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HELA

Revising LA priority planning guidance: Evaluation of priority planning consultation

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Issue

1. Replacement of LAC 67/1 (rev3) priority Planning guidance with new Section 18 detailed guidance on risk rating and priority planning.

Timing

2. Priority planning guidance is required to meet LAs planning needs for 2010/11 i.e. available by October 2009.

Recommendation

3. That HELA recommends the implementation of the priority planning toolkit, subject to revisions in paragraph 4, until further recommendations can be made and guidance produced on LBRO's cross regulatory service risk assessment work stream and FOD's intervention risk profiles work.
4. It is recommended the following changes be made to the priority planning toolkit via the HELA Task and Finish group -
 - (i) Provision of robust guidance relating to -
 - a) Frequency of contact with e.g. C premises. Robust guidance to move LAs away from frequency-based visits to intervention led inspections;
 - b) Risk rating during transition and the purpose and value of revisits;
 - c) Application alongside the Primary Authority Scheme (PAS) and;
 - d) Identified terminology highlighted by respondents.
 - (ii) Production of worked examples of risk ratings, particularly for occasional outdoor events and other typical LA enforced premises
 - (iii) Subdivision of the "B" range into B1 and B2 (see paragraph17) and;

- (iv) Development of a small briefing package that can be utilised by LAU, partnership management teams and partnership colleagues, to communicate changes.

Background

- 5. In October 2007 HELA declined to publish the draft LAC 67/1 (rev 4) LAC and decided instead to ask the priority planning task and finish group to take a more wide-ranging look at how the LAC might be replaced with more comprehensive guidance. The reasons given included the Rogers review, the establishment of the Local Better Regulation Office (LBRO) and its 'World Class Regulators' agenda, as well as the new risk rating scheme and RCI scales to be launched by FOD from April 08 and the replacement of FIT3 after its completion at the end of 08/09.
- 6. In October 2008, HELA agreed to wider LA consultation on the draft priority planning guidance, to take place between November 08 and January 09 with a view to enabling post-consultation fine tuning to take place in an attempt to approve the guidance during its March 09 meeting. This approach, although consistent with FOD, is quite a radical departure from previous HELA advice. For example, there is no specific rating to be assigned for risk to the public, no national accident data (NADs) weighting to be applied and reduction in risk categories. Essentially, the guidance provides a simple rating mechanism based on an inspector scoring how well a premises achieves concerning health and safety performance, as well as measuring confidence in management.

Consultation and Evaluation

- 7. Following early technical difficulties the consultation period lasted 8 weeks between January and March 2009. The consultation document can be found at - <http://webcommunities.hse.gov.uk/inovem/inovem.ti/HELAonline>.
- 8. Seventy responses were received from the consultation, which included several responses from county liaison groups and REHIS. A broad range of LA's including unitary authorities and district councils responded to the consultation. The consultation process was primarily via the Extranet, although written comments were welcomed and received.
- 9. Following closure of the consultation feedback was analysed and an evaluation report produced by Ian Andrews (Partnership Liaison Officer). A copy of the report with the seven consultation questions can be found in Annex A.

Main Findings

- 10. Overall, there was general acceptance of the objectives of the consultation although a range of suggested improvements was made. A majority of respondents recognised the need for change and there was a clear desire for consistency between LAs and with FOD. Respondents welcomed a system that was both transparent and flexible.
- 11. Although most respondents felt there was sufficient flexibility in the system a major concern was expressed over the proposed 3-tier premises rating system (A,B,C). Major concerns were also expressed around the time it would take to risk rate premises

under the new rating system and associated changes with a shift in rating profile and intervention. Other concerns expressed were –

- (i) Infrequent contact in category C premises could result in weak intelligence; guidance on a periodic review e.g. a questionnaire, for C premises was welcomed and;
- (ii) The need to contact software companies in the lead up to implementation to ensure adequate time to include in LA software systems and the recognition that previous inspection regimes may have an initial influence on the quality of transition data.

- 12. There was a clear desire for additional guidance to provide clarity, particularly concerning inspection rating, frequency, terminology and duty holders who are part of a PAS. To help achieve consistency respondents wanted worked examples.
- 13. A vast majority of respondents found the style and format of consultation easy and convenient although the IT operating system could have improved the process greatly.

