a national regulator, who can then cost recover for their work on this advice. Discussion document is currently available on the PA register. Consultation Document closes 22 October. BRDO are also leading a government review of Trading Standards: part of this is getting all parties involved from other government departments together. Data sharing IRIS – this pilot has completed and

was successful. It resulted in the need for guidance from regulators on 'data sharing' and BRDO are considering the next steps.

f) HSE

From 1 October 2015, health and safety law does not apply to self-employed people whose work activity poses no potential risk to the health and safety of other workers or members of the public. Guidance is available on HSE's website www.hse.gov.uk/self-employed and examples of how this change affects the self-employed are provided. A feedback form on the site is available for the next three months for any comments.

A broader new Health and Safety Strategy for the health and safety system as a whole is being worked on and will be launched before Christmas. As with the previous system strategy we will be making clear what we believe the role of the regulator is and we will be looking to engage with others on their roles.

The new strategy won't signal a radical change of direction but it will point to key thematic areas where we need to do better – including occupational ill health, greater emphasis on proportionate risk management and on ensuring that the link between good health and safety and successful business is understood and bought into.

3) Data collection from Local Authorities LAE1 Annual Returns 2014/15 Paper H19/01

Kate Haire introduced the paper which reported on LA inspection/visit data for the period 1 April 2014 to 31 March 2015. She highlighted the following areas:

- 92% response rate (348 LAs), overall trend of improved targeting
- Overall trend of improved targeting with majority of LAs complying with the Code.
- Resources have reduced by 4% as illustrated in table 5
- Total interventions have fallen from 86,900 to 75,700
- Proactive visits down from 6,300 to 5,400
- Other inspections: mostly advisory visits, down to 36,100 from 40,800.
- Visits to investigate accidents remained fairly steady (9,000)(see table 1)
- Two LAs undertook 23% of the lower risk proactive B2/C visits, 25 LAs accounted for 48% of them (see table 3)
- Discussions with LAs have revealed that of the 9 LAs reporting half of the B2/C visits, only 2 are not implementing the Code. 5 LAs had followed the Code but visits were classed as B2/C due to historical ratings
- Where LAs had deviated from the Code this had the approval of senior LA managers.

HELA members were asked to:

- a) Note the data;
- b) discuss how to raise non-compliance with the Code with those LAs who don't appear to be following it; and
- c) discuss what action they wish 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.

- Discussion followed and HELA members offered their support to speak directly with outliers, LAU will provide the details.
- It was suggested that good news stories, demonstrating the freedom the Code offers, may be helpful to some LAs to address areas where no or less proactive inspection is taking place. Members also suggested some sampling might be helpful to establish whether proactive inspections are being carried out but classed as different types of work.
- An issue was raised regarding Asbestos Licencing notifications not being notified to the correct enforcing authority – LAU to follow up.
- The importance of peer review LA-LA was discussed as a tool to try and improve consistency.
- HELA members agreed that H19/01 accurately captured the factors impacting upon the capacity and capability of LAs to deliver health and safety regulatory services. They also commented on the pressures of delivering services related to public health issues, the impact on LAs of different approaches of government agencies and the choices that LAs are now faced with – we can no longer make an assumption that statutory services will be delivered.
- HELA members also discussed the importance of LAs understanding their own area's OSH risk profile when deciding how to deliver their statutory duties.
- It was agreed that following the Board meeting LAU will inform HELA and PF members of the outcome.

ACTIONS:

- 1. LAU to provide details of “outliers” to HELA members**
- 2. HELA members to consider potential good news stories that can be shared as part of 2016 LA update events**
- 3. LAU to contact ALU re notifications**
- 4. Outcome of HSE Board discussion to be fed back to HELA and PF**

4) Review of data collection from Local Authorities Paper H19/02

Kate Haire reported back the findings from the review exercise and a summary of LAs comments. The review resulted in two possible options for changes to the LAE1 proforma presented in the paper.

HELA members discussed the options presented. Members welcomed the simplification of the staff resources questions, the additional guidance on tables 2 and 4, and the simplifications for reporting of SPF cases.

Removal of the risk categories as evidence for targeting of proactive inspection was also welcomed. Members commented that risk ratings are becoming more and more irrelevant. It was suggested that it may be helpful to provide scenarios setting out how an intervention could be recorded as it still remains a challenge to present the data consistently.

The timeline also needs to be considered for changes to the LAE1 and time for them to embed for IT and recording purposes.

It was agreed that whilst there continues to be a need to make a distinction between proactive and reactive interventions and the drivers behind them, HELA members would be guided by LAUs advice and Option 1 was the preferred way to do this. This could be presented to PF.

It was acknowledged that further changes to the LAE1 form could be required post discussions with the HSE Board on 4 November.

5) Terms of Reference and governance Paper H19/03

Kate Haire introduced the paper which explained HELAs terms of reference and membership are now due for review. She advised that HSE membership needs further consideration as Jane Willis had retired and Kevin Myers would be retiring in March 2016. A number of internal HSE changes would also impact upon HSE membership going forward.

HELA members were invited to confirm to Shirley by 30 October if they wish to remain as a member of HELA. Those wishing to continue will be put forward for endorsement by PF. PF members will be invited to nominate new representatives for any vacancies arising.

Once HELA membership is confirmed the revised terms of reference could be discussed and agreed with the aim of finalising these arrangements in the March meeting.

- Recorded changes are:
 - Kevin Myers will be retiring in March 2016;
 - Kim Pugh planning to retire soon
 - Graham Robertson standing down from his REHIS role and HELA. .
Someone will be taking on his REHIS role.

Sam thanked Kim and Graham for all the hard work and dedication they have given to HELA.

6) Any Other Business - none

Next meeting – March 2016 date to be agreed.