

## HELA Minutes, 30 January 2012

HSE Birmingham Office, Hagley Road, Birmingham B16 8HS

### **Attendees**

Kevin Myers, HSE (Chair)  
Nick Powell, Dudley BC, Joint Chair  
Elaine Harbour, HSE Head of Local Authority Unit (LAU)  
Rosi Edwards, HSE FOD Director  
Jane Willis, HSE Director of Cross-cutting Interventions  
David Evans, East Lothian Council  
Kim Pugh, Torfean BC  
Colin Alborough, Rushmoor BC  
David Kidney, Chartered Institute of Environmental Health  
Graham Robertson, Royal Environmental Health Institute of Scotland  
Cheri Lloyd, LGA Regulatory Support Unit  
Tracy Hamilton, HSE Secretariat

### **Observers**

Phil Preece, Local Better Regulation Office

### **1. Welcome**

- 1.1 The Chair welcomed everyone to the meeting. Apologies for absence received from Darran West (substituted by Colin Alborough) and Gwyneth Rogers (substituted by Cheri Lloyd).
- 1.2 Nick Powell, joint chair, confirmed that regretfully he is leaving HELA to concentrate on newly acquired responsibilities. Andrew Griffiths, former CIEH member of HELA has now retired. The Chair thanked them both for their contribution to HELA and wished them every success for the future.

### **2. Introduction**

- 2.1 The Chair provided an overview of the numerous political and other developments that have impacted on health and safety regulation and co-regulation since the last meeting. These included the publication of the Löfstedt report and the Government's response; the BIS consultation on Transforming Regulatory Enforcement and the Red Tape Challenge.

### **3. Minutes from the last meeting**

- 3.1 Minutes of the previous meeting held on 4 July were agreed.
- 3.2 An update on item 5.1 Extending Cost Recovery was requested. An overview of the piloting undertaken and planned was provided. An open HSE Board paper on the Cost Recovery consultation would be circulated to provide further detail.

**Action: Secretariat to provide HELA members with a link the HSE Board paper**

#### **4. Local Government Update**

- 4.1 The Regulatory Support Unit advised HELA that a decision on the future of the RSU is due shortly following a meeting of the Local Government Association (LGA) Board.
- 4.2 The Local Government representatives updated HELA on the views of LAs on the current developments. This included a concern over the effect on consistency and a lack of representative voice following the demise of LG Regulation. Consideration was given to the wider links to the public health agenda as well as the threats faced by the review of other regulatory functions and how they may be delivered.
- 4.3 There was recognition that most LAs were addressing the need to reduce inspections although this was not without concern, especially over competence and resource reductions. HELA members agreed that a reduction in proactive inspection should not be seen as an overall reduction in regulatory activity but should instead be balanced by an increased use of other forms of intervention.
- 4.4 HELA also acknowledged that partnership working opportunities had reduced but it was confirmed that a commitment to continued partnership remains. The aim is to have a partnership of equals and with less resource we must look at different ways of working.
- 4.5 Whilst the picture was largely consistent across England, Scotland and Wales, there are specific Welsh Assembly and WLGA proposals for a National Trading Standards service with consideration being given to national, regional and local delivery of other regulatory services. Additionally, the Scottish Affairs Select Committee is currently holding an inquiry into health and safety in Scotland.

#### **Actions:**

1. **A Paper outlining the Welsh Government's and WLGA proposals to be prepared for discussion at the next HELA meeting**
2. **Secretariat to provide a link to the evidence transcripts of the Scottish Affairs Select Committee**
3. **RSU to inform HELA members via Secretariat once the decision on its future is announced.**

#### **5. Terms of Reference revision**

- 5.1 Elaine Harbour introduced the paper as a first reading with the intention being to seek HELA member views particularly since we await the outcome of the decision on the RSU.
- 5.2 HELA members were generally content with the draft terms of reference and a request was made to consider whether the specific work involved in responding to the Lofstedt recommendations was captured sufficiently.

**Action: Terms of Reference to be revisited and discussed at the next meeting.**

## **6: Lofstedt report and the Government response – taking forward the recommendations**

- 6.1 Elaine Harbour introduced the paper which details a number of proposals for delivering the recommendations arising from the Lofstedt report
- 6.2 HELA acknowledged the Lofstedt Report conclusion that the current health and safety enforcement philosophy and framework were 'sound' and that both HSE and LAs had a role in delivering improved outcomes.

### **6.3 Developing a national code**

HELA agreed the proposal for developing a 'binding and enforceable' national code covering England, Scotland and Wales using Section 18 of The Health & Safety at Work etc. Act 1974 and placing existing guidance on a statutory (mandatory) footing. The use of possible sanctions for non-compliant LAs were discussed.

### **6.4 Data Collection**

- 6.4.1 HELA accepted that submission of LA statistical data was not a universal practise. HELA agreed this data will be critical to measure compliance and welcomed the inclusion in the national code.
- 6.4.2 Current statistical evidence suggests patchy implementation of intervention planning guidance (LAC 67/2) and joint HSE/LGA guidance on reducing proactive inspections. LG HELA members recognised that there were a number of possible reasons for this including conflicts with already agreed local delivery plans.
- 6.4.3 HELA discussed the challenge as being one of effective communication. The perceived impact of HELA branded information was considered. HELA LG representatives acknowledged the role that LAs themselves can play in applying pressure on other LAs to ensure understanding of the need to work to the joint HSE/LGA guidance.

### **6.5 Challenge Panels**

Information on the Regulatory Challenge Panel launched 5 January 2012 including panel membership and current submissions was provided to HELA.

### **6.6 Primary Authority**

There were some concerns expressed over the effectiveness of the Primary Authority Scheme with the limited number of inspection plans produced so far. HELA welcomed HSE commitment to working with LBRO.

#### **Actions:**

- 1. HELA members to be consulted on the draft code prior to any formal consultation. LAU to provide an update at next meeting.**
- 2. All HELA members to promote the need to work to the Joint HSE/LGA statement on reduced proactive inspection**

## **7: Any Other Business**

**7.1 Abolition of Adventure Activity Licensing**

David Kidney raised details of a fatality that had resulted in some recommendations relating to the voluntary adventure sector. HSE is working with the industry to produce a code of practice and confirmed that the voluntary sector will be included,

7.2 Date of next meeting: tbc June 2012.