Argument

- 14. At its October 2008 meeting, HELA agreed to consult on a new priority planning procedure that was a radical change from the previous LAC 67/1 approach. The new approach was in line with Hampton principles and attempted to provide LAs with a simple, transparent, flexible but targeted methodology to priority planning. The overall aim of the approach is to ensure consistency and enable LAs to identify high risk premises and take appropriate enforcement action to re-rate premises at a lower level. This enables health and safety resources to be released to deal with intervention programmes and issues posing greater risk to employees and the public. This also has a benefit of assisting LAs to justify their health and safety resource to senior managers and elected members.
- 15. Results from the consultation showed that LAs were generally in favour of the objectives of the consultation and a move to a more transparent and consistent procedure both between LAs and within HSE. Most respondents felt there was sufficient flexibility in the system overall and over 60% of respondents felt the system was capable of giving accurate assessment of the risks posed at premises.
- 16. Major concerns were raised around two areas. The 3-tier premises rating system (A, B, C) was too simple. Only 31% of respondents felt it was acceptable for B3 premises to be re-categorised as Category 'C' premises. Concerns included the inability to divide a potentially large B category or C category. To respond to calls for flexibility in the system a solution could be to subdivide "B" range into B1 (no score greater than 4) and B2 (no score greater than 3). This would enable LAs to have a clearer risk profile in the B category. Inspection tools e.g. MAST4SMEs, will also help regulators determine rating scores in and between B and C categories. If this sub-categorisation were adopted the old LAC 67/1 (rev 3) B1, B2 and B3 bands would be in the new Band B and B4 in new Band C.
- 17. A second major concern expressed was the amount of time it would take to risk rate premises under the new rating system and associated changes with a shift in the new rating profile and subsequent interventions. During transition to a new system, it is suggested premises would be moved over on 'block' risk ratings and re-rated when an intervention occurred. To further assist robust guidance is needed to describe the purpose and value of revisits and when to risk rate.

18. Another concern raised was the potential lack of contact in C premises especially in an ever changing duty holder and business environment. Although reactive interventions would pick up the majority of failings respondents expressed the desire to have guidance on the regularity of risk rating C premises e.g. especially for small businesses. It is important to note that any guidance would be around non-inspection intervention methods and techniques.
19. Guidance was also requested for definitions of terminology, risk rating, duty holders who are part of LBRO's PAS and inspection frequency. It is accepted that more clear defined guidance could be produced to assist duty holders with certain terminology and risk rating in typical LA environments. Guidance on risk rating combined with inspection rating tools e.g. MAST4SMES would assist LAs from a move from cumulative scoring to 'standalone' scoring.
20. Guidance on LBRO's PAS is needed to explain how under the proposed system a duty holder incumbent in a PAS would be rated. Under the system the incumbent would be category C as planned interventions would be conducted under PAS and co-ordinated by the lead LA. Reactive interventions would still occur.
21. LAs also wanted guidance on the frequency of inspections. Issuing guidance that is too prescriptive, however, is contrary to a risk based intervention strategy, which underlies the planning system, and is not in line with Hampton principles.
22. For guidance, terminology and examples it is recommended that any proposed changes and additions be agreed via the HELA T&F group.
23. Developments by LBRO and FOD may also have an impact on LA priority planning. LBRO are currently reviewing how LAs risks assess businesses across all LA regulatory disciplines. Their aim is to ensure consistency between e.g. H&S, Food Safety, and Trading Standards etc.. This work may well impact on the way LA health and safety regulators are required risk assess business in the future. LAU will continue to monitor and liaise with LBRO to inform of any significant impact from the work stream.
24. FOD are currently in the process of reviewing their guidance. FOD guidance was used as the basis for the proposed LA priority planning process. Discussions with FOD indicate that the rating systems (i.e. health, safety, welfare and confidence in management) will stay the same however, confidence in management descriptors will include further text in relation to directors duties. The main change in the new proposed system is the introduction of five new risk control topics - Director leadership, worker involvement, access to competent health and safety advice, vulnerable workers and long latency disease. These new topics will be included on the new Inspection Recording Forms (IRFs) which are used by HSE Inspectors. Apart from Asbestos management, which has been renamed, previous FIT3 topics have been removed. As FIT3 topics have become common elements of health and safety ratings, it is proposed they are used in conjunction with other relevant health and safety factors to rate overall health and safety performance using the standard six point rating system. Guidance on how to rate these new five topics should be given to LAs in due course to ensure alignment with the strategy and FODs rating system.
25. Results from the consultation have shown a general acceptance of the priority planning system (subject to revisions in paragraph 4). Ongoing developments in LBRO and HSE's risk profile planning may well have an impact on LA health and safety planning in the future. Radical change from the proposed priority planning system would be counter productive at this time and may well lead to a system that is not as well placed to respond to developments by LBRO or within FOD. Whilst some criticism may be levelled at developing the proposed guidance with software companies during this time of change, LAC 67/1 rev 3 may not allow LAs the comparable flexibility needed to

focus, target and justify resource in the present economic climate and meet their recognised need for change. Although some discussion with the major software companies has begun, lead in times will be tight to enable programming for compliance with Section 18 in 2010.

