

MINUTES

HELA 90

**Kent Suite,
Quality Hotel, Westminster**

Tuesday 7 June 2005

Present

Bill Myers OBE	LGA Member, Joint Chairman
Janet Russell	LGA Member
Darren Chant	For Alan Craft, LGA Member
Phil Winsor	LGA Member
Rod Denley Jones	WLGA Member
Peter Foley	LGA Member
Stephen Driscoll	LGA Member
James Fowlie	CoSLA Member
Mark Du Val	LACORS
Nick Clack	LACORS
Justin McCracken	HSE Member, Joint Chairman
Phil Scott	HSE Member
Allan Davies	HSE Member
Giles Denham	HSE Member
Percy Smith	For Jeanette Reuben, HSE Member
Sean Edwards-Playne	HELA Secretary
Robert Howe	CoSLA Observer
Roger Wastnege	HASCOG Observer
Steve Dunn	HASCOG Observer
Alastair McGown	HSE Observer
Gareth Broughton	HSE Observer
David Lesser	HSE Observer
Tony Hetherington	HSE Observer
Gerry Kasprzok	HSE Observer
Heather Swinnerton	HSE Observer
Paul Edens	HSE Observer
Gabriella Dimitrov	HSE Observer
Nick Cull	Presenter (LG)
Simon Longbottom	Presenter (HSE)
Max Walker	Presenter (HSE)
Samantha Thomson	Presenter (HSE)

1. Introductions and Apologies

1.1 Bill Myers welcomed attendees to the 90th meeting of HELA. Attendees introduced themselves in a 'tour de table.' Apologies were received from Alan Craft and Richard Wilson. Due to work commitments, John Arthur had resigned from HELA and HELA Members placed on record their debt of gratitude to John for all of the hard work he had put into HELA over the years.
Action – letter from joint chairs thanking JA – Allan Davies to draft

2. Draft Minutes of Meeting – HELA 89 –February 2005

2.1 The minutes of the last meeting of HELA, held on 24 February 2005 at LGA house, were agreed. It was noted that the action suggested by HELA at 5.11 to task volunteers to bring a communications menu to this meeting, had been overtaken by the Communications Strategy.

3. Governance and Liason Arrangements Between HSC, HSE and LAs – Oral Report

3.1 Nick Cull presented the results of his work to date to HELA Members. A PowerPoint presentation was given to HELA Members providing an analysis of the issues and the perceptions of LAs based on the consultation process to date. This made proposals that could enhance local government influence with HSC and increase LG participation in HSE programmes. Nick Cull stressed that this work was just one part of the Strategic Programme, which still had some time to run. Keeping things simple had been a main consideration and the broader Partnership Programme as well as Hampton would of course make considerable impacts also. LAs and HSE were fundamentally different, it must be observed, but they had one thing in common and that was an interest in health and safety outcomes. The Partnership must be built on trust to be effective, but it should be borne in mind that because of the pressures they were under, getting a one hundred percent commitment from LAs to the Partnership was unlikely to be a reality.

3.2 Perceptions and Conclusions

Participation, from LAs and HSE was patchy. LA health and safety resource was under continual pressure and was subject to competition. There was no connectivity (in England) between national (HELA) discussion and representation, and regional engagement and activity. LAs did not feel equal partners with HSE. Hampton should make a difference.

3.3 Three Key Issues

- Enhancing Local Government's Influence with HSC

Could be achieved by the establishment of an Elected Member body representing LG and relating directly to HSC. It needed to be considered

whether this should be a GB wide group, how it could be properly supported and also how it related to the various Hampton fora.

- Improving LG's Participation in the Development and Implementation of HSE's Programmes and Policies

Involvement in programme development was desirable and there needed to be agreed routes for securing endorsement and sign off as well as clear processes for communicating programmes to the LA community. It needed to be carefully considered what LG's capacity to contribute was, as well as its ability to respond to greater involvement.

- Providing a More Coherent Structure for LA/HSE Engagement at National, Regional and Local Levels

It was necessary to avoid complex and bureaucratic structures and build on or rationalise existing LACORS structures. One or two tier regional liaison was desirable. It needed to be considered what organisations to involve.

3.4 Three Consequential Issues

There were three main issues of consequence stemming from these proposals:

- LACORS capacity to provide support
- The clarification of the LACORS/HSE (LAU) roles. There was much confusion within LG as to this relationship as it stood at the moment.
- Issues surrounding the designing in of accountability

3.5 Janet Russell said that the issues highlighted were spot on. It should be borne in mind that there could be difficulty in translating the work and dealing with the many relationships. There would be more brokering to do down the line.

3.6 Nick Cull stressed that there was more consultation that was going to take place. The second meeting of the Working Group was on 21 June and the HSC meeting was on 23 July. In theory an elected Member Group could be up and running quite quickly. This could send a powerful and positive signal.

