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HELA

Delivering the co-regulator recommendations from the Triennial review of HSE

A Paper by Elaine Harbour (Head of LAU)

Cleared by Philip White on 10 January 2014

Issue

1. This paper seeks HELA's input to the delivery of the recommendations made in the report of HSE's Triennial Review concerning the HSE/LA co-regulatory relationship.

Timing

2. For discussion at the meeting on 21 January 2014.

Recommendation

3. That HELA considers their role in delivering the recommendations.

Background

4. It is Government policy that that all non-departmental public bodies (NDPBs) should undergo a substantive review at least once every three years.
5. The reviews are undertaken in two stages: the first considering whether the functions undertaken by the NDPB remain necessary and whether delivery via an arms-length body is the most efficient and effective way to deliver those functions; and then if stage one is satisfied, stage two considers whether there are adequate control and governance arrangements to ensure the NDPB complies with the principles of good governance.
6. The Triennial Review of HSE commenced in April 2013 and the review report was published on 9 January 2013¹.
7. The review concluded that there is a continuing need for the functions HSE delivers and a strong case for HSE to remain an NDPB, however, it makes a number of recommendations for improvement.
8. One of the specific areas considered by the review is HSE's relationship with its LA co-regulators. The review identifies:

¹ <https://www.gov.uk/government/publications/triennial-review-report-health-and-safety-executive-2014>

- a) Concerns around LA inspection with stakeholders concerned about variable enforcement, conflicts of priorities, limited professional leadership and limited exchange of knowledge across to HSE and other LAs.
- b) The benefit of a single regulatory body but in recognition of the disruption and practicality of this it is considered that resources are best utilised in enabling existing relationships to work better;
- c) That at this stage there is limited evidence of the effectiveness of the National LA Enforcement Code as it has only recently been introduced and will need time to bed in properly;
- d) That established liaison groups exist which provide value in allowing the sharing of knowledge and experience and peer review, but that HSE has wholly or partially withdrawn from many of these with leadership passing to LAs; and
- e) That HSE should be more active in monitoring LA data returns and addressing those LAs whose returns appear as outliers (both in terms of those LAs undertaking no proactive inspections and those undertaking a significant proportion of the lower risk inspections). The report identifies HSE as being the only body to be in a position to do this for all LAs.

9. The review report contains four recommendations for improvement:

- a) That *“HSE should actively review LAs annual returns on their inspection and advisory activities. Where there is evidence of significant deviations from the norm, they should explore the reason with the outliers. HSE should draw attention of the appropriate political leader of those LAs where its performance is significantly out of step of the potential risk this may pose”;*
- b) That *“the LA National Code is reviewed in 2014 in light of experience to identify areas for change and amendment”;*
- c) That *“HSE’s LA liaison groups should be strengthened and maintained and that HSE role in these groups should be to provide expert professional guidance, constructive challenge and leadership”;* and
- d) That LAs should work together and with HSE to ensure value for money. *“Ideally, there should be a senior champion and single point of contact and single regulatory organisation in each LA or grouping of LAs. But that what works well locally and local political accountability is just as important”.*

Discussion

10. The report has been prepared for DWP rather than HSE so we there will be further discussions necessary with DWP on how the recommendations will be taken forward.

11. Recommendations 1-3 are relatively straightforward:

- a) On the first HELA members are aware that HSE intended to work with LAs who’s figures (or lack of figures) prompted questions and we will seek to involve political leaders as appropriate;

- b) On the second, HSE have committed to a review of the Code. At this stage our outline plans are to:
 - i. analyse the end of year LAE1 data for 13/14 when it is available in order to assess LAs implementation of the Code;
 - ii. consider any cases referred to the Independent Regulatory Challenge Panel; and
 - iii. undertake a consultation to seek the views of business and LAs on the impact of the Code and whether/what amendments are needed.

- c) On the third, we will review the existing HSE support provided to regional liaison groups and seek to standardise this to ensure coverage across the country.

12. The fourth recommendation relating to champions and points of contact in local government will require discussion with local government representatives to identify how best this is taken forward.

13. We will return to the subject of the review recommendations at the next HELA meeting

Action

14. HELA members to:

- a) Consider their role in addressing LA outliers;
- b) Suggest further considerations for the review of the Code;
- c) Consider the provision of HSE support to LA liaison groups; and
- d) Consider how to take forward the recommendation on LA champions/single points of contact

Contact

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