26. A vast majority found the style and format of consultation quick and easy although the IT operating system was not wholly conducive to the method adopted.
27. Following on from points mentioned above it would be beneficial for any launch of a new priority planning system to be accompanied by a small communication briefing package for LAU, partnership management teams and partnership colleagues in order to achieve clear and consistent messages during roll out.

Presentation

28. As toolkit operational guidance to support the new Section 18 standard there is unlikely to be parliamentary or ministerial interest. Publication of the final documents and communications with LAs will be managed through the LAU HELEX, LAU, priority planning web community, local authority communication media and via partnership management teams.

Costs and Benefits

29. There will be some costs to LAs especially in staff retraining and modifications to their internal work recording systems. Initial contact with software providers in late 2008 suggested the costs of modifications were unlikely to be significant.

Financial/Resource Implications for HSE

30. None expected except for those indicated in the LAU plan of work.

Environmental Implications

31. None.

Other Implications

32. Close monitoring of any future developments with HSE's priority planning system, LBRO's PAS and risk assessment work stream.

Action

33. LAU to manage revision (via the HELA task and finish group) and implementation of the guidance.

Contact

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ANNEX A

EVALUATION OF CONSULTATION ON PRIORITY PLANNING TOOLKIT (REPLACEMENT FOR LAC 67/1) – EVALUATION REPORT.

Executive Summary

The replacement of LAC 67/1 (rev 3) with new Priority Planning guidance, under the Section 18 Standard, is required to meet LA's planning needs for 2010/11 and onwards. An on-line consultation on a draft replacement took place between December 2008 and March 2009 which gathered the views of more than 70 LA's. Whilst respondents showed support for the changes in general, the consultation highlighted a number of issues, which need to be taken into account before the guidance can be issued.

Aims and Objectives

To provide –

- A Section 18 standard toolkit on which to base activities and procedures, targeting resources appropriately, which replaces HELA LAC 67/1(rev.3)
- Clear ,concise guidance on the nature and types of interventions which LA's can use which is consistent with, and similar to, priority planning guidance used by HSE's Field Operations Division (FOD).
- The necessary detail to enable LA's to comply with the Standard.
- A transparent procedure that provides regulators with local flexibility in decision making.

The aims of the finalised document are as follows:

- To free up resources so LA's can deal with issues posing greater risks to both employees and the public, as well as to deal more effectively with high-risk premises.
- To ensure LA's identify high-risk premises and take appropriate enforcement action so as to ensure that such premises are re-rated at a lower level

- To align the work of LA's both with other LA's and with HSE in order to improve consistency
- To produce a system to justify appropriate LA interventions which is transparent, risk-based, and proportionate but which is easy for to understand and apply.
- To respond to the recommendations made in the BRE report "Improving Outcomes from Health and Safety" (<http://www.berr.gov.uk/files/file47324.pdf>).

Background

Section 18 Guidance to replace LAC 67/1 (rev 3): Priority Planning

At its October 2007 meeting, HELA declined to publish the draft LAC 67/1 (rev 4) LAC and decided instead to ask the task and finish group to take a more wide-ranging look at how the LAC might be replaced with more comprehensive guidance. The reasons given included the Rogers review, the establishment of the Local Better Regulation Office (LBRO) and its 'World Class Regulators' agenda, as well as the new risk rating scheme and RCI scales to be launched by FOD from April 08 and the replacement of FIT3 after its completion at the end of 08/09.

At its October 2008 meeting, HELA agreed to wider LA consultation on the draft priority planning guidance, to take place between November 08 and January 09 with a view to enabling post-consultation fine tuning to take place in an attempt to approve the guidance during its March 09 meeting. This approach, although consistent with FOD, is quite a radical departure from previous HELA advice. For example, there is no specific rating to be assigned for risk to the public, no national accident data (NADs) weighting to be applied and only 3 risk categories instead of 6. Essentially, the guidance provides a simple rating mechanism based on an inspector scoring how well a premises achieves concerning health and safety performance, as well as measuring confidence in management.