3.7 Justin McCracken asked what the time scales were. Nick Cull said that for LG, September was the deadline for incorporating items into the planning cycle for the following year. Bill Myers said that it would be useful to look at the work planning processes for HSE and LG to see how they could fit together. Phil Scott said that he was much more confident in the way that programmes were shaping up and that planning for 06/07 and beyond was becoming easier.

3.8 Janet Russell said that if this needed to go onto the higher level corporate agenda within LAs, the September-November would be the

appropriate timeframe. Nick Cull said that Chris Snaith was working with colleagues to discuss this mapping work.

3.9 Justin McCracken emphasised that culture was as important as structure and that culture needed to be changed together. On the Members' Group, he said that he would prefer to see it as GB wide whilst recognising the roles of the devolved authorities. He asked whether there was any mechanism within the LA community to address the issue of capacity. As post-Hampton thinking developed he said, compliance would be important.

3.10 Nick Cull said that it needed to be borne in mind that traditionally LAs had great problems in translating regulatory agendas and that the type of debate that was going on within LAs was in need of change.

4. Hampton Review Update – Oral Report

4.1 Max Walker updated HELA Members with a PowerPoint presentation on the Hampton Review and a background to Hampton.

4.2 The Hampton Review was about burden reduction. One way of tackling burden reduction was simplification. However, it was not just about stripping out burden, and proportionality remained very important. Activity needed to be focussed where it gave the greatest returns.

4.3 Two reports were published at the same time as Hampton – The Better Regulation Task Force report 'Less is More', and the Hampton Report itself. Both reports were available online. Both the Prime Minister and the Chancellor had referred to this work so it was very much on the political agenda.

4.4 Part of HSE's response to Hampton had been the establishment of the Hampton Implementation Programme Board. Jonathan Rees, HSE DDG, and Derek Allen, Executive Director LACORS, sat on the board, so it had LG and HSE Strategic Programme representation.

4.5 Hampton was looking at seven thematic regulators of which HSE was one, and in order to create the thematic regulator for HSE, others would be brought on board. Fewer, rather than many regulators was required, and HSE would be looking at how this could be achieved.

4.6 Hampton was clear that enforcement had a major and important role to play. However, it was not the main and most effective way to achieve regulatory outcomes, and enforcement always needed to be balanced with advice.

4.7 The Local Authority Better Regulation Group (LABReG) was to be set up and Chaired by a member of the Better Regulation Executive. It would have representation from LAs. Max Walker would be HSE's representative on LABReG.

4.8 Phil Winsor said that there needed to be better acknowledgement at a higher level of the resources being committed by LAs to achieve better outcomes in health and safety.

4.9 Bill Myers said that there was a view that the Partnership working undertaken to date should be used as a model to enable other regulatory authorities to go forward.

4.10 Janet Russell said that there was an opportunity to start redressing the imbalances of the past. It was important to very early on, articulate the very good work that had taken place in health and safety over the years. There was an opportunity to influence and have sensible debate with, the Better Regulation executive.

4.11 Giles Denham said there were real opportunities here. The key was to get the right people on board. How LGA, WLGA and COSLA appointed their representatives was very important and HELA should keep an eye on this.

5. LAs and HSE Working together. Strategic Programme Update - Oral Report

5.1 Phil Scott said that he was pleased to report as Programme Director that they were on course to deliver what had been promised. Since the last meeting, there had been the launch of the five million pound science and technology fund. Hopefully the pilot exercise with HSE/LA flexible warrants would be launched in Hampshire at the beginning of July. Additionally, the decision had been taken to proceed with the design and proposals for the extranet, which would hopefully be launched sometime in September.

5.2 Taking all issues into account, there was discussion taking place around plans for 2006/07.

5.3 It was important to make sure that the Programme had all the structures in place to support the Partnership, by Spring 2006. A paper would be presented to HSC in February 2006.

5.4 Volunteer LAs were being sought to take on a wider range of work to test the risk-based approach.

5.5 Allan Davies said that they would be reporting back soon on the results of research into the training needs for LAs.

6. Update on the Bigger Picture – FIT3 – Other Strategic Programmes – Oral Report

6.1 Simon Longbottom gave a PowerPoint presentation which updated HELA Members on the FIT3 Programme. Last Autumn, HSE had looked at the existing structures of the Strategic Programmes. It identified a need for something more slimline and FIT3 aligned injury reduction, days lost reduction and ill-health reduction. Decisions about where to focus resources in order to

meet targets were now being based on an evidence-based approach called intervention logic modelling. A Programme Board had now been set up and there was consideration for a representative on the LA practitioner side.

6.2 Bill Myers said that if a request for participation from the LA side was likely, then this should be received sooner rather than later.

6.3 Janet Russell said that traditional approaches eg. Section 18 default powers, HELA audits etc. were impeding partnership working as these approaches were seen as a threat. There was a need to communicate for example that audits were only likely to be used now as a last resort. There was a need to communicate this. A good way would be a letter from the Joint Chairs of HELA. Also, within the regions, there was a lot of effort going into thinking about partnership working. FIT3 could be promoted through Partnership Managers. However, there was a need for LA representation. Bill Myers/Justin McCracken agreed that the letter referred to above was a good idea and should be actioned. LACoRS agreed to circulate any letter via their networks.

