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HELA

A National Code for Local Authorities

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Issue

1. This paper seeks HELA's views on delivering the recommendation for a National Code for all Local Authority (LA) H&S inspection and enforcement activity.

Timing

2. For discussion at meeting on 28 June 2012

Recommendation

3. That HELA considers their role in the delivering the requirements for a National Code and in ensuring LA implementation.

Background

4. The Löfstedt report recommended "that legislation be changed to give HSE the authority to direct all local authority health and safety inspection and enforcement activity, in order to ensure that it is consistent and targeted towards the most risk workplaces."
5. The Government response to Löfstedt committed HSE to develop a binding and enforceable National Code as a means of ensuring that LA health and safety inspection and enforcement activity is consistent, proportionate and targeted at the most risky premises. Whilst supporting the objective in addressing the deficiencies within the system, the Government response also highlighted the importance of local inspectors using local knowledge and experience to engage with local businesses
6. HSE will use Section 18 of the Health & Safety at Work etc. Act (HSWA) to deliver the policy directive for a "binding and enforceable" National Code that will cover England, Scotland and Wales. Section 18 HSWA places a duty on every LA to make adequate arrangements for enforcement in accordance with guidance issued

7. Whilst the Government's response committed HSE to produce a National Code by 2014 our intention is to commence a formal 3 month consultation in September 2012 and we hope to launch the Code in April 2013.

Discussion

8. We have concentrated on developing an outline framework for the Code to ensure it meets the overall objective as well as the requirements for local flexibility and accountability.
9. In outline, we envisage the National Code to:
 - a) Clarify the roles & responsibilities of business, regulators and professional bodies to ensure a shared understanding on the management of risk;
 - b) Outline how a risk based, modern regulator should act, with reference to the Regulators Compliance Code, Enforcement Policy Statements and incorporating the Joint HSE/LGA statement on reduced proactive inspection to ensure LA activity is targeted at the highest risks;
 - c) Set standards for training and competence of LA H&S regulators linked to the authorisation and use of HSWA powers within LAs; and
 - d) Outline expectations for LA's data collection and peer review to facilitate the monitoring of compliance with the code.
10. There is a need to maintain a focus on securing ownership within the LA community to increase confidence that it will be delivered. We have tested the outline in discussion with a wide range of local government representatives, the LA professional bodies, the Department of Communities & Local Government (DCLG); and the Better Regulation Delivery Office (BRDO); as well as business and internally within HSE. The reactions to the outline so far have all been positive in terms of delivering respective expectations.

Action

11. HELA members are asked to:
 - a) consider the outline framework for the draft code in paragraph 9; and
 - b) consider their role with particular regard to:
 - i) engagement with the devolved administrations, local authority representative bodies, enforcement professionals and LAs;
 - ii) promoting any pre-consultation and consultation activity; and
 - iii) ensuring LA implementation

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