Evaluation

70 responses were received from LA's (including from county groups) etc. and REHIS. A broad range of LA's responded, including unitary authorities and district councils. Consultation took place primarily utilising the Extranet, although written comments were

welcomed. Due to technical difficulties, the consultation lasted for 8 weeks between early January 2009 and early March 2009. Written responses were also received during the consultation period and these have been incorporated into this report.

A list of the questions posed and a summary of the responses is contained in appendix 1; answers to question 6 (free text) have been included in the appropriate sections.

Main Findings

1. Overall, there was general acceptance of the objectives of the consultation document, although a range of suggested improvements were made.
2. There was a recognised need for change and a clear desire for consistency with HSE and between LA's themselves, as well as the operation of a transparent and flexible system.
3. Major concerns were expressed throughout the consultation about resource constraints and resource preservation (time taken to risk rate etc.) associated with these changes. This is a significant finding and one that needs to be taken into account.
4. There was a desire for additional guidance to provide clarity, particularly concerning inspection frequency, terminology and duty holders who are part of a Primary Authority scheme. The provision of worked examples would help achieve consistency.
5. The vast majority understood that there was no cumulative adding (now standalone) but there was an expression by a minority that this would skew the rating. There is a clear need to explain why the proposed approach has deviated from the cumulative adding approach that LAC 67/1 utilised.
6. Most respondents felt that the proposed system does offer sufficient flexibility, although a number of suggested improvements were made. For example, more flexibility and considering the size of the business were called for to avoid premises jumping between categories too frequently. Inspection tools e.g. MAST4SMEs would assist regulators in this task.

7. The majority of respondents did not agree with the proposed 3-tier rating scale (A, B, C) and objected to reclassifying B3 premises as C premises under the new system. A number of suggested improvements were made which merit consideration.

8. Some respondents were concerned that infrequent contact could result in weak intelligence and there was a desire for some form of periodic review in some categories. For example, one respondent commented that C rated premises:

“should have a related inspection interval (ideally 15% each year, over a 5 year period).”

6. Many respondents expressed concerns about transition issues. For example, the importance of contacting software companies in the lead up to implementation was often cited, as was an acceptance that previous inspection regimes may have an initial influence on the quality of transition data.

7. The vast majority found the style and format of consultation easy and convenient, although the IT operating system could have improved the process greatly.

8. As an aside, it was clear that a number of LA's wished to express their views on matters related to, but not restricted by, the aim of this consultation. This suggests that it would be beneficial to clarify communications channels with LA's and that any changes will need to be reviewed so that important feedback can be captured.

Discussion

In general, there was general acceptance of the objectives of the consultation and a willingness to move to a new system that would produce transparency and consistency, both between LA's and with HSE. This was expressed in various forms and suggests that the proposed changes are capable of being implemented with a minimum of objection. The most important finding is that many respondents expressed fears, throughout the consultation, about preserving resources. There were also fears about striking the right balance between resources and activities. The following selected quotes are typical::

[Councillors] *“...may perceive this as a lowering of priority and look to reduce resources for the Service”*

“...health and safety departments will shrink in size unless targets are made mandatory”

“Many B3/4 premises need interventions to achieve accident and ill health reduction targets”

Both the status and content of the guidance need to be refined to take on board these valuable comments. In response to question 1, there was a clear call (65%) for additional guidance on a number of matters, including inspection frequency, terminology, and duty holders who are part of a Primary Authority scheme. Whilst a handful of respondents felt that the guidance was “*sufficient*”, it must be acknowledged that the document would benefit from refinement in the interests of providing clarity. The provision of worked examples would help achieve consistency, particularly concerning less frequent activities which would be enforced by an LA, such as outdoor events. Three respondents’ comments are given below:

“The worked example of the warehouse is poor as it contradicts itself”

“The welfare compliance gap seems to be fairly pointless because it doesn't have any effect on the risk rating”

“In annex 2, the Rating table box refers to “discernible risk gap” whereas the EMM uses other descriptors. These should be amended to use the same words...”