Action: Allan Davies

6.4 Bill Myers requested that an update on FIT3 comes to HELA as a standing item or on a regular basis.

7. Consideration of Draft Report to HSC: Progress Report: LAs and HSE Working Together Strategic Enabling Programme – Paper CP 90/01

7.1 Allan Davies introduced his paper, asking for consideration from Members of a draft progress report to HSC on the LAs and HSE Working Together Strategic Enabling Programme, scheduled for the meeting on 26 July 2005. The paper was to update HSC on progress to date with the Programme and alerted it to the intention to ask for a steer on how to proceed with the Programme through a further paper to be presented to HSC in February 2006. Annexed to the HSC Paper was the Strategic Programme's Communications Strategy for 2005-2006. At the July meeting, HSC would also be asked to consider three additional papers: on HSE's developing enforcement strategy, the implications of the Hampton Review and on governance arrangements to sustain partnership between HSC, HSE and LAs. These last two items were addressed at this meeting of HELA by oral reports from Max walker on the Hampton Review, and Nick Cull on the progress of his working group looking at governance arrangements.

7.2 Peter Foley said that he was very surprised at the results of research reflected in the Communications Strategy that Chief Executives and elected Members wanted more involvement. The Strategy seemed to be more about HSE communicating with LAs and HSE still had much to learn about the workings of LAs. It would be good to see some recognition of this.

7.3 Tony Hetherington said that he could understand the concerns expressed about CE/EM involvement. However, senior HSE personnel were meeting with Chief Executives as part of an initiative. Feedback received

from Partnership Managers about Chief executives had generally been very positive. These issues would be addressed before the HSC meeting in July.

7.4 Peter Foley said HSE needed to become much more involved with local partnerships eg. PCTs and Economic Development.

8. Health and Safety (Enforcing Authority) Regulations 1998. Assignment in Cases of Uncertainty: The Three-Stage Negotiation Process. Paper CP 90/02

8.1 At its last meeting in February 2005, HELA had called for a review of the current arrangements in place for settling EA Regulations 1998 demarcation disputes. Samantha Thomson introduced her paper, which described the outcomes of that review and suggested ways in which HSE and LAs could work together to retain decision making at a local level. Better negotiation and, in complex cases, impartial arbitration techniques without recourse to HSC were the keys to this.

8.2 Bill Myers said that the paper had been discussed at the morning's pre meeting and he would respond for the LA side. They were happy with stages one and two. There was some concern however over the costs of the Panel process and particularly the impartial legal representation referred to in stage three. He suggested that while this was being considered, and between now and the next meeting, that such identified cases could be delegated to the Joint Chairs of HELA to make a decision.

8.3 Justin McCracken said he would be happy with this approach.

9. Forthcoming HELA Events and Publications. Paper CP 90/03

9.1 Sean Edwards-Playne introduced his paper, which looked at implications for forthcoming HELA events and publications in light of, and as a result of, the work of the Strategic Programme, but more particularly, the Review of Governance and Liaison Arrangements between HSC, HSE and LAs being carried out by Nick Cull. These were the Annual Conference, the Annual Awards for Innovation and the Annual Reporting package. (comprising the Annual Report, National Picture and Prosecutions Register.) News had just been received that Lord Hunt, Parliamentary undersecretary with responsibility for health and safety, had accepted the invitation to speak at this year's HSE/LA Partnership Conference.

9.2 Allan Davies added that the Annual Report could be a much reduced but more useful and friendly document. COSAS had indicated their intention to produce a more slimline National Picture in 2005.

9.3 HELA members were content with proposals for the Annual Report package.

9.4 HELA Members agreed that the Innovation Awards were held in high regard but they now needed to reflect partnership working. Phil Winsor said that whilst he was happy with the way the awards had gone in previous years, he was concerned that award winners were from authorities that received a high level of funding for health and safety and that this should be borne in mind.

9.5 Mark Du Val said that it would be a good idea to look at the structure of the day for this year's Conference. Although the formula had worked very well for the past two years, there would be no harm in considering a different approach. One such approach could be having breakout sessions in which members and officers were split into two different groups to debate issues.

9.6 HELA members were asked to channel any feedback they had on these matters via Allan Davies or Mark Du Val.

10. Any Other Business

10.1 Gareth Broughton said that the Strategic Programme was looking at cases where there were barriers to taking prosecutions. He asked HELA Members to report back on any cases that they knew of where an LA had been forced to withdraw from bringing a prosecution.

Action: HELA members

10.2 Allan Davies reminded HELA of the intention to go to HSC in February 2006. In recognition of this, there would be consultation workshops taking place around the country in the autumn to encourage two-way communication and so that LG views could be better represented and fed back to HSC.