In response to question 2, most respondents (89%) felt that it was clear that the proposed rating system was not cumulative, as utilised by LAC 67/1, but instead uses ‘standalone’ scores. However, some comments were made which suggest that the justification for this fundamental change needs to be explained more clearly in the guidance and the implications taken into account. There were specific concerns about how frequently premises might move from one category to another and how this might make planning resources more difficult:

“We have concerns as to appropriateness of annual inspections of ALL premises where there is a management score of 5 or 6 but where there are few hazards”

“Cumulative ratings ... provide a much truer picture of the actual overall risk.”

“...this method could cause a large number of small or micro businesses, especially ethnic businesses, to be rated as 'A' because they may have poor understanding ... but be penalised for one deficient area.

“All 4 scores are important and cannot be taken in isolation as this is not representative”

In answer to question 3, most respondents felt there was sufficient flexibility in the system overall (89%). Nevertheless, a significant additional change will need to be considered to the proposed 3-tier premises rating (A, B, C). In answer to question 4, only 31% felt that it was acceptable for B3 premises to be re-categorised as category 'C' premises (and therefore subject to other interventions). Given reasons included the need to operate a system that allows officers to maintain contact with businesses for intelligence gathering. One respondent commented:

“Fewer opportunities for inspection leads to more inaccurate databases and a reliance on paper exercises”

It must be acknowledged that small businesses do prefer face-to-face contact rather than other types of intervention and these needs to be incorporated in the revised guidance. This was voiced by one respondent as follows:

“Alternative intervention strategies work with the larger companies who have dedicated H&S/HR personnel who can attend seminars, complete questionnaires etc. Nearly all of the surveys carried out on smaller premises state that they prefer a visit by and officer to being sent information.”

In response to question 5, most respondents (62%) regarded the system as being capable of giving an accurate assessment of the risks posed at premises. However, some respondents felt that the proposed rating scheme was too simplistic:

“If there are too many premises that fall into the second tier of rating it could be very difficult to then identify within that group which are the most appropriate out of them requiring a visit”

“...the initial transition will result in under resourcing at the start, and within a few years more premises will come into the inspection intervention bands”

Although not a specific question, a notable number of respondents highlighted the importance of contacting software companies in the lead up to implementation. A small number commented that there was a need to recognise that previous inspection regimes may have an influence on the quality of transition data.

Encouragingly, the vast majority (87%) found the style and format of consultation convenient. Only a small number of written responses were received, suggesting that online consultation can be utilised again in the future, but several comments suggested that changes to the IT operating system could have improved the process greatly. Although at the end of the feedback form there was space to make any general comments, some respondents felt that the consultation process was too rigid and not readable enough:

“The use of specific questions stifles the flow of discussion on the whole of the consultation paper”

“I found the language used irritating. It needs a really good edit.”

“...anything you can do to remove superfluous jargon would be helpful”

During the consultation process, further developments have taken place in the regulatory landscape. HSE are currently reviewing their priority planning system. It is proposed to keep the RCI's but embedding FIT3 topics as the 'norm' within health and safety and replacing them and other RCI's with new indicators to reflect the HSE's strategy. LBRO are also continuing to review risk ratings across the local authority regulatory environment. Whilst it is recognised a shift in risk profile intervention in some LAs will result following adoption of the proposed system the system will provide local authorities with some

flexibility to align\change to requirements made by HSE and LBRO developments. Close monitoring of HSE and LBRO developments is required.

Recommendations

To proceed with the implementation of the Priority Planning toolkit, subject to the following actions

1. Review document to produce robust guidance and clarify terminology in areas highlighted by the consultation;
2. Produce worked examples of risk ratings, particularly for occasional outdoor events and other typical LA enforced environments;
3. Subdivide “B” range into B to B1 and B2, in order to respond to calls for more flexibility in the system. The two subdivisions would be:

No score greater than 4 = B 1

No score greater than 3 = B2

4. Consider possibility of producing risk rating guidance e.g. questionnaires, for C premises in the light of an ever changing duty holder / business environment;
5. Clarify the purpose and value of revisits in light of the comments made during the consultation;
6. Develop a brief training package which can be utilised by LA colleagues, LAU and Partnership Teams to communicate these changes and:
7. Monitor HSE strategic interventions planning review and LBRO regulatory risk ratings work stream. Where necessary modify the proposed system and communicate any changes.

APPENDIX 1

SUMMARY OF RESPONSES TO INDIVIDUAL QUESTIONS WITHIN PRIORITY PLANNING TOOLKIT CONSULTATION

Summary of responses to Question 1

Would more guidance be helpful at this point?

Yes – 65%

No – 35%

Yes - Respondents expressed the following reasons in support of further guidance -

- To aid consistency between LA's and between HSE and LAs:

"...consistency between LA's and the HSE, who should be both using similar if not identical systems to ensure consistent enforcement of Health and Safety to 100% of business in the UK."

"More guidance would be helpful to work towards consistency, not only between Local Authorities but also between LAs and HSE."

"Lack of mandatory guidance would allow LAs to tailor their inspection regime to their own ends, perhaps with insufficient resources and at the expense of consistency."

- Guidance on specific terminology:

"Further guidance would aid consistency especially in terms such as "sufficient information" and "sufficient observation."

- Worked examples would be beneficial

No – The guidance was clear and straightforward.

Respondents expressed the following reasons in support of no further guidance -

"Simple and to the point"

"The guidance appears to be sufficient"

"Officers feel guidance is self explanatory and is sufficient"

Summary of responses to Question 2

Is it clear that rating scores referred to above are not cumulative but are used in 'standalone' mode to determine intervention priority?

Yes – 89%

No – 11%

The vast majority of respondents expressed that the guidance made it clear that the rating scores referred to were not cumulative but used in standalone. Many respondent comments related to questions 4 and 5 and have been considered in those areas accordingly.

Yes - Respondent replies included -

"The information is clear"

"Yes very clear"

"Self Explanatory"

"Yes this is clear but a training package (e.g. power point or e-learning) would be useful for managers to explain changes to staff."

No – Respondents replies included -

"It is not very clear – only when you read the whole document is it outlined that this is the case"

"The effect this would have on the rating profile across all our premises was not clear."

Summary of responses to Question 3

Does this provide LAs with sufficient flexibility to ensure they remain responsive to changes in the risk profiles of duty holders?

Yes – 89%

No – 11%

The vast majority of respondents agreed the risk rating system provided LAs with the flexibility they required to ensure they were responsive to the risk profiles of duty holders. Those who disagreed felt that the time taken to risk rate all the premises would be counterproductive.

Yes – Respondents replies included -

- Concern or reservation that their ability to risk rate premises would be limited or hindered by adequate resources -
- Although recognising the flexibility of the system, respondents wanted more guidance –

“Guidance is needed as to what ‘periodical review’ means and what strategies could be used to ensure best use of LA resources.”

“We want clear guidance to be able to be able to make members provide resources to do the work needed. “

No – Rating premises would be counterproductive and not best use of LA resources

“The lowest risk may not be addressed due to lack of resources ... Review of rated premises is very time consuming. There are lots of small businesses therefore intelligence on premises is poor.”

“Does not make best use of LA resources. .. Technical officers visiting low risk premises and giving support and advice with EHO’s and SEHO’s visiting higher risk premises are making good use of resources.”

Summary of responses to question 4

Do you agree LAC 67-1 rev 3 category B3 premises should be re-categorised under this new guidance as category 'C' premises?

Yes – 31 %

No – 69 %

Only a small number of respondents expressed support for the simplification of the rating system and very few respondents indicated that they already use a similar approach e.g. B3 and B4 premises not routinely inspected or visited.

Respondents expressed concerns on several fronts:

- Infrequent contact with business will result in inadequate or poor quality information being held by Local Authorities concerning businesses which fall in the new category C group:

“Increasing problems will arise from not knowing what's out there”

“Once they become C's it will be difficult to find out if they should be rated higher”

C rated premises *“should have a related inspection interval (ideally 15% each year, over a 5 year period).”*

“Fewer opportunities for inspection leads to more inaccurate databases and a reliance on paper exercises”

- The quality of information already held by LA's varies and this may result in unjustified re-categorisation:

“In arriving at new risk score it needs to be borne in mind that the original score may be very inaccurate/out of date thus B3 premises may have really been B2 and so a B2 premises gets transferred to a C scored premises”.

- The proposed system doesn't allow for consideration of "time since last visit" to escalate a premises into a higher category - time between visits should be a factor in deciding inspection priority

“premises may not have been inspected within the last 24 months therefore our knowledge of the business is not necessarily sufficiently accurate to place them in to a 'no further inspection' category”

- Potential for reduction in LA resources dedicated to health and safety, stemming from the increase in the use of non-mandatory interventions, such as mail shots:

“health and safety departments will shrink in size unless targets are made mandatory”

“Recategorising B3s where there are still high RIDDOR statistics and other H&S problems in the LA sector may give an answer to HSE's own resource problems, but is not necessarily the best outcome for councils”

[Councillors] *“may perceive this as a lowering of priority and look to reduce resources for the Service”*

- Proposed system is too simplistic and does not allow the full scope of either premises' activities or local knowledge to be captured:

“B's have no frequency specified ... less likely to result in a rating change possibility of erosion of resources for h & s”

“Perhaps the separation into the New B and New C should be based on a businesses "Confidence in Management" score rather than the overall risk rating score. If this is not viable then there needs to be an "over-ride button" based on local knowledge”

“This is watering down risk to an unacceptable level”

- Potential for health and safety standards within the area to drop if fewer inspections are being conducted:

“Alternative intervention strategies work with the larger companies who have dedicated H&S/HR personnel who can attend seminars, complete questionnaires etc. Nearly all of the surveys carried out on smaller premises state that they prefer a visit by and officer to being sent information.”

“This will lead to an increase in band C premises. With no mandate to inspect there is a risk of the majority of premises avoiding appropriate intervention”.

“Many B3/4 premises need interventions to achieve accident and ill health reduction targets”

A large number of the respondents made helpful suggestions regarding refinement of the proposed system to the effect of the following:

- A: High priority (old A rating)
- B: High risk (old B1 rating)
- C: Medium risk (old B2 & B3 rating)
- D: Low risk (old B4 & C rating)

“many B3s will be borderline and to categorise as a C may not reflect their risk status”

“We predict that many B3 or B4 premises would score more than 2 for Confidence in Management and therefore should NOT be C rated”

“is there any justification to placing a previously B3/B4 into the C category and not the B category, as there is now different scoring criteria?”

“we feel that B3s & B4s should initially be considered as B's”

Summary of responses to question 5

Would using these tables give an accurate assessment of the risks posed at a premises?

4 tables were provided for respondents to comment on (confidence in management; safety performance; health performance; welfare compliance).

Yes – 62%

No – 38%

Yes

Although the majority of respondents agreed with the question, a number of important comments were made. In particular, there was a general call for more clarity, consistency with HSE and it was suggested that the outcome should be shared with the business concerned as part of a transparent system:

“wider scope to cover varying degrees of compliance”

“anything that focuses attention on the consistent application of rating systems... can only be a good thing”

“..a straight forward and sensible mechanism for priority planning”

“We think the tables will give a reasonable assessment of the risks posed at the premises”

“...the risk ratings will provide a basis for an intervention system which will be workable”

No

Respondents highlighted a number of issues with the proposed system, particularly in relation to the terminology, the focus on a single contravention in one of the bands and the need to refer to other impacts on enforcement (such as the Primary Authority Principle):

“The vague and overlapping nature of the descriptors means that there is likely to be significant variation in interpretation from one office to another”

“...proposed system doesn't take account of the type of hazard and potential outcome if something goes wrong”.

“The scoring does not help identify those with multiple failings from those with a single fault.”

“We don't think the scheme has differentiated between types of hazards and doesn't appear to be properly risk based. Size of the establishment and numbers of persons exposed to the hazards do not appear to have been taken into account”

“More emphasis is required on risks to the public”

“The issue of outdoor events has been rather glossed over”

“Annex 5 would allow a Dutyholder that was part of a PAP to argue that authorities placing their premises within the programme directed enforcement section were not acting in accordance with S18 by entering into a PAS a company could exclude itself from programme directed intervention[s]”

Summary of responses to Question 7

Was the style of consultation and its format helpful?

Yes – 87%

No – 13%

The vast majority of respondents agreed that the style and format of the consultation was helpful. Some respondents expressed the need to have a more interactive form of consultation and the ability to allow for broader comment; however, question 6 did allow “any other comments” to be logged.

Yes – Respondents were content with the ease, timeliness to respond to the consultation and specific questions -

“Easy method to provide input”

“This concise format allows for reading, discussion and response within an hour”

“The approach of posing questions about specific issues upon which views are sought and the ability to respond on line was helpful”

No – Some respondents did not like specific questions, found the system timed them out and was unable to save their responses in draft so they could come back to them again -

“The use of specific questions stifles the flow of discussion on the whole. Although it does give some framework to further discussion”

“There is no indication that there is a time limit in which to complete the survey. There is no facility to save.”

“This is my third attempt to submit on line as I have been timed out”